



Response of the European Network against Racism (ENAR)

Proposal for a Council Decision empowering the European Union Agency for Fundamental Rights to pursue its activities in areas referred to in title VI of the Treaty on European Union – COM(2005) 280.

July 2005

The European Network against Racism (ENAR) is a network of some 600 European NGOs working to combat racism in all EU Member States. Its establishment was a major outcome of the 1997 European Year against Racism. ENAR is determined to fight racism, xenophobia, anti-Semitism and Islamophobia, to promote equality of treatment between EU citizens and third country nationals, and to link local/regional/national initiatives with European initiatives. Further information is available at: www.enar-eu.org

1. Context

This recommendation intends to contribute to the proposal of Regulation and subsequent council decision issued by the European Commission on 30 June 2005. The objective of the latter proposal formalises legally the set up of the future fundamental rights agency in areas referred to in title VI of the treaty of the European Union. The idea of a Human rights agency builds on the decision of European leaders taken on 13 December 2003 to extend the mandate of the EUMC. It is also one of the priority included in the Hague programme;” *strengthening freedom, security and justice in the European Union*” adopted on 4-5 November 2004.

ENAR, the European network representing the voice of anti-racist civil society within the European Union, welcomes the proposal of regulation, which aims to put in motion and define the grounds and ways of functioning of the agency.

ENAR had in December 2004 and earlier this year contributed to the consultation process, organised by the European Union Monitoring Centre and the European Commission in relation to the mandate of the future agency. Its present remarks are aimed at commenting the essentials of the proposal of regulation with a particular focus on the relations of the future agency with the Civil Society.

We will in particular comment on:

Chapter 1 Article 4(i) and Article 5(b) of the proposal for a Council decision namely, *Art4 (f) publish an annual report on the situation of fundamental rights, also highlighting examples of good practice;*

Art4 (i) Enhance co-operation 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.

This means for example organising, with relevant stakeholders, conferences, campaigns, round tables, seminars and meeting at national level.

Art 5(b) determines the thematic areas of the Agency’s activity, always including the fight against racism and xenophobia;

Article 10-Bodies of the Agency

Article 11-Management board

Article 14-Fundamental rights forum

2. Anti –racism: “not to be diluted” and a central transversal theme to the work of the new Agency

The UN “**International Convention on the Elimination of All Forms of Racial Discrimination**” under its article 1 defines racial discrimination as “*any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life*”. While the Charter of Fundamental Rights incorporate the universal values of human dignity, freedom, equality, solidarity, citizen’s rights and justice, we need also to recognize that the phenomenon of racism is multifaceted and complex. It is therefore important that it continues to be monitored and

assessed in a thorough manner and as a specific form of breach of fundamental rights. The EUMC has put into place a specific multi-dimensional process of data collection, which provides the agency with the means to continue to monitor racism as such. We would therefore recommend that one of the annual monitoring publications of the agency deals with the subject of racism specifically.

ENAR acknowledges with satisfaction that the consultations undertaken by the European Commission have unanimously confirmed the desire that the agency should not dilute the core of its mission: Monitoring racism and xenophobia. It is recognised that structured data collection, research, networking and the development of policy recommendations have to continue to be at the centre of the future work of the agency. In view of the failure of EU Member States, to commonly agree on more harmonised efforts in sanctioning racism as a crime and at moment where clear weaknesses seem to emerge from the status of the implementation of the EU's anti-discrimination legislation, it is of utmost importance that the momentum of the activities of the agency in the field of racism continues to be strongly encouraged and maintained.

3. The approach: “The Focus Observation and Assessment Agency”

We support the reasonable approach proposed by the European Commission; “Focus Observation and Assessment Agency” to concentrate on certain thematic areas as part of the Charter of Fundamental Rights scope. Fundamental rights are already the objects of sound scrutiny coming the EU' Expert's network of experts on fundamental rights. The agency would not need to replicate the work being done in that regard. Experience has showed already that the monitoring of racism and xenophobia within the EU is requiring the set up of rigorous methodologies and processes. It should remain a strong ongoing research and priority area of work of the agency. We also feel that *non-discrimination* should be transversal theme that might surround each area of research linked to fundamental rights and identified as a topic by the agency's annual work plan. Anti-discrimination is one of the areas of fundamental rights, which is provided with a sound legal base in the EU treaty.

4. The Management board

The question of the independence of the agency is central to its credibility. The management board will carry an important weight in this respect. It is therefore important that the appointed board members who are experts in the field of fundamental rights are able to exert their duties in complete independence from the member state that they will represent. We do welcome the idea of a representative of the European parliament in the board. But the Economic and Social Committee and the Committee of the Regions both in their role of designated representatives of the social partners and the regions should have some formal advisory capacity in the agency.

Finally and central to all, we consider the presence of Forum representatives in the management board very crucial. We suggest the appointment of one or two Forum members in order to ensure consistent representation of the civil society at the highest statutory level of the agency. One of the Forum representatives should be from the anti-racist stream of civil society. ENAR, the formal recognised voice of the European anti-racist movement to the EU institutions could possibly be that representative. Furthermore, ENAR believes that the board composition must adhere to the principles of gender and ethnic equality. Member States should also strive to keep this view while nominating their representatives to the board.

5. At the core of the Agency work: the “consultative forum”

ENAR have already insisted on various occasions that more structured interaction between civil society is a clearly identified need at the level of the work of the agency, We therefore, welcome the section of the regulation related to that specific aspect and in particular the proposal of setting up of a “*Consultative Forum*” to ensure pluralistic representation of the social forces active in the field of fundamental rights”

We see the “consultative forum” as the expressed recognition of civil society voice in the agency. We understood that the number of representatives have been circled around 100; in order to ensure maximum representation, the forum should encompass all the European networks acting as relays of civil society in the field of fundamental rights. We propose the establishment of a preparatory group in order to study into depth the question of the representative participating organisations and discuss the format of functioning of that entity. The preparatory group should start meeting in 2006. We would favour already the principle of the set up of working groups representing specific sectors of civil society according to their thematic field of interest. It is our view that the anti-racist stream should at least represent 50% of the organisations present in the Forum.

6. Networking, exchange of best practices and pressure on Member States

The future agency will have a core role in facilitating exchanges between various stakeholders mirroring the added value of best practices of trans-national projects promoting all aspects of fundamental rights. This networking role should be an opportunity for cross-fertilisation of ideas, which could be further shared between civil society societal forces and EU’s member states. A mechanism of “peer pressure” set-up through meetings facilitated by the agency should aim to stimulate’ member states to do more.