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REPORT

on the proposal for a Council regulation establishing a European Union
Agency for Fundamental Rights
(COM(2005)0280 – C6-0288/2005 – 2005/0124(CNS))

Committee on Civil Liberties, Justice and Home Affairs

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Draftsman (*) :
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(*) Enhanced cooperation between committees - Rule 47 of the Rules of
Procedure

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council regulation on establishing a European Union Agency for Fundamental Rights
(COM(2005)0280 – C6-0288/2005 – 2005/0124(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2005)0280)¹,
 - having regard to Article 308 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0288/2005),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs, the Committee on Budgets and the Committee on Women's Rights and Gender Equality (A6-0306/2006),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls for initiation of the conciliation procedure under the Joint Declaration of 4 March 1975 if the Council intends to depart from the text approved by Parliament;
 5. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 6. Instructs its President to forward its position to the Council and Commission.

¹ OJ C xx, xx, p. xx.

Amendment 1
Recital 5

(5) The Representatives of the Member States meeting within the European Council on 13 December 2003 agreed to build upon the existing European Monitoring Centre on Racism and Xenophobia established by Council Regulation (EC) No 1035/97 of 2 June 1997 and to extend its mandate to make it a Human Rights Agency.

(5) The Representatives of the Member States, meeting within the European Council on 13 December 2003, agreed to build upon the existing European Monitoring Centre on Racism and Xenophobia established by Council Regulation (EC) No 1035/97 of 2 June 1997 and to extend its mandate to make it a Human Rights Agency. ***They also decided on that occasion that the seat of the Agency should remain located in Vienna.***

Amendment 2
Recital 8

(8) When establishing the Agency, due attention will be paid to the operating framework for the European regulatory agencies proposed by the Commission in the draft Inter-institutional Agreement¹ on 25 February 2005.

deleted

¹ COM(2005)59 final, 25.2.2005.

Amendment 3
Recital 9

(9) The Agency should refer in its work to fundamental rights as defined in Article 6(2) of the Treaty on European Union and as ***set out*** in particular in the Charter of

(9) The Agency should refer in its work to fundamental rights as defined in Article 6(2) of the Treaty on European Union, ***including those set out in the European Convention***

Fundamental Rights. The close connection to the Charter should be reflected in the name of the Agency. ***The thematic areas of activity of the Agency should be laid down in the Multiannual Framework, thus defining the limits of the work of the Agency, which in accordance with general institutional principles, should not set a political fundamental rights agenda of its own.***

on Human Rights and Fundamental Freedoms, and as ***reflected*** in particular in the Charter of Fundamental Rights. The close connection to the Charter should be reflected in the name of the Agency.

Amendment 4
Recital 9 a (new)

(9a) 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. Due emphasis should be given to groups who experience discrimination as referred to in Article 13 of the Treaty and Article 21 of the Charter of Fundamental Rights of the European Union.

Amendment 5
Recital 11

(11) The Agency should have the right to formulate opinions to the Union institutions and to 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, without interference with the legislative and judicial procedures established in the Treaty.

(11) The Agency should have the right to formulate opinions to the Union institutions and to 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, without interference with the legislative and judicial procedures established in the Treaty. ***Those institutions should be able to request opinions on their legislative proposals or on positions taken***

in the course of legislative procedures as regards the compatibility thereof with fundamental rights.

Amendment 6
Recital 12

(12) The Council should have the possibility of requesting the Agency's technical expertise in the context of proceedings commenced under Article 7 of the Treaty on European Union.

(12) The **European Parliament, the Council and the Commission** should have the possibility of requesting the Agency's technical expertise in the context of proceedings under Article 7 of the Treaty on European Union.

Amendment 7
Recital 13

(13) The Agency should present an annual report on the *situation of* fundamental rights **in the Union and the respect thereof by the EU institutions, bodies and agencies and the Member States when implementing Union law**. Furthermore, the Agency should produce thematic reports in the topics of particular importance to the Union's policies.

(13) The Agency should present an annual report on the fundamental rights **issues covered by the areas of the Agency's activity, which should also highlight examples of good practice**. Furthermore, the Agency should produce thematic reports in the topics of particular importance to the Union's policies.

Amendment 8
Recital 15

(15) The Agency should work as closely as possible with all relevant **Community programmes, bodies and agencies and Union bodies** in order to avoid duplication, in particular as regards the future European Institute for Gender Equality.

(15) The Agency should work as closely as possible with all relevant **Union institutions as well as bodies, offices and agencies of the Community and the Union** in order to avoid duplication, in particular as regards the future European Institute for Gender Equality.

Amendment 9
Recital 15 a (new)

(15a) The Agency should co-operate closely

with Member States, for which purpose the Member States should nominate national liaison officers. The Agency should, in particular, communicate with the national liaison officers as regards the reports and other documents that it draws up.

Amendment 10
Recital 16

(16) The Agency should collaborate closely with the Council of Europe. Such cooperation should guarantee that any overlap between the activities of the Agency and those of the Council of Europe is avoided, in particular by elaborating mechanisms to ensure *synergies*, such as conclusion of a bilateral cooperation agreement and the participation of an independent person appointed by the Council of Europe in the management structures of the Agency with appropriately defined voting rights *as in the current EUMC*.

(16) The Agency should collaborate closely with the Council of Europe. Such cooperation should guarantee that any overlap between the activities of the Agency and those of the Council of Europe is avoided, in particular by elaborating mechanisms to ensure *complementarity and added value*, such as conclusion of a bilateral cooperation agreement and the participation of an independent person appointed by the Council of Europe in the management structures of the Agency with appropriately defined voting rights.

Amendment 11
Recital 16 a (new)

(16a) Recognising the important role of civil society in the protection of fundamental rights, the Agency should promote dialogue with civil society and work closely with non-governmental organisations and civil society institutions active in the field of fundamental rights. It should set up a cooperation network called the Fundamental Rights Platform with a view to establishing a structured and fruitful dialogue and close cooperation with all relevant stakeholders.

Amendment 12
Recital 17 a (new)

(17a) In order to ensure the high scientific quality of its work, the Agency should have a Scientific Committee.

Amendment 13
Recital 17 b (new)

(17b) The authorities appointing members of the Management Board, the Executive Board and the Scientific Committee should aim to achieve a balanced participation between women and men on these bodies. Particular attention should also be given to the equal representation of women and men on the staff.

Amendment 14
Recital 18

(18) The European Parliament plays a significant role in the area of fundamental rights. It should ***appoint one independent person as a member of the Management Board*** of the Agency;

(18) The European Parliament plays a significant role in the area of fundamental rights. It should ***therefore be consulted before the Agency's multi-annual framework is adopted and on the candidates proposed for the post of Director*** of the Agency.

Amendment 15
Recital 19

(19) A consultative Forum should be established to ensure the pluralist representation of the social forces of civilian society active in the field of fundamental rights within the structures of the Agency with view to establish effective cooperation with all stakeholders.

deleted

Amendment 16
Recital 21 a (new)

(21a) The Staff Regulations of Officials of the European Communities, the Conditions of Employment of Other Servants of the European Communities and the rules adopted jointly by the European Community institutions for the purpose of applying these Staff Regulations and Conditions of Employment apply to the staff and the Director of the Agency, including their rules relating to the dismissal of the Director.

Amendment 17
Recital 22

22) The Agency should have legal personality and succeed the European Monitoring Centre on Racism and Xenophobia as regards all legal obligations, financial commitments or liabilities carried out by the Centre or agreements made by the Centre as well as the employment contracts with the staff of the Centre. ***The seat of the Agency should remain located in Vienna, as determined by Decision of the Representatives of the Governments of the Member States of 2 June 1997 determining the seat of the European Monitoring Centre on Racism and Xenophobia.***

(22) The Agency should have legal personality and succeed the European Monitoring Centre on Racism and Xenophobia as regards all legal obligations, financial commitments or liabilities carried out by the Centre or agreements made by the Centre as well as the employment contracts with the staff of the Centre.

Amendment 18
Recital 22 a (new)

(22a) The 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 gradual alignment of their legislation to 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.

Amendment 19
Recital 23

(23) Since the measures needed for the implementation of this Regulation are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, they should be adopted by the regulatory procedure provided for in Article 5 of that Decision.

deleted

Amendment 20
Recital 23 a (new)

(23a) The Agency should initiate the necessary evaluations of its activities in due time, including an in-depth evaluation of its scope in relation to countries that are not members of the Union, on the basis of which the Agency's scope, tasks and working methods should be reviewed.

Amendment 21
Article 3, paragraphs 2 to 4

2. The Agency shall refer *in carrying out its* 2. *In carrying out its tasks*, the Agency shall

tasks to fundamental rights *as defined in* Article 6(2) of the Treaty on European Union *and as set out in particular* in the Charter of Fundamental Rights of the European Union as proclaimed in Nice on 7 December 2000.

3. When pursuing its activities, the Agency shall concern itself with the situation of fundamental rights in the European Union and in its Member States when implementing Community law, without prejudice to paragraph 4 and to Articles 4(1)(e), 27 and 28.

4. Without prejudice to Article 27, the Agency shall, at the request of the Commission, provide information and analysis on fundamental rights issues identified in the request as regards third countries with which the Community has concluded association agreements or agreements containing provisions on respect of human rights, or has opened or is planning to open negotiations for such agreements, in particular countries covered by the European Neighbourhood Policy.

refer to fundamental rights *within the meaning of* Article 6(2) of the Treaty on European Union, *including those set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950, and as reflected* in the Charter of Fundamental Rights of the European Union proclaimed in Nice on 7 December 2000.

3. The Agency shall deal with fundamental rights issues in the European Union and in its Member States when implementing Community law. In addition, it may deal with fundamental rights issues within the scope of paragraph 1 in those countries referred to in Article 27(1) to the extent necessary for the gradual alignment to Community law of the country concerned and in accordance with Article 27(2).

Justification

The addition in paragraph 3 is a follow-up of the UK suggestion to include a reference to Community competences as in Article 3(1).

