

## **ERIO's position on the establishment of a European Fundamental Rights Agency**

(1) How can the remit of the Agency be defined in order to ensure both added-value for the EU institutions and Member States and its efficient operation?

The European Roma Information Office, ERIO, does not see any competition between the new agency and existing EU institutions or bodies, since there is no other agency or institution, which is in charge of monitoring the application of Fundamental Rights in Europe. It is true that the networks of independent experts of the European Commission as well as the European Parliament do their own reporting, but often **and especially in the situation of Roma** there is no continuous monitoring of the situation in each country with the provision of reliable and comparable data on how the EU Fundamental Rights are implemented. ERIO also believes that the scope of the agency should be extended in order to encompass Human Rights in general as well as the rights of minorities as set out in the Framework Convention on National Minorities and other international treaties. **Particular care should be given to the situation of Roma as one of the groups which are most affected by discrimination and Human Rights violations.**

ERIO urges the European Commission to make sure that the agency will continue the work undertaken by the European Monitoring Centre on Racism and Xenophobia in monitoring racism, anti-Semitism and Islamophobia and that this task is not diluted within the general task of monitoring the implementation of the EU Fundamental Rights. **The terms of reference for the Agency's work should include a clear mandate to monitor anti-Gypsyism as one of the most pervasive forms of European racism, which is often overlooked in general surveys.** This monitoring should include all forms of anti-Gypsyism including popular anti-Gypsyism as expressed in public opinion polls, hate speech in the media and in the political discourse and racist violence by individuals and law enforcement officers. In order to make sure that this issue does not receive lesser attention specific funds should be earmarked for this purpose.

Next to the task of continuous monitoring with the provision of annual reports the Agency could also elaborate a limited series of reports each year on specific issues such as discrimination in the field of housing which could serve as an input for the development of EU policies in the sector under request. Eventually it could also aim to assess the impact of particular EU policies as for instance the cooperation in the field of immigration and asylum politics on Human Rights.

(2) In which areas should the Agency operate? Should these areas be defined in relation to the Charter of Fundamental Rights of the Union and if so how (by article or by chapter?). Should certain priorities be established? If so how? How can we ensure that the current remit of the EUMC (racism and xenophobia) is maintained and built on?

*In which areas should the Agency operate?*

ERIO believes that the new Agency should have a horizontal and a vertical specialization. On a horizontal level it should observe how the EU Fundamental Rights and Human Rights in general are implemented in a number of key areas such education, employment, social services, housing and health. It should also monitor the implementation of minority rights as set out in the Framework Convention on National Minorities and other international treaties. On a vertical level it should involve the observation of the situation of vulnerable groups such as Roma. The data collected should also be organised according to gender, nationality, legal status, etc.

*Should certain priorities be established? If so how?*

ERIO believes that the Agency should focus its attention on monitoring anti-Gypsyism as the most pervasive form of racism in Europe. A branch (unit) of the Agency should particularly focus on this issue as well as of the general situation of Roma with regards to non-discrimination and equal rights. In order to assure the efficiency of its work it should include Roma professionals and work in close cooperation with Roma civil society organisations. At the same time it needs to be assured that the particular situation of Roma is taken into account in every area of observation. Particular attention needs to be devoted to the situation of Roma women who are victim of multiple discrimination.

ERIO also believes that the Agency should elaborate a set of reliable data collection indicators, which make it possible to review the implementation of Fundamental Rights, Minority Rights and Human Rights in general and to set out clear guidelines for the data collection process. Indeed it is only in such a way that a sectorial progress can be assessed and data from different countries made comparable. In view of guaranteeing the quality and comparability of data the Agency should strive towards the highest level of professionalism not only at its head quarters, but also at the national and local level. This should be one of the lessons drawn from the experience with the RAXEN network where there are often discrepancies in the quality and quantity of data provided linked to the capacity of the contractors. Ideally the Agency should have its own national branch offices which should have a strong policy in trying to employ people from discriminated groups, especially Roma or otherwise work on the basis of long-term contracts, which permit an element of training to take place.

ERIO believes that the definition of anti-discrimination needs to be extended and that the Human Rights Agency should aim to include ignored aspects of discrimination. Not only the persistence or absence of discrimination should be evaluated, but also the extent to which equality is given. This means for instance not only evaluate whether equal access to employment is formally guaranteed, but also view in how far disadvantaged groups as Roma are actually represented within the labour force as well as the terms of their employment.

