

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS



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Meeting: GR-EXT – 22 November 2012

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Exchange of views with the Chairperson of the
Management Board and the Director of the Agency for
Fundamental Rights



COUNCIL OF EUROPE CONSEIL DE L'EUROPE



Overview of the cooperation between the European Union Agency for Fundamental Rights and the Council of Europe

July 2011 – June 2012

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Part I. Objectives, methods and review of cooperation

Introduction

The cooperation between the European Union Agency for Fundamental Rights (FRA) and the Council of Europe (CoE) is based on the FRA Founding Regulation^{*} and on the Agreement between the European Community and the Council of Europe on cooperation between the European Union Agency for Fundamental Rights and the Council of Europe.[†] This Agreement established a general cooperation framework with the aim of avoiding duplication and ensuring complementarity and added value to the work of the Agency and the CoE.

The cooperation between the Agency and the CoE has evolved in the last five years towards an improved coordination of activities and synergies between both Organisations. This document presents key objectives and methods of this cooperation and provides concrete examples of cooperation activities in relevant fields.

1. Key objectives – What do we want to achieve together and in which areas?

The key objectives and strategic priorities of the cooperation relate to the promotion and protection of human rights, as identified through a thorough exchange of views between the Agency and the CoE. It focuses on:

- Developing joint projects in areas of mutual concern
- Engaging in dialogue with stakeholders to improve the fulfilment of fundamental rights
- Coordinating communication activities to increase awareness of fundamental rights
- Disseminating information on results of activities of each Organisation
- Exchanging data and consulting each other at operational level

Cooperation covers a large number of thematic areas of the Agency's Multi-annual Framework (2007-2012):

- a) racism, xenophobia and related intolerance;
- b) discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination);
- c) compensation of victims;
- d) the rights of the child, including the protection of children;
- e) asylum, immigration and integration of migrants;
- f) visa and border control;
- g) participation of the citizens of the Union in the Union's democratic functioning;
- h) information society and, in particular, respect for private life and protection of personal data;
- i) access to efficient and independent justice.

2. Methods and review of cooperation

2.1. Permanent mechanisms of cooperation

Different mechanisms laid down in the Agency's Founding Regulation and in the FRA-CoE Agreement help to ensure complementarity and added value in the relationship between the Agency and the Council of Europe. For instance cooperation is achieved through the participation of an independent member, selected by the CoE, in the Management and Executive Board of the Agency, as well as the participation as observers of CoE Secretariat representatives in Management Board meetings. Moreover, once a year, a senior representative of the CoE is invited to address the FRA Management Board. This exchange of views keeps the Board to be fully informed about key CoE planned activities. Yearly exchanges of views with the

^{*} Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, OJ L 53, 22.2.2007, p. 1.

[†] OJ L 186, 15.7.2008, p. 7.

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Committee of Ministers' Rapporteur Group on External Relations (GR-EXT) with the independent person appointed by the CoE and annual exchanges of views with the Chair of the FRA Management Board and the FRA Director enable and contribute to synergies between the Organisations. The CoE is also associated in the FRA's work with civil society organisations mainly through the FRA's Fundamental Rights Platform.

Most importantly, the Founding Regulation prescribes consultations between the Agency and the Council of Europe during the preparation of the Agency's Annual Work Programmes and the Agency's Annual Report on fundamental rights issues. This ensures that CoE priorities, activities and findings are properly taken into account in key FRA documents in general and in the FRA Annual Report in particular.

2.2. Cooperation at operational level

The operational cooperation is an on-going, day-to-day process. This cooperation takes different forms such as consultations on specific projects and activities; regular exchange of data and information; participation in inception meetings of projects; joint projects and joint activities; participation in respective civil society structures; granting of observer status in several CoE human rights monitoring and intergovernmental committees; and complementarily referencing each other's work. The contact persons appointed by the CoE and the Agency are informed about these activities and facilitate them.

The FRA relies in its work on the standards set by the CoE and, as a principle, takes due account of the judgments and decisions of the European Court of Human Rights as well as, of findings, reports and activities in the human rights field of the Council of Europe's human rights monitoring and intergovernmental committees and of those of the Council of Europe's Commissioner for Human Rights. For instance, throughout the FRA Annual Report, standards and findings of the Council of Europe are consistently and extensively referred to (see especially chapter X, <http://fra.europa.eu/en/publication/2012/fundamental-rights-challenges-and-achievements-2011>). In turn, the work of the CoE is facilitated by the data and findings of the FRA. For instance, FRA research findings were explicitly referred to in the judgment of *Yordanova and others v. Bulgaria* of 24 April 2012[‡] and in the decision on the merits of the complaint *International Federation of Human Rights (FIDH) v. Belgium*.[§] Such cross-references contribute to disseminate, on a reciprocal basis, the results of the respective activities of the Council of Europe and the FRA. In addition, reciprocal consultation and feedback, as well as participation at meetings and events, have become integral parts of the working methods of both Organisations.