Amendment 22
Article 4

1. To meet the objective set in Article 2, the Agency shall:

(a) collect, record, analyse and disseminate relevant, objective, reliable and comparable information and data, including results from research and monitoring communicated to it by Member States, Union institutions, Community agencies, research centres, national bodies, non-governmental organisations, **relevant** third countries **and** international organisations;

(b) develop methods to improve the comparability, objectivity and reliability of data at European level, in cooperation with the Commission and the Member States;

(c) carry out, cooperate with or encourage scientific research and surveys, preparatory studies and feasibility studies, also, where appropriate and compatible with its priorities and its annual work programme, at the request of the European Parliament, the Council or the Commission. **It shall also organize meetings of experts and, whenever necessary, set up ad hoc working parties;**

(d) formulate conclusions and opinions on **general subjects**, 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;

(e) make its technical expertise available to the Council, where the Council, pursuant to **Article 7(1)** of the Treaty on European Union, **calls on independent persons to submit a report on the situation in a Member State or where it receives a proposal pursuant to Article 7(2), and where the Council, acting in accordance with the procedure set out in**

1. To meet the objective set in Article 2 **and within its competences as laid down in Article 3**, the Agency shall:

(a) collect, record, analyse and disseminate relevant, objective, reliable and comparable information and data, including results from research and monitoring communicated to it by Member States, Union institutions, **bodies, offices and agencies of the** Community and the Union, research centres, national bodies, non-governmental organisations, third countries, international organisations **and in particular the competent bodies of the Council of Europe;**

(b) 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;

(c) carry out, cooperate with or encourage scientific research and surveys, preparatory studies and feasibility studies, also, where appropriate and compatible with its priorities and its annual work programme, at the request of the European Parliament, the Council or the Commission;

(d) 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;

(e) make its technical expertise available to **the European Parliament and** the Council, where the Council **receives a proposal** pursuant to **Article 7(1) or (2)** of the Treaty on European Union;

these respective paragraphs of Article 7 of the Treaty on European Union, has requested such technical expertise from the Agency;

(f) publish an annual report on *the situation* of fundamental rights, also highlighting examples of good practice;

(g) publish thematic reports based on its analysis, research and surveys;

(h) publish an annual report on its activities;

(i) *enhance cooperation between civil society, including non-governmental organisations, the social partners, research centres and representatives of competent public authorities and other persons or bodies involved in dealing with fundamental rights, in particular by networking, promoting dialogue at European level and participating where appropriate in discussions or meetings at national level;*

(j) *organise, with relevant stakeholders, conferences, campaigns, round tables, seminars and meetings at European level to promote and disseminate its work; and*

(k) *develop a communication strategy aimed at raising the awareness of the general public, set up documentation resources accessible to the public and prepare educational material, promoting cooperation and avoiding duplication with other sources of information.*

2. The conclusions, opinions and reports *formulated by the Agency when carrying out the tasks mentioned in paragraph 1 shall not concern questions of the legality of* proposals from the Commission under Article 250 of the Treaty, positions taken by the institutions in the course of legislative procedures *or* the legality of acts within the meaning of Article 230 of the Treaty. *They shall not deal with the question whether a Member State has failed to fulfil an obligation under the Treaty within the meaning of Article 226 of the Treaty.*

(f) publish an annual report on fundamental rights *issues covered by the areas of the Agency's activity*, also highlighting examples of good practice;

(g) publish thematic reports based on its analysis, research and surveys;

(h) publish an annual report on its activities;

(i) *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.*

2. The conclusions, opinions and reports *referred to in paragraph 1 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 the institution concerned has submitted a request therefor in accordance with Article 4(1)(d). Those conclusions, opinions and reports shall not deal with* the legality of acts within the meaning of Article 230 of the Treaty, or with the question whether a Member State has failed to fulfil an obligation under the Treaty within the meaning of Article 226 of the Treaty.

Amendment 23

Article 5

1. *The Commission shall adopt a Multiannual Framework for the Agency in accordance with the regulatory procedure referred to in Article 29(2). The Framework shall:*

- (a) cover five years;*
- (b) determine the thematic areas of the Agency's activity, always including the fight against racism and xenophobia;*
- (c) be in line with the Union priorities as defined in the Commission's strategic objectives;*
- (d) have due regard to the Agency's financial and human resources; and*
- (e) include provisions with a view to avoiding thematic overlap with the remit of other Community bodies, offices and agencies.*

2. *The Agency shall carry out its tasks within the thematic areas determined by the Multiannual Framework. This shall be without prejudice to the possibility for the Agency to respond to requests from the European Parliament, the Council or the Commission under Articles 3(4), 4(1)(d) and (e) outside these thematic areas, provided its financial and human resources so permit.*

3. *The Agency shall carry out its tasks in the light of its Annual Work Programme and with due regard to the available financial and human resources.*

4. *The Annual Work Programme, adopted*

1. *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 multiannual framework.*

2. *The multi-annual framework shall cover five years, be consistent with the Union's priorities and strategic objectives, and be compatible with the financial and human resources available to the Agency.*

3. *The Agency shall 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 under Articles 4(1)(d) and (e) that fall outside those thematic areas, provided that its financial and human resources so permit.*

4. *The Agency shall carry out its tasks in the*

in accordance with Article 11(4)(a), shall be in line with the Commission's annual work programme, including its research work and its actions on statistics undertaken in the context of the Community Statistical Programme.

light of its annual work programme.

Amendment 24
Article 6, paragraphs 1 and 2

1. *The Agency shall set up and coordinate the necessary information networks. They shall be designed so as* to ensure the provision of objective, reliable and comparable information, drawing on the expertise of a variety of organizations and bodies in each Member State and taking account of the need to involve national authorities in the collection of data.

1

2. In pursuing its activities, the Agency shall, in order to ***avoid duplication*** and guarantee the best possible use of resources, take account ***of existing information from whatever source, and in particular of activities already carried out by***

(a) ***Community*** institutions, bodies, offices and agencies;

(b) ***institutions, bodies, offices and agencies of the Member States; and***

(c) ***the Council of Europe*** and other international organisations.

1. ***In order*** to ensure the provision of objective, reliable and comparable information, the Agency shall, drawing on the expertise of a variety of organizations and bodies in each Member State and taking account of the need to involve national authorities in the collection of data

(a) set up and co-ordinate information networks, such as the network of independent experts on fundamental rights, and use existing networks;
(b) organize meetings of external experts; and,
(c) whenever necessary, set-up ad hoc working parties.

2. In pursuing its activities, the Agency shall, in order to ***achieve complementarity*** and guarantee the best possible use of resources, take account, ***where appropriate, of information collected and of activities undertaken, in particular by:***

(a) ***Union*** institutions ***and*** bodies, offices and agencies ***of the Community and the Union and of the Member States;***

(b) ***the Council of Europe, by referring to the findings and activities of its monitoring and control mechanisms and its Commissioner for Human Rights; and***

(c) ***the Organisation of Security and Co-operation in Europe (OSCE), the United Nations*** and other international organisations.

Amendment 25
Article 8, title, paragraph - 1 (new) and paragraph 1

Cooperation with organisations at Member State and **European** level

1. To help it carry out its tasks, the Agency shall cooperate with governmental **and non-governmental** organisations and bodies competent in the field of fundamental rights at the Member State **or at European level**.

Cooperation with organisations at Member State and **international** level

-1. In order to ensure close cooperation with Member States, each Member State shall nominate a government official as a national liaison officer. The Agency shall forward to the national liaison officers all documents drawn up in accordance with Article 4(1)(a), (b), (c), (d), (e), (f), (g), and (i).

1. To help it carry out its tasks, the Agency shall cooperate with:

- governmental organisations **and public** bodies competent in the field of fundamental rights in the Member States, **including national human rights institutions;**

- the Organisation for Security and Co-operation in Europe, especially the Office for Democratic Institutions and Human Rights (ODIHR), the United Nations and other international organisations.

Amendment 26
Article 9

The Agency shall coordinate its activities with those of the Council of Europe, particularly with regard to its Annual Work Programme pursuant to Article 5. To this end, the Community shall, in accordance with the procedure provided for in Article 300 of the Treaty, enter into an agreement with the Council of Europe for the purpose of establishing close cooperation between the latter and the Agency. This agreement shall include the **obligation of the Council of Europe to appoint** an independent person to sit on the Agency's Management Board, in accordance with **Article 11**.

In order to ensure complementarity and added value, the Agency shall coordinate its activities with those of the Council of Europe, particularly with regard to the Annual Work Programme pursuant to Article 5 **and to the cooperation with civil society in accordance with Article 9a**. To this end, the Community shall, in accordance with the procedure provided for in Article 300 of the Treaty, enter into an agreement with the Council of Europe for the purpose of establishing close cooperation between the latter and the Agency. This agreement shall include the **appointment of** an independent person **by the**

Council of Europe to sit on the Agency's Management Board ***and on its Executive Board***, in accordance with ***Articles 11 and 12***.

Amendment 27
Article 9 a (new)

Article 9a

Cooperation with civil society and the establishment of a Fundamental Rights Platform

- 1. The Agency shall closely cooperate with non-governmental organisations and civil society institutions active, at national, European or international level, in the field of fundamental rights, including in combating racism and xenophobia and in the protection of minorities. To that end, the Agency shall establish a cooperation network, to be known as the Fundamental Rights Platform, composed of non-governmental organisations dealing with human rights, trade unions and employer's organisations, relevant social and professional organisations, churches, religious, philosophical and non-confessional organisations, universities and other qualified experts of European and international bodies and organisations.***
- 2. The Platform shall constitute a mechanism for the exchange of information and the pooling of knowledge. It shall ensure close cooperation between the Agency and relevant stakeholders.***
- 3. The Platform shall be open to all interested and qualified stakeholders pursuant to paragraph 1. The Agency may address the members of the Platform in accordance with specific needs related to areas identified as a priority of the Agency's work.***
- 4. The Agency shall call upon the Platform in particular to:***
 - (a) make suggestions to the Management***

*Board on the annual work programme to be adopted under Article 11(4)(a);
(b) give feedback and suggest follow-up to the Management Board on the annual report provided for in Article 4(1)(f); and
(c) communicate outcomes and recommendations of conferences, seminars and meetings relevant to the work of the Agency to the Director and the Scientific Committee.*

5. The Platform shall be coordinated under the authority of the Director.

Amendment 28

Article 10, points (c) and (d)

(c) *a director;*
(d) *a forum.*

(c) *a Scientific Committee; and*
(d) *a Director.*

Amendment 29

Article 11

1. The Management Board shall be composed of persons with appropriate experience in the field of fundamental rights and the management of public sector organisations, as follows:

(a) one independent person appointed by each Member State;

(b) one independent person appointed by the European Parliament;

(c) one independent person appointed by the Council of Europe; and

(d) two ***representatives*** of the Commission.

1. The Management Board shall be composed of persons with appropriate experience in the field of fundamental rights and the management of public sector organisations, as follows:

(a) one independent person appointed by each Member State ***who has high-level responsibilities in an independent national human rights institution or other public or private-sector organisation;***

(c) one independent person appointed by the Council of Europe; and

(d) two ***persons nominated*** by the Commission:

- one of whom shall be an independent person designated from among individuals

*whose competence in the field of fundamental rights is universally recognized, and
- the other of whom shall be a representative of the Commission.*

The persons referred to in point (a) shall be persons:

*with high level responsibilities in the management of an independent national human rights institution; or,
with thorough expertise in the field of fundamental rights gathered in the context of other independent institutions or bodies. Each member of the Management Board may be represented by an alternate member meeting the above requirements.*

The list of the members of the Board shall be made public and shall be updated by the Agency on its web site.