(3) How can the geographic coverage of the Agency be best defined, bearing in mind the need to avoid overlap with existing organisations and the need to ensure that the Agency operates in the most efficient manner possible?

ERIO believes that the Agency should focus on the current and future EU member states. This limitation is particularly necessary given the fact that the Agency's resources will be limited and a larger geographical area risks a shifting of the attention and funds away from Human Rights issues at the European level.

(4) Which tasks should the Agency be given? How can the Agency gather objective, reliable and comparable data at European level? How can cooperation with Member States and civil society to obtain this information be best assured? How should the Agency present its conclusions and recommendations? How should the work of the Agency be disseminated?

ERIO believes that the main task of the Agency should be to establish a data collection on the respect of Fundamental and Human Rights in Europe including the respect of equality rights. In order to assure a comparability of data the Agency needs to set out clear indicators and guidelines which need to be applied by those who are involved in the data collection process. **A special attention should be paid to the widespread pan-European Anti-Gypsyism and its impact on the exclusion of Roma from the European societies.**

ERIO believes that the task of data collection should be entrusted to institutions with a long-standing experience in working with sensitive data linked to the safeguard of Human Rights and anti-discrimination issues. Ideally, the Agency should work with national or regional branch offices. If this cannot be assured the Agency should give preference to establishing long-term contracts which include an element of training of the contractors.

For the legitimacy of the Agency's work it is essential that the Agency maintains a full independence from any political interference, in particular from the government side and local authorities. It should however be open to specific requests, in particular from civil society organizations, which seldom have the means to carry out their own surveys. At the same time civil society organizations can deliver an important input to the work of the Agency since they are often best placed to gather and receive information with regards to Human Rights violations and discrimination of vulnerable groups.

From an organizational point of view it seems essential to establish a unit specifically in charge of dealing with the cooperation with other institutions and partners. This unit should also be in charge of collecting reports issued by other institutions on the areas of interest of the agency.

The Agency should limit its work to data collection and the issuing of comparative reports on the development of Human Rights in Europe. This is particularly recommended given the fact that the Agency will have a limited budget. At the same time the task is important enough to receive sufficient prominence. The drawing of

recommendations naturally involves political interests and should thus be left to third parties.

ERIO, however believes that the Agency needs to unfold greater efforts towards the dissemination of its findings. ERIO suggests that this issue should be discussed with the relevant stakeholders including representatives of the civil society organizations. One possible way of dissemination is to link the release of the Agency's reports with the organization of media events at national and EU level as well the submission of the reports to the national and European Parliaments for discussion. Another way of dissemination is the organization of High Level conferences, which could be devoted to specific topics such as the provision of the so-called services of public interest or specific forms of racism such as Anti-Gypsyism.

*(5) How can a meaningful and efficient dialogue between the Agency and civil society be established?*

The Agency should ensure a majority representation of members of civil society organizations and independent experts within its board. It should pay particular attention to the inclusion of representatives of socially disadvantaged and discriminated groups such as Roma, immigrants and refugees.

*(6) How can close cooperation with other stakeholders be assured, notably with the Council of Europe? How can the agency capitalise on the wealth of experience of the national bodies for the protection and promotion of fundamental rights and other similar national agencies? Following the creation of the Agency, how can the added value of the Network of Independent Experts be assured?*

As said before the Agency should establish a specific unit endowed with the task of liaising with the main stakeholders including institutions which have been active in this field for a long time such as the Council of Europe, the UN or the OSCE. This unit should also gather the findings of other institutions which can serve as an input for the Agency's work. A similar form of cooperation including the exchange of information and experiences should also be established with the network of Independent Experts. In any case the Agency should however, organize its own data collection, since this is the only way to make sure that an independence of data collection and the comparability of the data is assured. This is also to counteract the frequent trend consisting in merely copying older reports which results in reports of mediocre quality.

*(7) Which structures should be put in place to ensure that the Agency operates in an independent and efficient manner? Who should be represented on the Management Board of the Agency? Should a scientific advisory committee be established?*

The Agency should be managed by a board composed on equal parts by independent experts nominated on the basis of their experience and academic credits and

representatives of the main stakeholders with a strong presence of the civil society organisations. Particular care should be given to the representation within the Agency's board of representatives of groups who are the most likely to be affected by Human Rights violations such as people belonging to ethnic minorities and in particular Roma, immigrants and refugees and disabled people. An equal representation of men and women should also be assured.

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