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National Consultative Committee on Racism and Interculturalism (NCCRI)

**“European Monitoring Centre on Human Rights,
Equality, and Racism (EUMC)”**

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Introduction

As the Commission has pointed out the fight against racism is vital in the progression of the European Union, in particular “the Union’s objective of creating an area of freedom, security and justice will be incomplete as long as effective measures to prevent and combat racism and xenophobia are not in Place” (COM(2003) 483 final). Enlargement will change the political and institutional context for policy-making on anti-racism and non-discrimination. Clear political leadership is required to secure further legislative action in this area.

Following the publication of the Commission Communication on 25 October 2004 the National Consultative Committee on Racism and Interculturalism (NCCRI)¹ coordinated an information session on the extended mandate with the key stakeholders in Ireland. Following presentations by the Irish representative to the Management Board of the EUMC, the Irish National Focal Point, and the Contact Liaison Officer, there was a discussion of the future mandate of the EUMC. Contributions were made by representatives of NGOs concerned with human rights, migration and racism; legal experts; trade unions; and government representatives. These discussions form the basis for the analysis in this paper.

Given the significance of the fight against racism in the European context the NCCRI is particularly concerned that the extended agency continues to promote the realisation of the right to freedom from racial discrimination.

Preliminary discussions regarding the extension of the mandate of the EUMC have highlighted two broad areas of work: human rights/fundamental rights and equality/anti-discrimination. While there are both commonalities and divergences between these two ‘sectors’ the work of the extended agency should serve as a ‘bridge’ between the approaches. This paper is informed by the principle that racism has the potential to provide the foundations for this bridge.

This paper sets out the NCCRI’s contribution to the discussion on a European Monitoring Centre on Human Rights, Equality, and Racism. It begins with an overview, which is based on seven core principles; these principles reflect the questions which have been asked by the Commission in its public consultation process. This paper is intended as a preliminary exploration of the key issues which have been identified by the Commission; the NCCRI welcomes the opportunity to contribute to this discussion and looks forward to engaging with it further in the coming months.

¹ The NCCRI was established in 1998 as an independent expert body focusing on racism and interculturalism. Additional information on the NCCRI is available on our website: www.nccri.ie. The NCCRI, in partnership with the Equality Authority, is the Irish National Focal Point for the RAXEN Network, www.nccri.ie/raxen. Further information is available from Anna Visser, Research and Policy Officer, NCCRI, Email: anna@nccri.ie.

European Monitoring Centre on Human Rights, Equality and Racism

In this paper the NCCRI envisages an agency which will build on the experience of the EUMC and its existing structures in order to promote the human rights and fundamental freedoms of everyone in the European Union. Given the significance of racism in the European Union, and the experience of the EUMC it is logical that the right to freedom from racial discrimination should act as the first key initiative of a fundamental rights agency.

Given the history and experience of the EUMC it would appear logical that the fight against racism should serve as the starting point in the agency's efforts to enhance human rights and fundamental freedoms in the European Union. A European Monitoring Centre for Human Rights would, in the first instance, provide a human rights framework for the promotion of anti racism. Thus the agency would initially concentrate on those rights which it has already developed an expertise in.

As cooperation develops with all the actors in the area of human rights and fundamental freedoms, so to will the agency's expertise and capacity to identify other priorities in its work plan. Thus the experience of the EUMC would act as a spring board for the work of the extended agency in a strategic manner, which would not duplicate the work of other international and national bodies.

The NCCRI believes that maintaining the acronym **EUMC** – The European Union Monitoring Centre on Human Rights, Equality, and Racism – would facilitate continuity in terms of public identification of the agency, and enhance its capacity to build on the experience of the existing Monitoring Centre.²

This discussion is broadly constructed around the seven key questions which have been identified by the Commission. Consequently this paper is built upon seven key principles. These are that the EUMC should:

1. Continue to cover all areas of human relations and social actions.
2. Build on existing expertise by promoting the right to freedom from racial discrimination.
3. Retain a primary focus on the situation inside the European Union.
4. Promote a holistic approach to data collection.
5. Develop both a broad and deep dialogue with civil society.
6. Promote a partnership approach with international organisations and other actors.
7. Build upon the existing structures which should reflect the partnership approach.

² As the Commission has pointed out “there was no strong support, either from the Member States nor from the Management Board, for changing the name. On the contrary, there are some concerns that a change of name would serve to weaken the Centre's identity, in particular if it sought to focus more on the promotion of diversity rather than monitoring racism” (COM(2003) 483 final).