2. The term of office of the members of the Management Board appointed shall be five years. It may be renewed once.

However, where a member no longer meets the criteria by reason of which he or she was appointed, he or she shall forthwith inform the Commission and the Director of the Agency. The party concerned shall appoint a new member for the remaining term of the office.

3. The Management Board shall elect its Chairperson and Vice-Chairperson to serve for a two-and-a-half year term, which may be renewed once. Each member of the Management Board, or, in his or her absence, his or her alternate shall have one vote.

4. The Management Board shall ensure that the Agency performs the tasks entrusted to it. It shall be the Agency's planning and monitoring body. In particular, it shall:

(a) adopt the Agency's Annual Work Programme on the basis of a draft submitted by the Agency's Director after the Commission has delivered an opinion. It shall be in accordance with the available financial and human resources. The Annual Work Programme shall be transmitted to the European Parliament, the Council and the Commission;

3. The Management Board shall elect its Chairperson and Vice-Chairperson to serve for a two-and-a-half year term, which may be renewed once. Each member of the Management Board, or, in his or her absence, his or her alternate shall have one vote.

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

- (b) adopt the annual reports referred to in Article 4(1)(f) and (h), comparing, in particular, the results achieved with the objectives of the annual work programme; these reports shall be transmitted not later than 15 June to the European Parliament, the Council, the Commission, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions;*
- (c) appoint and, if necessary, dismiss the Agency's Director;*
- (d) adopt the Agency's annual draft and final budgets;*
- (e) exercise disciplinary authority over the Director;*
- (f) draw up an annual estimate of expenditure and revenue for the Agency and send it to the Commission, in accordance with Article 19(5);*
- (g) adopt the Agency's rules of procedure on the basis of a draft submitted by the Director after the Commission has delivered an opinion;*
- (h) adopt the financial rules applicable to the Agency on the basis of a draft submitted by the Director after the Commission has delivered an opinion, in accordance with Article 20(11);*
- (i) adopt the necessary measures to implement the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities, in accordance with Article 23(3); and*
- (j) adopt the procedures for applying Regulation (EC) No 1049/2001 of the European Parliament and of the Council, in accordance with Article 16(2).*

5. The Management Board may delegate any of its responsibilities to the Executive Board, except for the matters referred to in points (a), (b), (c), (d), (g) and (h) of paragraph 4.

5. Apart from normal replacement or death, the term of office of the member or the alternate member shall end only when he or she resigns. However, where a member or an alternate member no longer meets the criterion of independence, he or she shall forthwith inform the Commission and the Director of the Agency thereof. The party concerned shall appoint a new member or a

new alternate member for the remainder of the term of office. The party concerned shall also appoint a new member or a new alternate member for the remainder of the term of office, if the Management Board has established, on the basis of a proposal of one third of its members or of the Commission, that a member or alternate member no longer meets the criterion of independence. Where the remainder of the term of office is less than two years, the term of office of the new member or alternate member may be a full five years.

6. Decisions by the Management Board shall be taken by a simple majority of the votes cast, except as regards the decisions referred to in points (a), (c), (d) and (e) of paragraph 4, where a two-thirds majority of all members shall be required. The Chairperson shall have the casting vote. The person appointed by the Council of Europe may vote only on decisions referred to in points (a) and (b) of paragraph 4.

7. The Chairperson shall convene the Board once a year, without prejudice to extraordinary supplementary meetings. The Chairperson shall convene extraordinary meetings on his or her own initiative or at the request of at least one third of the members of the Management Board.

6. The Management Board shall elect its Chairperson and Vice-Chairperson and the other two members of the Executive Board as referred to in Article 13 from its members appointed under paragraph 1(a) to serve for a two-and-a-half year term, which may be renewed once.

7. The Management Board shall ensure that the Agency performs the tasks entrusted to it. It shall be the Agency's planning and monitoring body. In particular, it shall:
(a) adopt the Agency's annual work programme in accordance with the multi-annual framework, on the basis of a draft submitted by the Director of the Agency after the Commission and the Scientific Committee have delivered an opinion. It shall be in accordance with the available financial and human resources and shall take into account the research and statistical work of the Community. The annual work programme shall be forwarded to the European Parliament, the Council and the Commission;
(b) adopt the annual reports referred to in Article 4(1)(f) and (h), comparing in the latter one, in particular, the results achieved with the objectives of the annual work programme; without prejudice to the fifth paragraph of Article 12a, the Scientific Committee shall be consulted before the report referred to in Article 4(1)(f) is

adopted; the reports shall be forwarded no later than 15 June to the European Parliament, the Council, the Commission, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions;

(c) appoint and, if necessary, dismiss the Director of the Agency;

(d) adopt the Agency's annual draft and final budgets;

(e) exercise the powers laid down in Article 23(2) in respect of the Director and disciplinary authority over the Director;

(f) draw up an annual estimate of expenditure and revenue for the Agency and send it to the Commission in accordance with Article 19(5);

(g) adopt the Agency's rules of procedure on the basis of a draft submitted by the Director after the Commission and the Scientific Committee have delivered an opinion;

(h) adopt the financial rules applicable to the Agency on the basis of a draft submitted by the Director after the Commission has delivered an opinion, in accordance with Article 20(11);

(i) adopt the necessary measures to implement the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities in accordance with Article 23(3);

(j) adopt the arrangements to implement Regulation (EC) No 1049/2001, in accordance with Article 16(3);

(k) appoint and dismiss members of the Scientific Committee in accordance with the first and third paragraphs of Article 12a; and

(l) establish that a member or an alternate member of the Management Board no longer meets the criterion of independence, in accordance with paragraph 5.

8. The Director of the European Institute for Gender Equality may attend meetings of the Management Board as an observer. The Directors of other relevant Community agencies and Union bodies may also attend

8. The Management Board may delegate its responsibilities to the Executive Board except for the matters referred to in points (a), (b), (c), (d), (e), (g), (h), (k) and (l) of paragraph 7.

as observers when invited by the Executive Board.

8a. Decisions by the Management Board shall be taken by a simple majority of the votes cast, except as regards the decisions referred to in paragraph 6 as well as in the points (a), (b), (c), (d), (e), (g), (k) and (l) of paragraph 7, where a two-thirds majority of all members shall be required. Each member of the Management Board, or, in his or her absence, his or her alternate shall have one vote. The Chairperson shall have the casting vote. The person appointed by the Council of Europe may vote on decisions referred to in points (a), (b), (g) and (k) of paragraph 7.

8b. The Chairperson shall convene the Management Board twice a year, without prejudice to any additional extraordinary meetings. The Chairperson shall convene extraordinary meetings on his or her own initiative or at the request of at least one third of the members of the Management Board.

8c. The Chairperson or Vice-Chairperson of the Scientific Committee and the Director of the European Institute for Gender Equality may attend meetings of the Management Board as observers. The Directors of other relevant Community agencies, Union bodies and other international institutions as referred to in Articles 8 and 9 may also attend as observers when invited by the Executive Board.

Amendment 30

Article 12, paragraph 1

1. The Management Board shall be assisted by an Executive Board. The Executive Board shall be made up of the Chairperson and the Vice-Chairperson of the Management Board ***and two Commission representatives.***

1. The Management Board shall be assisted by an Executive Board. The Executive Board shall be made up of the Chairperson and the Vice-Chairperson of the Management Board, ***two other members of the Management Board elected by the Management Board in accordance with Article 11(6) and one of the persons nominated by the Commission to***

the Management Board. The person appointed by the Council of Europe to the Management Board may participate in the meetings of the Executive Board as an observer.

Amendment 31
Article 12 a (new)

Article 12a

Scientific Committee

The Scientific Committee shall be composed of eleven 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 and taken into account the views expressed by the competent committee of the European Parliament. The Management Board shall ensure even geographical representation. The members of the Management Board shall not be members of the Scientific Committee. The rules of procedure referred to in Article 11(7)(g) shall lay down the detailed conditions governing the appointment of the Scientific Committee.

The term of office of the members of the Scientific Committee shall be five years. It shall not be renewable.

The members of the Scientific Committee shall be independent. They may be replaced only at their own request, or in the event of their being permanently prevented from fulfilling their duties. However, where a member no longer meets the criterion of independence, he or she shall forthwith inform the Commission and the Director of the Agency thereof. Alternatively, the Management Board may declare, on a proposal of one third of its members, that the person concerned no longer meets the criterion of independence and dismiss the person concerned. The Management Board shall appoint a new member for the

remainder of the term of office in accordance with the procedure for ordinary members. Where the remainder of the term of office is less than two years, the term of office of the new member may be a full five years. The list of members of the Scientific Committee shall be made public and shall be updated by the Agency on its web site. The Scientific Committee shall elect its Chairperson and Vice-Chairperson for a term of office of one year.

The Scientific Committee shall be the guarantor of the scientific quality of the Agency's work, guiding the work to that effect. For that purpose, the Director shall involve the Scientific Committee as early as appropriate in the preparation of all documents drawn up in accordance with Article 4(1)(a), (b), (c), (d), (e), (f), (g), and (i).

The Scientific Committee shall take its decisions by a two-thirds majority. It shall be convened by its Chairperson four times per year. If necessary, the Chairperson shall launch a written procedure or shall convene extraordinary meetings on his or her own initiative or at the request of at least four members of the Scientific Committee.

Amendment 32
Article 13

1. The Agency shall be headed by a Director, appointed by the Management Board *on the basis of a list of candidates proposed by the Commission*. The Director shall be appointed on the basis of his or her personal merit, *administrative and management skills and experience in the field of fundamental rights. Before being appointed, the candidate selected by the Management Board may be asked to make a statement before the competent committee of the European Parliament and answer questions from its members.*

2. *The Director's term of office shall be five*

1. The Agency shall be headed *and represented* by a Director appointed by the Management Board *in accordance with a co-operation ("concertation") procedure provided for in paragraph 2*. The Director shall be appointed on the basis of his or her personal merit, *experience in the field of fundamental rights and administrative and management skills.*

2. *The cooperation procedure shall be as*

years. On a proposal from the Commission and after evaluation, this may be extended once for a period of no more than five years. In the evaluation, the Commission shall assess in particular the results achieved during the first term of office and the way in which they were achieved, and the Agency's duties and requirements in the coming years.

3. The Director shall be responsible for:
(a) performance of the tasks referred to in Article 4;
(b) preparation and implementation of the Agency's Annual Work Programme;
(c) all staff matters, and in particular exercising powers provided for in Article 23(2);
(d) matters of day-to-day administration;
(e) implementation of the Agency's budget, in accordance with Article 20; and
(f) implementation of effective monitoring and evaluation procedures relating to the performance of the Agency against its objectives according to professionally recognised standards. The Director shall report annually to the Management Board on the results of the monitoring system.