2.3. Review of cooperation

Cooperation reviews are regularly undertaken. The Committee of Ministers Rapporteur Group on External Relations (GR-EXT) and the FRA Management Board regularly review and assess progress in the cooperation during exchanges of views with the independent person appointed by the CoE and with the Chair of the FRA Management Board and the FRA Director. The services of both Organisations carry out regular reviews at different stages of activities and projects. Moreover, regular exchanges of information and assessment of cooperation between the respective contact persons and inter-institutional meetings contribute to an enhanced collaboration.

The Agency cooperates at an operational level with a number of relevant bodies and services of the CoE, including the Registry of the European Court of Human Rights, the Office of the Commissioner for Human Rights, the Congress of Local and Regional Authorities, the Conference of INGOs, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment as well as other human rights monitoring committees, the Directorate General of Human Rights and Rule of Law and the Directorate General of Democracy.

[‡] European Court of Human Rights, *Yordanova and others v. Bulgaria*, No. 25446/06 of 24 April 2012, para. 80 f.

[§] European Committee of Social Rights, *International Federation of Human Rights (FIDH) v. Belgium*, No. 62/2010, 21 March 2012, para.

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Part II. Projects and activities undertaken (July 2011-June 2012)

1. Examples of inter-institutional and regulatory cooperation

On 8 November 2011, the Chairperson of the FRA Management Board and the FRA Director met with the Secretary General of the Council of Europe. On 26 June 2012, the FRA Director met the Deputy-Secretary General of the Council of Europe.

The GR-EXT held exchanges of views with the independent person appointed by the CoE (on 10 April 2012) and with the Chairperson of the FRA Management Board and the FRA Director (on 8 November 2011).

The independent person appointed by the CoE participated in the FRA Executive Board meetings (on 23 September 2011, 5 December 2011, 24 February 2012 and 15 May 2012) and the FRA Management Board meetings (on 5-6 December 2011 and 15-16 May 2012). The Council of Europe Secretariat representatives participated in all FRA Management Board meetings as observers and the Director General of Human Rights and Rule of Law had an exchange of views with the FRA Management Board on 5 December 2011.

Other contacts and coordination activities at inter-institutional level:

The President of the European Court of Human Rights met the Chair of the FRA Management Board and the FRA Director on 8 November 2011.

The former Council of Europe Commissioner for Human Rights met the Chair of the Management Board and the FRA Director on 8 November 2011 in Strasbourg. The newly elected Commissioner for Human Rights met the Chair of the Management Board and the FRA Director on 14 May 2012 in Vienna.

On 16 January 2012 the FRA contact person at the Council of Europe addressed FRA staff in Vienna. He presented the Council of Europe reform and the Council of Europe bi-annual programme and budget (2012-2013).

On 29 February 2012, the Director and FRA staff met with senior staff members from the Council of Europe in Vienna. The discussions enabled a comprehensive exchange of views on working methods and collaboration prospects, in particular with the Department responsible for assisting the Committee of Ministers in supervising the execution of judgments and decisions of the European Court of Human Rights (DG I), the European Social Charter Department (DG I) and with the Council of Europe Migration Coordination Division (DG II).

A CoE staff member applied for secondment to the FRA. Discussions are ongoing regarding the modalities of such secondments which would be carried out in accordance with Article 16 of the Agreement..

On 26 June 2012, the FRA Director had an exchange of views with the European Committee of Social Rights in Strasbourg.

On the same day, the FRA Director met with the Director General of Human Rights and Rule of Law and the Director General of Democracy.

2. Examples of joint projects and operational cooperation in different areas

2.1 FRA-CoE Joint projects

2.1.1. Supporting the implementation of EU law and other legal instruments in the field of non-discrimination and access to justice

The Handbook on European Non-Discrimination Law, published jointly by the FRA and the European Court of Human Rights, is the first comprehensive guide to European non-discrimination law. It was launched on 21 March 2011 and is available in 21 EU official languages, as well as in Croatian. The Handbook was also published in Turkish, through a EU/CoE Joint Programme as well as in Catalan through a national initiative. A case-law update (July 2010 to December 2011) is also available.