1. Remit of the agency

There are two primary considerations in terms of defining the remit of the extended agency. The first is that it does not duplicate the work of other bodies operating at international and national levels. The second is that the remit of the agency does not undermine its efficiency; in other words there is no value in establishing an agency whose remit is so broad that it cannot achieve anything effectively.

The remit of the existing Monitoring Centre on Racism and Xenophobia has effectively targeted its activities in a way which demonstrates the commitment of the EU member states to anti-racism and diversity. As the 2003 Report of the EU Network of Independent Experts on Fundamental Rights states:

It is evident that the specialisation of the activities of the EUMC, which demonstrates the importance which the institutions attach to the need to combat the phenomena of racism and xenophobia, as well as the definition of its main task, which resides in the collection and processing of informations (sic) rather than in the preparation of legal opinions, seem to clearly distinguish the activities of the EUMC from those of an independent Human Rights Agency for the Union. (Fundamental Rights in the EU in 2003, CFR-CDF.repEU.2003, p. 15)

The EUMC has played a role in monitoring racism and xenophobia in areas of EU competence, but also in areas where the Member States act autonomously. The EUMC has had a role in monitoring both relations between individuals and the EU and the Member States, as well as social relations in the area of racism and xenophobia. To limit the remit of the extended agency to areas of EU competence would be to undermine its effectiveness in promoting the rights of individuals and victims.

The Commission Communication posits that restricting the remit of the Agency to areas of Community competence would avoid duplication with other bodies. However as the experience of the existing agency has demonstrated the abuse of human rights, including racism, is not limited to areas of community competence. Consequently the NCCRI believes that to limit the remit of the agency in this way would undermine its effectiveness in promoting the rights of individuals within the European Union.

The areas of operation of the agency must be carefully defined in order to ensure that where it is operational, its remit is both doable and effective in terms of enhancing the protection of human rights in the European Union.

Abuses of human rights in Europe are not limited to areas of EU competency. In order for the agency to effectively promote the rights of all persons in the European Union, its must continue to cover all areas of human relations and social action.

2. Areas of operation

In an enlarged Europe racism and discrimination remain serious problems. Speaking on behalf of the European Union at the Sixtieth Session of the Commission on Human Rights the Irish Minister for Foreign Affairs, Brian Cowen, T. D. stated that:

Our own experience is far from perfect. The recent past, as well as the present, bears witness to our imperfections, not least in the worrying rise in racism, xenophobia, anti-Semitism and intolerance within the borders of the European Union. We are determined to combat these wherever they occur and to take the necessary measures to ensure that Europe remains a tolerant and inclusive society.

Enlargement has, and will continue to, change the political and institutional context for policy-making on anti-racism and non-discrimination. At the NCCRI Irish Presidency conference in June 2004, the Minister for Justice, Equality and Law Reform, Michael McDowell, T. D., pointed out that, 'the expansion of the Union and the removal of borders will increase the pace of change in European society and will add significantly to its diversity'.³ This reality must be met in a political and institutional context which recognises the challenges of racism and the need to build an intercultural society.

Freedom from racial discrimination has traditionally been one of the most widely recognised human rights.⁴ However they have the potential to undermine the realisation of all human rights and fundamental freedoms in the European Union. All actions which promote the realisation of human rights must be informed by an approach which seeks to combat racism and promote anti-discrimination; it is not possible to realise human rights in a context where racial prejudice and stereotypes exist. Not only is freedom from racial discrimination one of the most widely recognised human rights, but it is essential in the effective realisation of all human rights.

Consequently the extended agency should continue to be informed by an anti-racist approach in its work to promote the realisation of human rights and fundamental freedoms in the European Union. Given the history and expertise of the EUMC it is logical that racism serve as the starting point in the extension of its areas of operation. By adopting a human rights framework to its activities on racism and xenophobia the agency will have the capacity and opportunity to organically extend its areas of operation; in the first instance it could concentrate its activities on the realisation of those rights in which it has already developed expertise, gradually expanding its areas of operation in an informed, strategic and sustainable manner.

As the Commission pointed out in 2003:

³ Speaking at the NCCRI conference 'Combating Racism through Building a More Inclusive, Intercultural Europe', 9 June 2004. Conference report contained in the NCCRI Journal *Spectrum* available at: www.nccri.com

⁴ The International Convention on the Elimination of Racial Discrimination (CERD) is the oldest of the seven main United Nations human rights treaties, it came into force in 1969. Most European States have been party to the Convention for decades.