4. The Director shall be accountable for the management of his/her activities to the Management Board and shall participate in its meetings without voting rights.

follows:

(a) on the basis of a list drawn up by the Commission after a call for candidates and a transparent selection procedure, applicants shall be asked before an appointment is made to address the Council of the European Union and the relevant European Parliament committee and to reply to questions;
(b) the European Parliament and the Council of the European Union shall then give their opinion on the applicants and state their orders of preference;
(c) the Management Board shall appoint the Director taking those opinions into account.

3. The Director's term of office shall be five years.

In the course of the nine months preceding the end of that period, the Commission shall evaluate in particular the performance of the Director and the Agency's duties and requirements in the coming years.

Taking account of the evaluation report and only where justified by the duties and requirements of the Agency, the Management Board may, acting on a proposal from the Commission, extend the term of office of the Director once for not more than three years.

The Management Board shall inform the European Parliament of its intention to extend the Director's term of office. Within a period of one month before the Management Board formally takes its decision to extend the term of office, the Director may be asked to make a declaration before the competent committee of the European Parliament and to answer questions from its members.

Where his or her term of office is not extended, the Director shall remain in office until the appointment of his or her successor.

4. The Director shall be responsible for:
(a) performance of the tasks referred to in Article 4 and in particular the preparation and publication of the documents drawn up

in accordance with Article 4(1)(a), (b), (c), (d), (e), (f), (g) and (i) in cooperation with the Scientific Committee;
(b) preparation and implementation of the Agency's annual work programme;
(c) all staff matters, and in particular the exercise in respect of staff of the powers laid down in Article 23(2);
(d) matters of day-to-day administration;
(e) implementation of the Agency's budget, in accordance with Article 20;
(f) implementation of effective monitoring and evaluation procedures relating to the performance of the Agency against its objectives according to professionally recognised standards. The Director shall report annually to the Management Board on the results of the monitoring system;
(g) cooperation with national liaison officers; and
(h) cooperation with civil society, including coordination of the Fundamental Rights Platform in accordance with Article 9a.

5. The Director may be dismissed by the Management Board before his or her term has expired, on the basis of a proposal from the Commission.

5. The Director shall perform his or her tasks independently. He or she shall be accountable for the management of his or her activities to the Management Board and shall participate in its meetings without voting rights.

5a. The Director may be called at any time by the European Parliament or by the Council to attend a hearing on any matter linked to the Agency's activities.

5b. The Director may be dismissed by the Management Board before his or her term has expired, on the basis of a proposal of a third of its members. The Chairperson of the Management Board shall inform the European Parliament and the Council of the reasons for the dismissal.

Amendment 33
Article 14

Fundamental Rights Forum

- 1. The Forum shall be composed of representatives of non-governmental organisations responsible for fundamental rights and efforts to combat racism, xenophobia and anti-Semitism, trade unions and employer's organisations, relevant social and professional organisations, churches, religious, philosophical and non-confessional organisations, universities and qualified experts and European and international bodies and organisations.**
- 2. The members of the Forum shall be selected by an open selection mechanism to be determined by the Management Board. Their maximum number shall be 100. Their term of office shall be five years, which may be renewed once.**
- 3. Members of the Management Board shall not be members of the Forum, but may attend its meetings.**
- 4. The Forum shall constitute a mechanism for the exchange of information in relation to fundamental rights issues and the pooling of knowledge. It shall ensure close cooperation between the Agency and relevant stakeholders.**
- 5. The Forum shall:**
 - make suggestions for the purpose of drawing up the Annual Work Programme to be adopted under Article 11(4)(a); and**
 - give feedback and suggest follow up on the basis of the annual report on the situation regarding fundamental rights adopted under Article 11(4)(b).**
- 6. The Forum shall be chaired by the Director. It shall meet annually, or at the request of the Management Board. Its operational procedures shall be specified in the Agency's internal rules and shall be made public.**
- 7. The Agency shall provide the technical and logistic support necessary for the Forum and provide a secretariat for its meetings.**

Amendment 34
Article 15, paragraph 2

2. The members of the Management Board, the Director and the **members of the Forum** shall undertake to act in the public interest. For this purpose, they shall make a statement of **commitment**.

The members of the Management Board appointed under Article 11(1)(a), (b) and (c), the Director and the members of the Forum shall undertake to act independently. For this purpose, they shall make a statement of interests indicating either the absence of any interests which might be considered prejudicial to their independence or any direct or indirect interests which might be considered prejudicial to their independence. Both statements shall be made annually in writing.

2. The members **and alternate members** of the Management Board, **the members of the Scientific Committee** and the Director shall undertake to act in the public interest. For this purpose, they shall make a statement of **interests indicating either the absence of any interests which might be considered prejudicial to their independence or any direct or indirect interests which might be considered prejudicial to their independence. They shall make that statement in writing when taking office and shall revise it should changes occur with regard to the interests. It shall be published by the Agency on its website.**

Amendment 35
Article 16, title and paragraphs 1 and 2

Access to documents

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council shall apply to documents held by the Agency.

2. The Management Board shall **adopt arrangements to implement Regulation (EC) No 1049/2001 within six months of the commencement of the Agency's operation.**

Transparency and access to documents

1. **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 of the European Parliament and of the Council shall apply to the documents held by the Agency.

2. The Management Board shall, **within six months after the Agency becomes operational, adopt specific rules for the practical implementation of paragraph 1. These shall include inter alia rules for:**
- the openness of meetings,
- the publication of the work of the Agency, including those of the Scientific Committee, and
- the implementation of Regulation (EC) No 1049/2001.

Amendment 36
Article 19, paragraph 3

3. The revenue of the Agency shall, without prejudice to other resources, comprise:

- (a) a subsidy from the Community, entered in the general budget of the European Union (Commission section); and*
 - (b) payments received for services rendered.*
- This revenue may be complemented by*
- (a) voluntary contributions from the Member States; and*
 - (b) financial contributions from the organisations or third countries referred to in Articles 8, 9 or 27.*

3. The revenue of the Agency shall, without prejudice to other resources, comprise **a subsidy from the Community, entered in the general budget of the European Union (Commission section).**

This revenue may be supplemented by payments received for services rendered in the framework of the implementation of the tasks listed in Article 4.

Amendment 37
Article 22, paragraph 4

4. The Agency shall legally succeed the European Monitoring Centre on Racism and Xenophobia. It shall assume all legal rights and obligations, financial commitments or liabilities of the Centre. **Employment contracts concluded by the Centre before the adoption of this Regulation shall be honoured.**

4. The Agency shall legally succeed the European Monitoring Centre on Racism and Xenophobia. It shall assume all legal rights and obligations, financial commitments or liabilities of the Centre.

Amendment 38
Article 23, paragraphs 1 and 2

1. The Staff Regulations of Officials of the European Communities, the Conditions of Employment of Other Servants of the European Communities and the rules adopted jointly by the European Community institutions for the purpose of applying these Staff Regulations and Conditions of Employment shall apply to the staff of the Agency.

1. The Staff Regulations of Officials of the European Communities, the Conditions of Employment of Other Servants of the European Communities and the rules adopted jointly by the European Community institutions for the purpose of applying these Staff Regulations and Conditions of Employment shall apply to the staff of the Agency **and its Director.**

2. In respect of its staff, the Agency shall exercise the powers conferred on the appointing authority.

2. In respect of its staff, the Agency shall exercise the powers conferred on the appointing authority ***by the Staff Regulations of Officials of the European Communities and on the authority entitled to conclude contracts by the Conditions of Employment of Other Servants of the European Communities.***

Amendment 39
Article 27

Participation of candidate ***or potential candidate*** countries

1. The Agency shall be open to the participation of ***those countries which have concluded an association agreement with the Community and have been identified by the European Council as candidate countries or potential candidate countries for accession to the Union where the relevant Association Council decides on such participation.***

2. ***In that event, the modalities of their participation*** shall be determined by a decision of the relevant Association Council. The decision shall ***specify the expertise and assistance to be offered to the country in question and indicate in particular the nature,*** extent and manner in which these countries will participate in the Agency's work, including provisions relating to participation in the initiatives undertaken by the Agency, to the financial contribution and to staff. The decision shall be in line with this Regulation and with the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities. The decision shall provide that the participating country may appoint an independent person fulfilling the qualifications for persons

Participation of candidate countries ***and countries with which a Stabilisation and Association Agreement has been concluded***

1. The Agency shall be open to the participation of ***candidate countries and countries with which a Stabilisation and Association Agreement has been concluded by the European Community.***

2. ***The participation of such countries and the relevant*** modalities shall be determined by a decision of the relevant Association Council, ***taking into account the specific status of each country.*** The decision shall ***lay down in particular the nature,*** extent and manner in which these countries will participate in the Agency's work, ***within the framework laid down in Articles 4 and 5,*** including provisions relating to participation in the initiatives undertaken by the Agency, to the financial contribution and to staff. The decision shall be in line with this Regulation and with the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities. The decision shall provide that the participating country may appoint an independent person fulfilling

referred to in Article 11(1)(a) as observer to the Management Board without right to vote.

3. The Agency shall concern itself with the situation of fundamental rights in the countries, which participate in accordance with this Article, to the extent it is relevant for the respective association agreement. Articles 4 and 5 shall apply by analogy to that effect.

the qualifications for persons referred to in Article 11(1)(a) as observer to the Management Board without right to vote.

Amendment 40
Article 29

Article 29
Procedure

deleted

- 1. The Commission shall be assisted by a committee, composed of representatives of the Member States and chaired by the representative of the Commission.**
- 2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) thereof.**
- 3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be one month.**

Amendment 41
Article 30

1. The current term of office of the members of the Management Board of the European Monitoring Centre on Racism and Xenophobia shall terminate on 31 December 2006. The Commission shall take the necessary measures to ensure that a Management Board established in accordance with Article 11 shall start its ***term of office on 1 January 2007***.

2. The ***Commission*** shall start the procedure for appointing a Director of the Agency as provided for in Article 13(1) without delay

1. The current term of office of the members of the Management Board of the European Monitoring Centre on Racism and Xenophobia shall terminate on 31 December 2006. The Commission shall take the necessary measures ***without delay after the entry into force of this Regulation*** to ensure that a Management Board established in accordance with Article 11 shall start its ***work in due course***.

2. The ***parties concerned*** shall start the procedure for appointing a Director of the Agency as provided for in Article 13(1)

after the entry into force of this Regulation.

3. The Management Board, acting on a proposal from the Commission, may extend the current term of the Director of the European Monitoring Centre on Racism and Xenophobia for **a maximum period of 18 months**, pending the appointment procedure referred to in paragraph 2.

4. If the Director of the Centre is unwilling or unable to act in accordance with paragraph 3, the Management Board shall appoint an interim Director on the same conditions.

without delay after the entry into force of this Regulation.

3. The Management Board, acting on a proposal from the Commission, may **appoint an interim Director or** extend the current term of the Director of the European Monitoring Centre on Racism and Xenophobia for **the shortest possible** period, pending the appointment procedure referred to in paragraph 2.