By identifying systemic problems, the Handbook is expected to facilitate Member States' efforts to apply the anti-discrimination directives and the European Convention of Human Rights more effectively, while at the same time supporting the important training work of the CoE.

For more information:

http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/2011/pub_handbook_caselaw_en.htm

<http://www.echr.coe.int/ECHR/EN/Header/Case-Law/Case-law+analysis/Handbook+on+non-discrimination/>

2.1.2. Handbook on European law in the field of asylum, immigration and border control

A first draft of FRA/ECtHR Handbook on European law in the field of asylum, immigration and border control has been prepared in June 2012. The Handbook will be published in selected languages during the spring of 2013.

2.1.3. Handbook on data protection law

The preparatory work for the FRA/CoE and ECtHR Handbook on data protection law was undertaken in the first half of 2012. This practical handbook for data protection experts, judges, prosecutors, lawyers and other legal practitioners will analyse key principles in the area of data protection, as developed by the European Court of Justice and the European Court of Human Rights, as well as eventual relevant national case law in the field of data protection and data protection authorities' decisions. The Handbook shall clarify applicable Council of Europe and European Union standards on several issues, including rights and obligations of persons concerned and of the main actors of the data processing. The Handbook is planned for publication in January 2014.

2.2. Cooperation in different areas

Racism, xenophobia and related intolerance

The FRA regularly provides data on racism, racial discrimination, xenophobia, antisemitism and intolerance to the Council of Europe's European Commission against Racism and Intolerance (ECRI); ECRI reports make regular reference to FRA's work.

FRA participated in the annual seminar of ECRI for national independent authorities combating racism and racial discrimination, held on 31 May and 1 June 2012 in Strasbourg. Its representatives made presentations on the challenges faced by anti-discrimination bodies in the context of their mandate's enlargement.

For more information:

http://www.coe.int/t/dghl/monitoring/ecri/activities/43-Seminar_national_specialised_bodies_2012/NSBR2012_default_en.asp

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- **FRA project: Holocaust Education – Human Rights Education**

The FRA, the European Commission and the Danish Institute for International Studies invited the Council of Europe to the joint international conference on “Remembering for the future”, held in Copenhagen on 26-27 April 2012.

- **FRA projects related to Roma**

The FRA regularly provides data on the situation of Roma, in particular to the European Committee of Social Rights.

On 21 February 2012, the FRA presented its work on Roma at a stocktaking conference of the Council of Europe Roma Programme, ROMED. The Programme aims to develop a network of Roma mediators by providing training and support to Roma mediators in the field of education, employment and health.

The FRA informed the Secretariat of the Ad hoc Committee of Experts on Roma Issues (CAHROM) that they would provide information related to the PACE Recommendation 2003 (2012) on Roma migrants in Europe. The FRA will further liaise with the Support Team of the Special representative of the Secretary General for Roma Issues and participate at CAHROM meetings.

On 23 January 2012, the FRA Roma survey findings on the “Dosta!” campaign were shared with the CoE Special Representative of the Secretary General for Roma issues.

On 26 June 2012, the FRA presented its work on Roma at the meeting of the Scientific Committee of the European Academic Network on Romani Studies (2012-2013). The Network is a joint project of the European Commission and the Council of Europe. The FRA was elected member of the Scientific Committee of the Network.

On 29 June 2012, the FRA presented the first findings of the Pilot Roma survey to the informal contact group meeting on Roma, jointly convened by the European Commission and the Council of Europe in Strasbourg.

For more information:

http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/2012/pub_roma-survey-at-a-glance_en.htm

Equality and non-discrimination

- **Projects related to discrimination on grounds of sexual orientation and gender identity**

On 22-23 September 2011 the FRA, together with the Office of the Council of Europe Commissioner for Human Rights, organised a roundtable in Vienna entitled: ‘Rights to equality, life and security of the person: bridging the gap for transgender people’. The event brought together civil servants, NGOs, National Human Rights Structures and other stakeholders and discussed ways forward after the dissemination of FRA and CoE publications highlighting the many fundamental rights challenges the LGBT community in Europe faces. In April 2012, the FRA launched a survey measuring experiences of discrimination, hate crime and victimisation of LGBT. The survey results will be released on 17 May 2013 (IDAHO) during a conference hosted by the Netherlands’ government in the Hague. They will provide significant added value to the review of Committee of Ministers Recommendation (2010)5 on measures to combat discrimination based on sexual orientation or gender identity.