Most respondents to the consultation believed that the Centre should continue to concentrate on racism and that an extension to other fields would be an unwelcome distraction within the limits of the resources likely to be available to the Centre and that it would lead to a weakening of the emphasis on racism. The Commission agrees with this conclusion and proposed that the Centre should continue to focus on the issue of racism and related intolerance (COM(2003) 483 final).

Racism is, and will continue to be, a very serious problem in all Member States of the European Union. Promoting anti-racism is an integral part of realising human rights and fundamental freedoms. The agency should build on its existing expertise by taking racism as the starting point in the extension of its mandate.

3. Geographic scope

As the Commission Communication points out confining the agency's scope to the European Union would clearly underline the need to promote human rights within the Union. Not only will this serve to enhance the realisation of rights for all individual in the Union, but it will underpin the Union's legitimacy in its efforts to promote human rights in the rest of the world.

Building on the experience of the EUMC through its Phare programme, the agency should continue to have a role in developing strategies and promoting good practice in the potential new EU Member States. By building up expertise in these countries the EU will both support the enhancement of rights in the potential Member States, as well as facilitate their transition to membership of the Union. The agency must continue to have a focus in this regard.

Clearly the European Union does not have a monopoly on the development of good practice and policy responses. Consequently the new agency could have a function in promoting good practice from the European context in other countries; similarly it will need to retain an external focus in so far as documenting practice from other countries and regions which have the potential to inform developments in the EU. While by no means a core activity of the agency, there are areas of the developing common foreign and security policy which it could inform and feed into. For example in the context of the Lome Conventions and the Cotonou Agreement to enhance non-discrimination in economic, social and cultural life and to develop measures against racism and xenophobia.

The primary focus of the agency should continue to be internal, however there are limited areas of activity where it has the potential to add value outside the European Union which include the accession states and the exchange of good practice.

4. Work programme

Whatever the policy field, reliable data are essential if policy-makers are going to be able to target their measures effectively. In the field of combating racism, it is essential to have a clear picture of the effectiveness of policies and practices across the union. We must be sure that they are focused on protecting the victims and changing the behaviour of perpetrators (COM(2003) 483 final).

As the Commission Communication identifies the activities of the agency should continue to be threefold: data collection, policy formulation, and dissemination and follow-up activities. The extension of the mandate of the agency is an opportune moment to consider its experience to date, and build on the lessons which it has learned from the implementation of its mandate.

One of the key lessons which emerged from the EUMC is the challenge of collecting comparable data at a European Level; Member States of the European Union are diverse in the form and context of the data they generate in a whole range of areas including, racism and xenophobia. The EUMC has provided a valuable model in the collection of data which is objective, reliable and comparable; active data collection is one of the core competencies of the EUMC which distinguishes it from other international organisations. The experience of the EUMC demonstrates the importance of collecting a full range of data; the greater the number of data sources, the more comprehensive the picture which can be generated.

Consequently the NCCRI would advocate a multi-pronged strategy to data collection. There is no inherent contradiction between active (soft or qualitative) and passive (hard or quantitative) forms of data collection; one does not preclude the other.

Civil society initiatives, such as RAXEN, have the capacity and expertise to generate a broad picture relating the situation in individual Member States. However the experience of the EUMC demonstrates that such initiatives do not always have access to the most up-to-date official statistics. This can lead to a time delay in the analysis conducted by the EUMC. Supplementing active data collection with the most up-to-date official statistics will facilitate more effective analysis and policy recommendations. In addition, by engaging in a process of data collection with the Member State governments,⁵ the agency will have a process in which to directly reflect on the mechanisms for collecting data at a national level, and how best to enhance compatibility.⁶

⁵ The existing network of Contact Liaison Officers, which has been developed by the EUMC could serve as the starting point for more active engagement with governmental actors in terms of promoting a holistic approach to data collection.

⁶ As the Commission has pointed out comparability “does not necessarily entail a complete harmonisation of approaches to data collection, but ultimately the Monitoring Centre’s remit is unachievable unless national authorities adopt compatible if not common classification systems”, COM(2003) 483 final.

It may also be necessary for the agency to undertake its own or additional research where there are significant gaps in the data collection and the agency is the most strategic actor to fill these gaps.

The purpose of data collection is to generate options for policy formulation. There are two key dynamics in the effective implementation of this process. The first is the capacity to analysis the data in a way which responds to the concerns raised and the needs of policy makers. The second is the dissemination of this analysis in a manner which is value added. The Commission points out the agency should continue to enhance its capacities in both these regards.