Amendment 42

Article 31, paragraphs 1 to 3

1. The Agency shall regularly carry out ex-ante and ex-post evaluations of its activities when these necessitate significant expenditure. **It shall** notify the Management Board of the results of these evaluations

2. The Agency shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures.

3. No later than **31 December 2009**, the Agency shall commission an independent external evaluation of its achievements during the first three years of operations on the basis of terms of reference issued by the Management Board in agreement with the Commission. This evaluation shall take into account the tasks of the Agency, the working practices and impact of the Agency on the protection and promotion of fundamental rights **and shall** include an analysis of the synergy effects and the financial implications of any extension of the tasks. **The evaluation shall** take into account the views of the stakeholders at both Community and national levels.

1. The Agency shall regularly carry out ex-ante and ex-post evaluations of its activities when these necessitate significant expenditure. **The Director** shall notify the Management Board of the results of these evaluations.

2. The Agency shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures.

3. No later than **31 December 2011**, the Agency shall commission an independent external evaluation of its achievements during the first three years of operations on the basis of terms of reference issued by the Management Board in agreement with the Commission. This evaluation shall:

- take into account the tasks of the Agency, the working practices and impact of the Agency on the protection and promotion of fundamental rights;
- **include an assessment of the possible need to modify the Agency's tasks, scope, areas of activity or structure;**
- include an analysis of the synergy effects and the financial implications of any modification of the tasks; **and**
- take into account the views of the

stakeholders at both Community and national levels.

The evaluation shall also assess the possible need to modify or extend the Agency's tasks, scope, areas of activity or structure, including in specific structural modifications needed to ensure compliance with horizontal rules on regulatory agencies once they enter into force.

Amendment 43

Article 32, paragraph 1

1. The Management Board shall examine the conclusions of the evaluation referred to in **Article 31** and issue to the Commission such recommendations as may be necessary regarding changes in the Agency, its working practices and the scope of its mission. The Commission shall transmit the evaluation report and the recommendations to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions and make them public.

1. The Management Board shall examine the conclusions of the evaluation referred to in **Article 31(3) and (4)** and issue to the Commission such recommendations as may be necessary regarding changes in the Agency, its working practices and the scope of its mission. The Commission shall transmit the evaluation report and the recommendations to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions and make them public.

EXPLANATORY STATEMENT

In view of the actually suspended constitution-making process of the European Union (EU), the rapporteur considers that it is the right moment for Europe to flag the protection and promotion of fundamental human rights.

When discussing the role of the European Parliament (EP) in the process of creating a European Union Agency for Fundamental Rights, it is very important to keep the high level of ambition of its first proposal on the matter. Therefore in the detailed interinstitutional discussion on the Agency's mandate and structure, one needs to stick to the principles formulated in the EP Resolution of May 26, 2005 on the promotion and protection of fundamental rights: the role of national and European institutions, including the Fundamental Rights Agency.

In accordance with this resolution and the rapporteur's current view, it is essential to create an Agency, which is at the same time *independent and responsible*. Thus a balance needs to be found between these two requirements, always keeping in mind that the most important is to create a functional and efficient body. In order to achieve this aim, an active and close cooperation is needed among the three European institutions; above all a political consensus has to be achieved.

Such an Agency is only of interest if able to fulfil its mission with *legitimacy, efficiency and credibility*. In this process a balance needs to be found between two competing challenges: reinforcing its independence and ensuring its responsibility vis-à-vis the institutions of the European Union. A sufficiently legitimate and accountable Agency needs to primarily concentrate on the Member States of the Union, not excluding the possibility of addressing issues related to third countries - to the extent this is relevant in the implementation of Community law and internal EU policies.

The rapporteur has amended the original Commission proposal to guarantee that these aspects indeed become characteristic of the newly established body. These amendments can be grouped around *three main lines of argument*.

Firstly, in order to enhance the legitimacy of the Agency, when designing its mandate and structure *the role of the European Parliament* needs to be further emphasized than it was done in the Commission proposal (Amendment no. 8, Amendment no. 9, Amendment no.13, Amendment no. 19, Amendment no. 21 and Amendment no. 39 aim at fulfilling this objective).

Secondly, when defining the Agency's role, geographical remit and tasks, due account needs to be taken of *the work of the Council of Europe*, in order to avoid duplication and to assure synergies (Amendment no. 11, Amendment no. 17, Amendment no. 25, Amendment no.31, Amendment no. 33 and Amendment no. 40 ensure this).

Thirdly, in its structure, *the independence of the Agency* can only be ensured if its members and decision-taking bodies are themselves independent and designated through a transparent

process. Besides the Commission the Parliament also needs to be involved in the definition of its Multiannual Framework Programme (Amendment no. 22.) A possibility should be left open for the Agency to take up issues upon its own initiative (Amendment no. 32, Amendment no. 33, Amendment no. 38, Amendment no. 39 and Amendment no. 40 aim at fulfilling this many-folded objective).

As far as *the geographical remit of the Agency* is concerned, the rapporteur is of an opinion that the primary role of the Agency is to assist the EU institutions and its Member States comply with their duty under Community law to respect fundamental rights in their policies. However, third countries cannot be excluded either from its remit, since there is a need for equally considering the external dimensions of a relevant Community law or that of an internal policy. In reaching a compromise concerning this issue, due account was taken of the enhanced cooperation with the AFET committee (Amendment no. 16 represents this agreement).

Through these amendments the ambition is to place the Agency at the centre of the European movement towards better protection of fundamental rights and any existing experience must be used in this process. Fundamental rights should be at the heart of all EU policies and measures so that Europe is indeed referred to as a symbol of fundamental rights.

11.5.2006

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council regulation establishing a European Union Agency for Fundamental Rights
(COM(2005)0280 – C6-0288/2005 – 2005/0124(CNS))

Draftsman (*): Cem Özdemir

(*) Enhanced cooperation between committees - Rule 47 of the Rules of Procedure

SHORT JUSTIFICATION

The European Parliament has always been a champion of the improvement of human rights and the guarantee of fundamental rights in the EU and the world. For this reason it seems long overdue that the European Union creates the agency proposed. Indeed by establishing the Agency, the European Union insures that it is capable of respecting human rights in its policies. With respect to its mandate (Article 6(2) of the TEU and the Charter for Fundamental Rights), the Agency should seek to closely co-ordinate and cooperate with the Council of Europe to prevent any kind of duplication. Indeed, it should take due account of information, analyses and work of the Council of Europe, and in particular its human rights supervisory mechanisms, to avoid creating dividing lines and double standards that would risk weakening the overall protection of human rights in Europe".

The primary role of the Agency is to assist the EU institutions and its Member States, when acting within the scope of Community law, to comply with their duty under EU and Community law to respect fundamental rights in their policies. In this respect, it is necessary to address the possibility that the EU and its member states, under EU and international law, are potentially held liable for any acts that violate human rights in third countries and that therefore the Agency should have the mandate to review any policies which could lead to such liability. In this capacity, the Agency could act as an early warning system for human rights violations in third countries.

It is the complementary role of the Agency to assist the EU in the implementation of its external policies, when these require an assessment of the situation in a third country with respect to human rights (Article 3 (4) of the proposal of the European Commission). It is also open to the active participation of countries which have been identified by the European Council as candidate countries or potential candidate countries for accession to the Union, as proposed by the European Commission in its proposal (Article 27). This can be considered as a lesson from past enlargements and will further help secure a smooth future EU integration

of the accession candidates. Furthermore, a similar role for the Agency derives from EU agreements with third countries (Article 3(4) of the Proposal of the European Commission), in particular countries which are covered by the European Neighbourhood Policy, including a conditionality clause with regard to the respect for human rights, i.e. a clause which is to be applied reciprocally.

The European Parliament as the institution directly elected by the people and together with Council politically supervising the EU's relations with third countries, needs to be able to call on the Agency's services and expertise for well-grounded judgement.

The reinforcement of the independence of the agency as well as the responsibility of the agency vis-à-vis the European Institutions should be dealt with in co-operation with the Committee on Civil Liberties, Justice and Home Affairs.

For this reason the Committee on Foreign Affairs and the Subcommittee on Human Rights ask the Committee on Civil Liberties, Justice and Home Affairs to include the following amendments in their report:

AMENDMENTS

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1 Recital 2

(2) The Charter of Fundamental Rights of the European Union reaffirms the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the Treaty on European Union, the Community Treaties, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the social charters adopted by the Community and by the Council of Europe and the case law of the Court of Justice of the European Communities and of the European Court of Human Rights.

(2) The Charter of Fundamental Rights of the European Union reaffirms the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the Treaty on European Union, **and in particular Articles 6(2) and 11 thereof, the Universal Declaration of Human Rights and all other relevant international instruments on human rights**, the Community Treaties, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the social charters adopted by the Community and by the Council of Europe and the case law of the Court of Justice of the European Communities and of the European Court of

¹ Not yet published in OJ.

Human Rights.

Amendment 2

Recital 16

(16) The Agency should collaborate closely with the Council of Europe. Such cooperation should guarantee that any overlap between the activities of the Agency and those of the Council of Europe is avoided, in particular by elaborating mechanisms to ensure synergies, such as conclusion of a bilateral cooperation agreement and the participation of an independent person appointed by the Council of Europe in the management structures of the Agency with appropriately defined voting rights as in the current EUMC.

(16) The Agency should collaborate closely with the Council of Europe **and avoid falling into a state of dependency or inter-dependency with the latter**. Such cooperation should guarantee that any overlap between the activities of the Agency and those of the Council of Europe is avoided, in particular by elaborating mechanisms to ensure synergies, such as conclusion of a bilateral cooperation agreement and the participation of an independent person appointed by the Council of Europe in the management structures of the Agency with appropriately defined voting rights as in the current EUMC.

Justification

Collaboration does not limit the abilities of the Agency to make its own decisions based on its own position.

Amendment 3

Recital 18

(18) The European Parliament plays a significant role in the area of fundamental rights. It should appoint one independent person as a member of the Management Board of the Agency,

(18) The European Parliament plays a significant role in the area of fundamental rights. It should appoint one independent person as a member of the Management Board of the Agency **and should have the right to participate in the appointment of the Agency's Director and the extension of his term of office**.

Justification

The European Parliament should exercise its controlling function also towards the management of the Agency.

Amendment 4

Recital 26 b (new)

(26b) The European Parliament recognises and reaffirms the importance of human

rights and fundamental freedoms in all of the EU's agreements with third countries and recognises that the Commission should actively evaluate compliance with those fundamental obligations;

Amendment 5
Article 2

The objective of the Agency shall be 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 objective of the Agency shall be 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. *While being the legal successor of the European Monitoring Centre on Racism and Xenophobia, the Agency shall develop its own methodology, procedures and decision-making processes and shall be guided by the principle of scientific objectivity in its work.*

Amendment 6
Article 3, paragraph 2

2. The Agency shall refer in carrying out its tasks to fundamental rights as defined in *Article 6(2)* of the Treaty on European Union and as set out in particular in the Charter of Fundamental Rights of the European Union as proclaimed in Nice on 7 December 2000.