For more information:

http://fra.europa.eu/fraWebsite/research/projects/proj_surveys-lgbt-persons_en.htm

- **FRA projects related to discrimination on grounds of disability**

On 22 September 2011, the FRA presented the work of the Agency in the area of disability and, in particular, the findings of the project on the 'Fundamental rights of persons with intellectual disabilities and persons with mental health problems' to the 5th European Coordination Forum for the Council of Europe Disability Action Plan 2006-2015 (CAHPAH) meeting.

On 8-9 November 2011, the CoE Secretariat (DG II – Directorate of Human Rights and Antidiscrimination - Social Cohesion and Integration Division) participated in a FRA Peer Review Meeting (Vienna, Austria) aimed at a detailed examination of the 1st draft evidence-based report, published in June 2012, on the situation of persons with intellectual disabilities and mental health problems in nine European countries (Bulgaria, France, Germany, Greece, Hungary, Latvia, Romania, Sweden, and United Kingdom). The report was entitled "Choice and control: the right to independent living – *Experiences of persons with intellectual disabilities and persons with mental health problems in nine EU Member States*" (ISBN 978-92-9192-952-8).

For more information:

http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/pub_choice-and-control_en.htm

On 4 March 2012, the FRA presented the preliminary findings of its report on involuntary placement and involuntary treatment of persons with mental health problems to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) medical group.

For more information:

http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/2012/pub_involuntary-placement-treatment_en.htm

Representatives from the CPT, the Office of the Commissioner for Human Rights, the CoE Committee of experts on Bioethics (DH-BIO) and the CoE Committee of experts on participation of people with disabilities in political and public life (CAHPAH-PPL), participated in the FRA's conference on 'Autonomy and inclusion – rights of persons with intellectual disabilities and persons with mental health problems' held under the auspices of the Danish EU Presidency in Copenhagen on 7-8 June 2012. During the conference two FRA reports were launched.

For more information:

<http://fra.europa.eu/en/event/2012/conference-autonomy-and-inclusion-people-disabilities>

The rights of the child, including the protection of children

The FRA participated in the Council of Europe Ministerial Conference "Child-friendly health care: Building a healthy future for and with Children", held on 29-30 September 2011 in Lisbon.

For more information:

<http://www.coe.int/t/dg3/health/>

On 20-21 November 2011, the FRA participated in the high level 'Conference on the Council of Europe Strategy for the Rights of the Child 2012-2015' held in Monaco. The conference discussed the Council of Europe Strategy to be adopted by the Committee of Ministers of the CoE. After the conference, the FRA participated in the meeting of the Council of Europe Network of Focal Points on the Rights of the Child and Violence against Children, moderated by the Head of the Children's Rights Division of the CoE. The Committee of Ministers has noted in the Council of Europe Strategy that data collection and the development of indicators conducted by the FRA will be actively supported with a view to monitoring the implementation of children's rights standards.

For more information:

http://www.coe.int/t/dg3/children/strategyconferencemonaco/strategyconferencemonaco_en.asp

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The FRA participated in the Council of Europe expert meeting on “Monitoring Children’s Rights in Europe” held in Strasbourg on 3-4 July 2012.

For more information:

http://www.coe.int/t/dghl/standardsetting/children/News/Monitoringmeeting_en.asp

- **FRA project: Children and Justice**

One of the main objectives of the FRA project on Children and Justice implemented in 2012 is to research whether and how the Council of Europe Guidelines on Child Friendly Justice are being implemented by EU Member States.

For more information:

http://www.coe.int/t/dghl/standardsetting/childjustice/default_en.asp

In the course of 2011 the FRA further developed its indicators for the protection, respect and promotion of the rights of the child in the EU in the fields of family justice, cross-national divorce and parental separation, in order to incorporate the Council of Europe Guidelines on Child-Friendly Justice.

On the basis of the Council of Europe Guidelines and of the indicators developed at FRA, in 2012 the FRA started research on the participation of children in justice procedures. As practice varies among EU Member States, the FRA is looking at how children are granted access to justice, when and by whom they are provided with information regarding court proceedings, as well as how they participate and are listened to. The countries currently covered by the FRA research are: Bulgaria, Estonia, Finland, France, Germany, Poland, Romania, Spain, the United Kingdom and the EU acceding country Croatia. The research design has been developed in cooperation with the Council of Europe and covers also the translation and dissemination of information on the Council of Europe Guidelines in the course of research implementation.