The experience of the EUMC demonstrates the value in promoting a holistic approach to data collection. There is no contradiction between the various methods of data collection; the extension of the mandate of the agency should be used to enhance all the available methods including both active and passive.

5. Dialogue with civil society

As the Commission Communication points out the extended agency has the potential to act as a ‘crossroads’, facilitating contact between the different players in the field of fundamental rights. A key priority for the ‘crossroads’ approach is to build upon the experience of the EUMC in cooperating with civil society.

Cooperation with civil society needs to be both broad and deep; broad in the sense that it engages with all actors in civil society including NGOs, social partners, and academics. The agency must promote a dialogue with, and between, all the main actors in order to expand its understanding of the issues relating to the realisation of fundamental rights in the European Union. However this broad approach should be underpinned by initiatives to deepen understanding of priority issues. Mechanisms such as the existing RAXEN network have the capacity to bring detailed and complex analysis to the attention of the agency and the EU institutions.

In its dialogue with civil society the agency should have systems to enhance a broad dialogue, as well as the capacity to bring a more detailed understanding of identified priorities.

6. Cooperation with other stakeholders

The agency must be underpinned by a partnership approach which facilitates dialogue between all the main actors, including civil society, government, and other actors.

It is important the careful consideration be given to how the existing contact with international organisations be extended. For example in the case of the Council of Europe the existing structures of cooperation with ECRI should be extended in a way which is guided by the prioritisation of the agency’s work. In other words a key question remains how existing cooperation will be extended to reflect the mandate of the agency, with particular attention to avoiding duplication.

The agencies role should be more than ensuring effective cooperation between it and the various actors, it should also promote dialogue between the actors. Promoting dialogue is not just about the agency and civil society on the one hand, and the agency and the other actors on the other hand; its role should facilitate a ‘three-way’ dialogue in order to enhance cooperation in a meaningful way, and promote the work of the agency in a manner which is strategic and avoids duplication.

The agency should be underpinned by a partnership approach which ensures cooperation and exchange between all the main actors concerned with fundamental rights, including racism, in the broader European context.

7. Structures

As the Commission Communication states, in order to carry out its tasks objectively the Agency must be independent. Given that the agency is intended to be ‘lightweight’ in terms of staff and budget it is essential that the new regulation build upon the existing structures in the most effective way possible.

The role of the management board has served the EUMC in terms of setting its strategic priorities and maintaining its independence, and consequently the existing structure provides a sound basis for the new mandate. In considering how the existing structures should be extended three key principles must underpin the Board of the agency: the importance of continued expertise in racism; independent appointment; and independent function.

The NCCRI welcomes the suggestion that a scientific committee be used to inform the work of the agency, and would recommend that this structure be linked to the EU Network of Independent Experts on Fundamental Rights. The Network could prove a useful point of reference for expert legal advice, and as an advisory body on the future priorities of the agency.

The active involvement of the Commission, the European Parliament and other EU institutions, and Member States government (through the contact liaison officers), should be enhanced, so that the structure of the agency reflects the partnership approach highlighted in the previous section.⁷

The structure of the agency should build upon existing mechanisms and reflect a partnership approach which would inform its work programme and strategic priorities.

⁷ According to the Commission “The Monitoring Centre has also established increasingly productive relationship with the European Parliament and the Council of Europe. The Committee of the Regions has likewise taken an interest in the Monitoring Centre’s work, reflecting the importance of action by local and regional authorities in combating racism and racial discrimination... This practical involvement could usefully be enhanced” (COM(2003) 483 final).

Conclusions

Racism continues to be a very serious problem in all Member States of the European Union. The divergent experiences of the Member States indicate that unfortunately, racism and xenophobia are phenomena which will need a sustained and focused European approach long into the future. Freedom from racial discrimination is one of the most widely recognised human rights, and human rights activists have long recognised that discrimination on the grounds of race or nationality serves to undermine the realisation of human rights in all societies.

In this paper the NCCRI has suggested that the decision to extend the mandate of the EUMC should be used strategically to enhance the rights of everyone in the European Union. Given the history and experience of the EUMC it would appear logical that the fight against racism should serve as the starting point in the agency's efforts to enhance human rights and fundamental freedoms in the European Union. In this way the promotion of the right to freedom from racial discrimination has the potential to serve as a bridge from the existing mandate to the extended one.