2. The Agency shall refer in carrying out its tasks to fundamental rights as defined in *Article 6(2) and 11* of the Treaty on European Union and as set out in particular in the Charter of Fundamental Rights of the European Union as proclaimed in Nice on 7 December 2000, *with due regard to existing international human rights standards, such as those contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto, the Universal Declaration of Human Rights and all other*

relevant international instruments on human rights;

Amendment 7
Article 3, paragraph 3

3. When pursuing its activities, the Agency shall concern itself with the situation of fundamental rights ***in*** the European Union ***and in*** its Member States when implementing Community law, without prejudice to paragraph 4 and to Articles 4(1)(e), 27 and 28.

3. When pursuing its activities, the Agency shall concern itself with the situation of fundamental rights ***and the effect thereon of the activities of*** the European Union ***the*** Member States and the ***acceding and candidate countries*** when implementing Community law, without prejudice to paragraph 4 and to Articles 4(1)(e), 27 and 28.

Amendment 8
Article 3, paragraph 4

4. ***Without prejudice to Article 27***, the Agency shall, at the request of the Commission, provide information and analysis on fundamental rights issues identified in the request as regards third countries ***with which the Community has concluded association agreements or agreements containing provisions on respect of human rights, or has opened or is planning to open negotiations for such agreements, in particular countries covered by the European Neighbourhood Policy.***

4. The Agency shall, at the request of ***the European Parliament***, the Commission ***or the Council***, provide information and analysis on fundamental rights issues identified in the request as regards third countries, ***insofar as an external dimension of applying Community law or of an internal policy is concerned, without prejudice to Article 9. This task shall not be at the expense of the primary focus of the Agency, namely, the Member States.***

Amendment 9
Article 3, paragraph 4 a (new)

4a. Not later than two years after the appointment of its first Management Board, the Agency shall present to the European Parliament, the Commission and the Council an in-depth evaluation of its own remit as established in this Article in accordance with its own budgetary and

administrative capacities, including, if necessary, any proposed modifications.

Amendment 10

Article 4, paragraph 1, point (d)

(d) formulate *conclusions* and opinions on general subjects, 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;

(d) formulate *recommendations* and opinions on general subjects *and on international agreements*, 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;

Justification

If the Agency is genuinely to provide added value, it has to be allowed to draw up recommendations, including on international agreements.

Amendment 11

Article 9

The Agency shall coordinate its activities with those of the Council of Europe, particularly with regard to its Annual Work Programme pursuant to Article 5. To this end, the Community shall, in accordance with the procedure provided for in Article 300 of the Treaty, enter into *an* agreement with the Council of Europe for the purpose of establishing close cooperation between the latter and the Agency. This agreement shall include the obligation of the Council of Europe to appoint *an independent person* to sit on the Agency's Management Board, in accordance with Article 11.

The Agency shall coordinate its activities with those of the Council of Europe, particularly with regard to its Annual Work Programme pursuant to Article 5. To this end, the Community shall, in accordance with the procedure provided for in Article 300 of the Treaty, enter into *a bilateral* agreement with the Council of Europe for the purpose of establishing close cooperation between the latter and the Agency. This agreement shall include, *inter alia*:
(a) the possibility for the Council of Europe to appoint *its representative or its Commissioner on Human Rights* to sit on the Agency's Management Board, in accordance with Article 11;
(b) enhanced cooperation between the Agency and the relevant bodies of the Council of Europe in relation to third countries which are members of the Council of Europe.

Amendment 12
Article 9 a (new)

Article 9a

Cooperation with the United Nations

When pursuing its activities the Agency shall take account of the appropriate United Nations bodies, including the Office of the High Commissioner for Human Rights, with which it may conclude cooperation agreements.

Justification

The Agency should coordinate its activities with the appropriate United Nations bodies.

Amendment 13
Article 9 b (new)

Article 9b

Cooperation with human rights NGOs

When carrying out its activities the Agency shall cooperate with recognised human rights NGOs, especially as regards the exposure of, and the reports regularly produced by those organisations on, human rights violations in the EU and third countries.

Amendment 14
Article 11, paragraph 6

6. Decisions by the Management Board shall be taken by a simple majority of the votes cast, except as regards the decisions referred to in points (a), (c), (d) and (e) of paragraph 4, where a two-thirds majority of all members shall be required. The Chairperson shall have the casting vote. The person appointed by the Council of Europe may vote **only** on decisions referred to in points **(a)** and **(b)** of paragraph 4.

6. Decisions by the Management Board shall be taken by a simple majority of the votes cast, except as regards the decisions referred to in points (a), (c), (d) and (e) of paragraph 4, where a two-thirds majority of all members shall be required. The Chairperson shall have the casting vote. The person appointed by the Council of Europe may **not** vote on decisions referred to in points **(c)**, **(d)**, **(e)**, **(f)**, **(h)**, **(i)** and **(j)** of paragraph 4.

Justification

The aim of this amendment is to give the person appointed by the Council of Europe a vote in such matters as the adoption of conclusions and opinions on general subjects, as well as on procedures, thus helping to reinforce consistency and complementarity with the standards and activities of the Council of Europe.

Amendment 15 Article 12, paragraph 1

1. The Management Board shall be assisted by an Executive Board. The Executive Board shall be made up of the Chairperson and the Vice-Chairperson of the Management Board and two Commission representatives.

1. The Management Board shall be assisted by an Executive Board. The Executive Board shall be made up of the Chairperson and the Vice-Chairperson of the Management Board, ***the person appointed to the Management Board by the Council of Europe*** and two Commission representatives.

Justification

This amendment pursues the same aim as the Amendment 5, 6 and 7.

Amendment 16 Article 13, paragraph 1

The Agency shall be headed by a Director, appointed by the Management Board on the basis of a list of candidates proposed by the Commission. The Director shall be appointed on the basis of his or her personal merit, administrative and management skills and experience in the field of Human rights. Before being appointed, the candidate selected by the Management Board may be asked to make a statement before the competent committee of the European Parliament and answer questions from its members.

The Agency shall be headed by a Director, appointed by the Management Board on the basis of a list of candidates proposed by the Commission. The Director shall be appointed on the basis of his or her personal merit, administrative and management skills and experience in the field of Human rights. Before being appointed, the candidate selected by the Management Board may be asked to make a statement before the competent committee of the European Parliament and answer questions from its members. ***The European Parliament shall reject or approve the appointment of the Director.***

Amendment 17 Article 13, paragraph 2

2. The Director's term of office shall be five years. On a proposal from the Commission and after evaluation, this may be extended

2. The Director's term of office shall be five years. On a proposal from the Commission and after evaluation, this may be extended

once for a period of no more than five years. In the evaluation, the Commission shall assess in particular the results achieved during the first term of office and the way in which they were achieved, and the Agency's duties and requirements in the coming years.

once for a period of no more than five years. In the evaluation, the Commission shall assess in particular the results achieved during the first term of office and the way in which they were achieved, and the Agency's duties and requirements in the coming years.

Any extension of the Director's term of office shall be subject to the approval of the European Parliament.

Justification

The European Parliament should play its controlling role in the process of prolongation of the Director's term of office.

Amendment 18 Article 13, paragraph 5

The Director may be dismissed by the Management Board before his or her term has expired, on the basis of a proposal from the Commission.

The Director may be dismissed by the Management Board before his or her term has expired, on the basis of a proposal from the Commission ***or the European Parliament.***

Amendment 19 Article 14, paragraph 6

6. The Forum shall be chaired by the Director. It shall meet ***annually***, or at the request of the Management Board. Its operational procedures shall be specified in the Agency's internal rules and shall be made public.

6. The Forum shall be chaired by the Director. It shall meet ***at least twice a year***, or at the request of the Management Board, ***or whenever a majority of its members deems it necessary.*** Its operational procedures shall be specified in the Agency's internal rules and shall be made public.

Amendment 20 Article 27, paragraph 1

1. The Agency shall be open to the participation of those countries which have concluded an association agreement with the Community and have been identified by the European Council as candidate countries or potential candidate countries for accession to the Union where the relevant Association Council decides on such participation.

1. The Agency shall be open to the participation ***as observers*** of those countries which have concluded an association agreement with the Community and have been identified by the European Council as candidate countries or potential candidate countries for accession to the Union where the relevant Association Council decides on such participation.

Justification

The aim of this amendment would be to introduce potential new EU Member States to the Agency and involve them in its activities prior to accession, in a way that is consistent with its predominant purpose.

PROCEDURE

Title	Proposal for a Council Regulation establishing a European Union Agency for Fundamental Rights
References	COM(2005)0280 – C6-0288/2005 – 2005/0124(CNS)
Committee responsible	LIBE
Opinion by Date announced in plenary	AFET 29.9.2005
Enhanced cooperation – date announced in plenary	29.9.2005
Draftsman Date appointed	Cem Özdemir 29.8.2005
Previous drafts(wo)man	
Discussed in committee	21.11.2005 4.1.2006 24.1.2006 20.2.2006 3.5.2006
Date amendments adopted	3.5.2006
Result of final vote	+: 38 -: 5 0: 3
Members present for the final vote	Bastiaan Belder, André Brie, Elmar Brok, Simon Coveney, Ana Maria Gomes, Alfred Gomolka, Richard Howitt, Jana Hybášková, Anna Ibrisagic, Toomas Hendrik Ilves, Ioannis Kasoulides, Bogdan Klich, Helmut Kuhne, Vytautas Landsbergis, Cecilia Malmström, Emilio Menéndez del Valle, Francisco José Millán Mon, Pasqualina Napoletano, Annemie Neyts-Uyttebroeck, Baroness Nicholson of Winterbourne, Cem Özdemir, Justas Vincas Paleckis, Alojz Peterle, Tobias Pflüger, João de Deus Pinheiro, Mirosław Mariusz Piotrowski, Michel Rocard, Libor Rouček, José Ignacio Salafranca Sánchez-Neyra, Jacek Emil Saryusz-Wolski, György Schöpflin, Gitte Seeberg, Antonio Tajani, Charles Tannock, Paavo Väyrynen, Ari Vatanen, Karl von Wogau, Luis Yañez-Barnuevo García
Substitutes present for the final vote	Irena Belohorská, Árpád Duka-Zólyomi, Michl Ebner, Kinga Gál, Milan Horáček, Aloyzas Sakalas, Inger Segelström, Tatjana Ždanoka
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	...

25.4.2006

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council regulation establishing a European Union Agency for Fundamental Rights
(COM(2005)0280 – C6-0288/2005 – 2005/0124(CNS))

Draftswoman: Jutta D. Haug

SHORT JUSTIFICATION

Commission proposal

General

On 13 December 2003, the European Council, stressing the importance of human rights data collection and analysis with a view to defining Union policy in this field, agreed to build upon the existing European Monitoring Centre on Racism and Xenophobia (EUMC) and to extend its mandate to become a Human Rights Agency. The Commission agreed and indicated its intention of submitting a proposal to amend Regulation 1035/97 of 2 June 1997 establishing the EUMC.