A second phase of the research being planned by FRA for 2013 would be based on fieldwork research with children themselves. This aims to benefit from Council of Europe experience regarding child participation. The research will assist in the development of practical tools for professionals working with children who are involved in legal proceedings. In close cooperation with the European Commission and the Council of Europe, the FRA will support plans for awareness raising of the Council of Europe guidelines and the training of judges and other professionals regarding child participation in the field of justice.

Asylum, immigration and integration of migrants; visa and border control

- **FRA 2011 Fundamental Rights Conference ‘Dignity and rights of irregular migrants’**

The FRA worked closely together with the CoE hosting its annual Fundamental Rights Conference on ‘Dignity and rights of irregular migrants’ held on 21-22 November 2011 in Warsaw. The CoE was consulted during the preparation of the Conference programme and took an active part in its proceedings. The Director for Human Rights and Antidiscrimination chaired a working group on detention of irregular migrants and the President of the CPT gave a presentation on challenges and promising practice examples as evidenced by CPT. The Chair of the PACE Committee on Migration, Refugees and Population, took part at the high level panel debate on ‘Fundamental rights in migration management: a reality check’.

For more information: <http://fra.europa.eu/fraWebsite/frc2011/#&panel1-4>

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Information society and, in particular, respect for private life and protection of personal data

A Council of Europe representative spoke at the Third FRA Symposium on the EU data protection reform: new fundamental rights guarantees, held on 10 May 2012 in Vienna.

For more information: <http://fra.europa.eu/fraWebsite/symposium2012/#&panel1-5>

FRA has been included by the Committee of Ministers as a participant in the work and meetings of the Steering Committee on Media and Information Society.

Access to efficient and independent justice.

On 7-8 December 2011 FRA attended the 18th Plenary Meeting of the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) in Strasbourg. The FRA's presence ensured proper exchange and cooperation with CEPEJ. The FRA was invited to the 19th CEPEJ Plenary Meeting held on 5-6 July 2012.

- **2012 Fundamental Rights Conference 'Ensuring access to justice in times of economic crisis'**

The CoE is closely involved in the preparations of the Agency's annual Fundamental Rights Conference 'Ensuring access to justice in times of economic crisis'. The conference will be hosted under the high patronage of the European Parliament and with the support of the Cypriot Presidency of the Council of the European Union. It will take place at the European Parliament in Brussels on 6-7 December 2012.

- **FRA project: Joined-up governance**

This project was originally developed on the basis of the Recommendation of the Commissioner for Human Rights on systematic work for implementing human rights at the national level (2009), and a representative of the Commissioner's Office has been closely involved in its conceptualisation. Subsequently, the Office of the Commissioner and the Congress of Local and Regional Authorities in Europe have provided valuable input and participated in stakeholder meetings of this project (November 2010, April 2011 and October 2011). The project is expected to develop significant insights into the human rights implementation and coordination at multiple government level, which will be useful for the CoE. The project serves to develop a "Joined-Up Governance Toolkit", which will make available the lessons learned from practices of involving local and regional authorities in human rights planning, implementation and monitoring in various EU countries. The toolkit shall provide concrete advice to policy-makers in form of good practice models and practical tools for multi-level rights-related policy implementation.

In order to ensure synergy and complementarity of action, the Congress and the Centre of Expertise for Local Government Reform (Directorate of Democratic Governance, Culture and Diversity) have been invited to join the international advisory group for this project. This ensures that the project can build on the expertise and work of the CoE in relation to human rights at local level. On 23 March 2012, the Head of the Council of Europe Centre of Expertise for local government reform participated in a meeting aiming at improving the Toolkit. The Centre of Expertise subsequently contributed in writing to the finalisation of the revised version of the Toolkit.

The FRA has regularly been invited to contribute to CoE events on human rights at local level, including the Summit of Mayors (22 September 2011) and the 21st session of the Congress on 18-20 October 2011, as well as to various other meetings of the Congress.

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The FRA has associated the Congress in its regular Annual Dialogue with the EU Committee of the Regions on multi-level protection of fundamental rights, thus facilitating a connection between these main EU and CoE representative bodies of local and regional authorities on human rights issues. As in 2011, the Congress will again be a speaker at the 2012 edition of the Annual Dialogue (24 September 2012), which will focus on the LRA's role in supporting access to justice.

- **FRA – CoE cooperation activity: Human Rights Education**

On 30 March 2012, in Strasbourg the FRA took part in the first meeting of the International Contact Group on citizenship and human rights education. This contact group was established and is hosted by the Council of Europe.