The idea of a Human Rights Agency was subsequently included in the Hague Programme; strengthening freedom, security and justice in the European Union, adopted on 4-5 November 2004. On 16-17 December 2004, the European Council called for further implementation of the agreement to establish the Human Rights Agency. According to the Strategic objectives 2005-2009, Europe 2010: A Partnership for European Renewal - Prosperity, Solidarity and Security adopted by the Commission on 26 January 2005, the protection of fundamental rights must be put at the forefront of European action by establishing a European Agency of Fundamental Rights.

Financial implications

The current EUMC has an annual budget of EUR 8.2 million and a staff of 37. It is proposed that the new Agency become operational on 1 January 2007, with a mandate that is extended considerably. History shows that establishment of an Agency takes between two and three years, and it is expected that a major extension of an existing institution will require the same period of time.

It is therefore proposed to have a growing budget for the new agency for the period 2007-13 in order to take account of the inevitable transition period. Indicative financial planning is as follows: Budget 2007: EUR 16 million; 2008: EUR 20 million; 2009: EUR 21 million; 2010: EUR 23 million; 2011: EUR 26 million; 2012: EUR 28 million; 2013: EUR 29 million. Total staffing of 100 is proposed.

The financial details are as follows:

	2007	2008	2009	2010	2011	2012	2013	Total
Subsidy for Title 1 – Staff								
CA/PA	4,806	6,318	7,560	8,640	9,720	10,800	10,800	58,644
Subsidy for Title 2 – Other administrative expenditure								
CA/PA	1,200	1,550	1,900	2,150	2,400	2,700	2,700	14,600
Subsidy for Title 3 - Operational expenditure								
	9,894	12,132	11,540	12,810	14,280	14,600	16,400	91,656
TOTAL REFERENCE AMOUNT	15,900	20,000	21,000	23,600	26,400	28,100	29,900	164,900

Including the cost of human resources, from 2007 - 2013 the following amounts are necessary:

	2007	2008	2009	2010	2011	2012	2013	TOTAL
TOTAL CA/PA	16,262	20,365	21,368	24,030	26,834	28,538	30,338	167,735

Remarks

Your draftswoman fully acknowledges that decentralised agencies can indeed be a proper response to the need to improve the management of the Union's activities. Especially in the creation of an area of freedom, security and justice for the European citizens, current and future agencies might have an important role to play. An independent and respected new Fundamental Rights Agency acting in an environment allowing for effective work could indeed provide added European value for everybody living in the European Union of today.

However, the proliferation of agencies over the past ten years has led to some concern with regard to the ever increasing portion of operational funds thus used for expenditure that is administrative by its very nature. Especially before the background of scarce resources for the next financial framework period 2007 - 2013 and Parliament's wish to establish an overall ceiling for decentralised agencies, your draftswoman would once more like to point out that now the time has come to look for cost-effectiveness also in the field of EU agencies. Double work by different agencies dealing with related subjects can just not be afforded anymore before the background of significant budgetary uncertainties.

Regarding the planned reference amount for the Fundamental Rights Agency, it is important to note that, according to the Commission's latest indicative breakdown of expenditure based on the European Council conclusions of December 2005, the necessary funding under sub-heading 3A of the new financial framework 2007 - 2013 seems to be guaranteed at the moment. Of course, a final assessment of the situation, also with regard to the demand for an overall ceiling for agencies, can only be made after a new financial framework has been agreed.

At this stage, your draftswoman would like to note that current figures seem to indicate that until 2013 it might be very difficult (and maybe even impossible) to fund any new agency under sub-heading 3 A, that has not been proposed yet. If there should be new developments in the area of freedom, security and justice that would necessitate the creation of a new agency, there might simply be no money available for doing so.

AMENDMENTS

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Draft legislative resolution

Amendment 1
Paragraph 1 a (new)

1a. Considers that the financial reference amount indicated in the legislative proposal must be compatible with the ceiling of heading xx of the new Multi-annual Financial Framework (MFF) and with the provisions of point 47 of the IIA of xxx;

Proposal for a regulation

Text proposed by the Commission¹

Amendments by Parliament

Amendment 2
Article 31, paragraph 2

2. The Agency shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures.

2. The Agency shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures, ***especially if significant expenditure has been involved.***

Justification

The budgetary authority needs to be informed on activities leading to significant expenditure, especially if the evaluation shows some problems.

Amendment 3
Article 31, paragraph 3, subparagraph 2

The evaluation shall also assess the possible need to modify or extend the Agency's tasks, scope, areas of activity or structure,

The evaluation shall also assess the possible need to modify or extend the Agency's tasks, scope, areas of activity or structure,

¹ Not yet published in OJ.

including in *specific* structural modifications needed to ensure compliance with horizontal rules on regulatory agencies once they enter into force.

including in *particular* structural modifications needed to ensure compliance with horizontal rules on regulatory agencies once they enter into force. ***The budgetary consequences of any such modification or extension shall be specified in the evaluation report.***

Justification

The assessment should indicate budgetary consequences of any changes made with regard to the Agency's structure or tasks. This is even more important if an overall ceiling for agencies will be included in the new financial perspective.

PROCEDURE

Title	Proposal for a Council regulation establishing a European Union Agency for Fundamental Rights
References	COM(2005)0280 – C6-0288/2005 – 2005/0124(CNS)
Committee responsible	LIBE
Opinion by Date announced in plenary	BUDG 29.9.2005
Enhanced cooperation – date announced in plenary	
Drafts(wo)man Date appointed	Jutta D. Haug 20.9.2004
Previous drafts(wo)man	
Discussed in committee	25.4.2006
Date adopted	25.4.2006
Result of final vote	+: 20 -: 0:
Members present for the final vote	Richard James Ashworth, Reimer Böge, Simon Busuttil, Paulo Casaca, Bárbara Dührkop Dührkop, Hynek Fajmon, Salvador Garriga Polledo, Jutta D. Haug, Ville Itälä, Anne E. Jensen, Zbigniew Krzysztof Kuźmiuk, Alain Lamassoure, Janusz Lewandowski, Vladimír Maňka, Mario Mauro, Helga Trüpel, Kyösti Virrankoski, Ralf Walter
Substitute(s) present for the final vote	Hans-Peter Martin, Peter Šťastný
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	...

22.3.2006

OPINION OF THE COMMITTEE ON WOMEN'S RIGHTS AND GENDER EQUALITY

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council regulation establishing a European Union Agency for Fundamental Rights
(COM(2005)0280 – C6-0288/2005 – 2005/0124(CNS))

Draftswoman: Emine Bozkurt

AMENDMENTS

The Committee on Women's Rights and Gender Equality calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission ¹	Amendments by Parliament
(2) The Charter of Fundamental Rights of the European Union reaffirms the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the Treaty on European Union, the Community Treaties, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the social charters adopted by the Community and by the Council of Europe and the case law of the Court of Justice of the European Communities and of the European Court of Human Rights.	Amendment 1 Recital 2 (2) The Charter of Fundamental Rights of the European Union reaffirms the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the Treaty on European Union, the Community Treaties, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the social charters adopted by the Community and by the Council of Europe <i>and the various legal instruments such as the Declaration of the Rights of the Child</i> , and the case law of the Court of Justice of the European Communities and of the European Court of Human Rights.

¹ Not yet published in OJ.

Justification

Children are a particularly vulnerable group, and it is very important to stress the importance of paying specific attention to them.

Amendment 2

Recital 4

(4) A more thorough knowledge and widespread awareness of fundamental rights issues in the Union are conducive to ensuring full respect of fundamental rights. It would contribute to this objective to establish a Community agency whose tasks would be to provide information and data on fundamental rights matters. Moreover, developing effective institutions for the protection and promotion of human rights is a common value of the international and European communities, as expressed by Recommendation No R (97) 14 of the Committee of Ministers of the Council of Europe of 30 September 1997.

(4) A more thorough knowledge and widespread awareness of fundamental rights issues in the Union are conducive to ensuring full respect of fundamental rights. It would contribute to this objective to establish a Community agency whose tasks would be to provide information and data on fundamental rights matters. Moreover, developing effective institutions for the protection and promotion of human rights ***and the rights of the child*** is a common value of the international and European communities, as expressed by Recommendation No R (97) 14 of the Committee of Ministers of the Council of Europe of 30 September 1997.

Justification

See amendment to Recital 2

Amendment 3

Recital 13

(13) The Agency should present an annual report on the situation of fundamental rights in the Union and the respect thereof by the EU institutions, bodies and agencies and the Member States when implementing Union law. Furthermore, the Agency should produce thematic reports in the topics of particular importance to the Union's policies.

(13) The Agency should present an annual report on the situation of fundamental rights in the Union and the respect thereof by the EU institutions, bodies and agencies and the Member States when implementing Union law. Furthermore, the Agency should produce thematic reports in the topics of particular importance to the Union's policies. ***Gender mainstreaming must be taken fully into account in all reports.***

Justification

Gender mainstreaming should occupy a prominent role in the work of the Agency.

Amendment 4

Recital 15 a (new)

(15a) The Agency should help support a public policy for the protection of

children's rights, by setting up specific programmes ensuring that their rights are fully respected.

Justification

See amendment to Recital 2

Amendment 5
Article 3, paragraph 4

4. Without prejudice to Article 27, the Agency shall, at the request of the Commission, provide information and analysis on fundamental rights issues identified in the request as regards third countries with which the Community has concluded association agreements or agreements containing provisions on respect of human rights, or has opened or is planning to open negotiations for such agreements, in particular countries covered by the European Neighbourhood Policy.

4. Without prejudice to Article 27, the Agency shall, at the request of ***the European Parliament, the Council or the*** Commission, provide information and analysis on fundamental rights issues identified in the request as regards third countries with which the Community has concluded association agreements or agreements containing provisions on respect of human rights, or has opened or is planning to open negotiations for such agreements, in particular countries covered by the European Neighbourhood Policy.

Justification

The amendment remedies the abovementioned defects by extending the responsibility of the Agency to all the EU Institutions.

Amendment 6
Article 3, paragraph 4 a (new)

4 a. Since the rights of the child are a determining factor in the context of respect for fundamental rights in general, the Agency shall seek to undertake and promote priority actions which take account solely of the best interests of children, particularly the most disadvantaged children and those who are abandoned or in a state of psychological or emotional distress. It shall set up a constructive dialogue with Member States in order to ensure that all children's rights are protected.

Justification

See amendment to Recital 2

Amendment 7
Article 4, paragraph 1, point (b)

b) develop methods to improve the comparability, objectivity and reliability of data at European level, in cooperation with the Commission and the Member States;

b) develop methods, ***taking account of gender mainstreaming***, to improve the comparability, objectivity and reliability of data at European level, in cooperation with the Commission and the Member States;

Amendment 8
Article 5, paragraph 1, point (b)

(b) determine the thematic areas of the Agency's activity, always including the fight against racism and xenophobia;

b) determine the thematic areas of the Agency's activity, always including the fight against racism and xenophobia, ***and paying the same attention to thematic areas in which violations of fundamental rights and the rights of the child are perpetrated, as well as to the protection of traditional national minorities and the most vulnerable groups***;

Justification

The Multiannual framework should not suffer from a biased approach combining resource restraints (cfr. other commas of the same article) and a 'preference' for racism and xenophobia, therefore the wording of this comma should mention a commitment to take duly and equally into account all the other fields subject to fundamental rights violation in order to provide the decision-maker with a better defined framework of action.

Amendment 9
Article 5, paragraph 1, point (b a) (new)

(ba) take account of Article 2 of the Treaty Establishing the European Community, which states that the Community shall promote equality between men and women, and Article 3 of the Treaty which states that that in all the activities referred to in that Article, the Community shall aim to eliminate inequalities, and to promote equality, between men and women;

Amendment 10
Article 5, paragraph 1, point (e)

(e) include provisions with a view to avoiding thematic overlap with the remit of other Community bodies, offices and agencies.

(e) include provisions with a view to avoiding thematic overlap with the remit of other Community bodies, offices and agencies ***in particular the Institute for Gender Equality.***

Justification

The best use of resources of both the Institute and the Fundamental Right's implies a specific cooperation that will ease the respect of respective competences.

Amendment 11
Article 11, paragraph 1, subparagraph 1 a (new)

The Member States and the Institutions that appoint members of the board shall aim to ensure that there is a balance between women and men in membership of the Board.

Amendment 12
Article 11, paragraph 6

6. Decisions by the Management Board shall be taken by a simple majority of the votes cast, except as regards the decisions referred to in points (a), (c), (d) and (e) of paragraph 4, where a two-thirds majority of all members shall be required. ***The Chairperson shall have the casting vote.*** The person appointed by the Council of Europe may vote only on decisions referred to in points (a) and (b) of paragraph 4.

6. Decisions by the Management Board shall be taken by a simple majority of the votes cast, except as regards the decisions referred to in points (a), (c), (d) and (e) of paragraph 4, where a two-thirds majority of all members shall be required. The person appointed by the Council of Europe may vote only on decisions referred to in points (a) and (b) of paragraph 4.

Justification

As regards decision-making on the Management Board, the Chairperson should be placed on an equal footing with other members of the Board.

Amendment 13
Article 11, paragraph 8

8. The Director of the European Institute for

8. The Director of the European Institute for

Gender Equality *may* attend meetings of the Management Board as an observer. The Directors of other relevant Community agencies and Union bodies may also attend as observers when invited by the Executive Board.

Gender Equality *shall* attend meetings of the Management Board as an observer, ***in order to coordinate the respective annual work programmes***. The Directors of other relevant Community agencies and Union bodies may also attend as observers when invited by the Executive Board.

Justification

Coherent with recital 15 of the Commission's proposal. Moreover, the practical cooperation between the two bodies will have to be done through a coordination of the work programmes, therefore a clearly defined presence of the Institute's Director at the Management Board's meetings is essential to ensure effective cooperation.

Amendment 14

Article 12, paragraph 1

1. The Management Board shall be assisted by an Executive Board. The Executive Board shall be made up of the Chairperson and the Vice-Chairperson of the Management Board and two Commission representatives.

1. The Management Board shall be assisted by an Executive Board. The Executive Board shall be made up of the Chairperson and the Vice-Chairperson of the Management Board, ***the person appointed to the Management Board by the Council of Europe*** and two Commission representatives.

Justification

The aim of this amendment is to reinforce provisions intended to avoid duplication of the activities of the Council of Europe and to give the Council of Europe representation on the Agency thus providing a practical mechanism to help avoid duplication of the work of the Council of Europe and ensure consistency and complementarity.

Amendment 15

Article 14, paragraph 1

1. The Forum shall be composed of representatives of non-governmental organisations responsible for fundamental rights and efforts to combat racism, xenophobia and anti-Semitism, trade unions and employer's organisations, relevant social and professional organisations, churches, religious, philosophical and non-confessional organisations, universities and qualified experts and European and international bodies and organisations.

1. The Forum shall be composed of representatives of non-governmental organisations responsible for fundamental rights ***and the rights of the child*** and efforts to combat racism, xenophobia and anti-Semitism, trade unions and employer's organisations, relevant social and professional organisations, churches, religious, philosophical and non-confessional organisations, universities and qualified experts and European and

international bodies and organisations.

Justification

See amendment to Recital 2

Amendment 16
Article 23, paragraph 1

1. The Staff Regulations of Officials of the European Communities, the Conditions of Employment of Other Servants of the European Communities and the rules adopted jointly by the European Community institutions for the purpose of applying these Staff Regulations and Conditions of Employment shall apply to the staff of the Agency.

1. The Staff Regulations of Officials of the European Communities, the Conditions of Employment of Other Servants of the European Communities and the rules adopted jointly by the European Community institutions for the purpose of applying these Staff Regulations and Conditions of Employment shall apply to the staff of the Agency. ***Particular attention shall be paid to the equal representation of women and men.***

Justification

Many Agencies suffer a lack of representation of women in their staff. There is a clear need to underline the respect of equal opportunities so as to have a reference in the regulation while proceeding to the evaluation of the Agency's performance.

Amendment 17
Article 27, paragraph 3

3. The Agency shall concern itself with the situation of fundamental rights in the countries, which participate in accordance with this Article, to the extent it is relevant for the respective association agreement. Articles 4 and 5 shall apply by analogy to that effect.

3. The Agency shall concern itself with the situation of fundamental rights ***and rights of the child*** in the countries, which participate in accordance with this Article, to the extent it is relevant for the respective association agreement. Articles 4 and 5 shall apply by analogy to that effect.

Justification

See amendment to Recital 2

Amendment 18
Article 31, paragraph 3

3. No later than 31 December 2009, the Agency shall commission an independent external evaluation of its achievements during the first three years of operations on the basis of terms of reference issued by the Management Board in agreement with the Commission. This evaluation shall take into account the tasks of the Agency, the working practices and impact of the Agency on the protection and promotion of fundamental rights and shall include an analysis of the synergy effects and the financial implications of any extension of the tasks. The evaluation shall take into account the views of the stakeholders at both Community and national levels.

3. No later than 31 December 2009, the Agency shall commission an independent external evaluation of its achievements during the first three years of operations on the basis of terms of reference issued by the Management Board in agreement with the Commission. This evaluation shall take into account the tasks of the Agency, the working practices, ***equal opportunities policy within the Agency*** and impact of the Agency on the protection and promotion of fundamental rights and shall include an analysis of the synergy effects and the financial implications of any extension of the tasks. The evaluation shall take into account the views of the stakeholders at both Community and national levels.

Justification

Many Agencies suffer a lack of representation of women in their staff. There is a clear need to underline the respect of equal opportunities so as to have a reference in the regulation while proceeding to the evaluation of the Agency's performance.

PROCEDURE

Title	Proposal for a Council regulation establishing a European Union Agency for Fundamental Rights
References	COM (2005)0280 – C6-0288/2005 – 2005/0124(CNS)
Committee responsible	LIBE
Opinion by Date announced in plenary	FEMM 29.9.2005
Enhanced cooperation – date announced in plenary	
Drafts(wo)man Date appointed	Emine Bozkurt 4.10.2005
Previous drafts(wo)man	
Discussed in committee	21.2.2006 21.3.2006
Date adopted	21.3.2006
Result of final vote	+: 17 -: 0 0: 2
Members present for the final vote	Edit Bauer, Hiltrud Breyer, Edite Estrela, Ilda Figueiredo, Věra Flasarová, Lissy Gröner, Zita Gurmai, María Esther Herranz García, Rodi Kratsa-Tsagaropoulou, Pia Elda Locatelli, Astrid Lulling, Angelika Niebler, Siiri Oviir, Teresa Riera Madurell, Amalia Sartori, Britta Thomsen, Corien Wortmann-Kool, Anna Záborská
Substitute(s) present for the final vote	Lidia Joanna Geringer de Oedenberg
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	

PROCEDURE

Title	Proposal for a Council regulation establishing a European Union Agency for Fundamental Rights				
References	COM(2005)0280– C6-0288/2005 – 2005/0124(CNS)				
Date of consulting Parliament	22.9.2005				
Committee responsible Date announced in plenary	LIBE 29.9.2005				
Committee(s) asked for opinion(s) Date announced in plenary	AFET 29.9.2005	FEMM 29.9.2005	AFCO 29.9.2005	CULT 29.9.2005	BUDG 29.9.2005
Not delivering opinion(s) Date of decision	AFCO 18.5.2006	CULT 30.8.2005			
Enhanced cooperation Date announced in plenary	AFET 29.9.2005				
Rapporteur(s) Date appointed	Kinga Gál 14.9.2005				
Previous rapporteur(s)					
Simplified procedure – date of decision Date of decision					
Legal basis disputed Date of JURI opinion					
Financial endowment amended Date of BUDG opinion					
Parliament to consult European Economic and Social Committee – date decided in plenary					
Parliament to consult Committee of the Regions – date decided in plenary					
Discussed in committee	4.10.2005 4.5.2006	24.1.2006 1.6.2006	22.2.2006	23.3.2006	
Date adopted	13.09.2006				
Result of final vote	+: 31 –: 6 0: 0				
Members present for the final vote	Alexander Alvaro, Alfredo Antoniozzi, Edit Bauer, Mihael Brejc, Michael Cashman, Jean-Marie Cavada, Charlotte Cederschiöld, Carlos Coelho, Fausto Correia, Panayiotis Demetriou, Agustín Díaz de Mera García Consuegra, Kinga Gál, Patrick Gaubert, Lilli Gruber, Timothy Kirkhope, Ewa Klant, Magda Kósáné Kovács, Wolfgang Kreissl-Dörfler, Barbara Kudrycka, Stavros Lambrinidis, Henrik Lax, Sarah Ludford, Jaime Mayor Oreja, Claude Moraes, Lapo Pistelli, Martine Roure, Ioannis Varvitsiotis, Donato Tommaso Veraldi, Stefano Zappalà, Tatjana Ždanoka				
Substitute(s) present for the final vote	Frieda Brepoels, Marco Cappato, Bárbara Dührkop Dührkop, Maria da Assunção Esteves, Anne Ferreira, Ignasi Guardans Cambó, Sophia in 't Veld, Hubert Pirker, Antonio Tajani, Kyriacos Triantaphyllides				
Substitute(s) under Rule 178(2) present for the final vote	Thomas Wise				

Date tabled	25.9.2006
Comments (available in one language only)	...