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Intervention by the independent person appointed by the Council of Europe
Mrs Maud de Boer-Buquicchio

Mr Chairman
Distinguished Ambassadors,
Ladies and Gentlemen,

Allow me to start by thanking you for having invited me to this exchange of views (the 6th since the FRA came into being) and the first for me in my capacity as “independent person appointed by the CoE” sitting in the Agency’s Management Board (MB) and Executive Board (EB), a position to which you appointed me in July 2012 with effect from the expiry of my mandate as DSG of the Council of Europe in September last year.

As you know, the independent person appointed by the Council of Europe is a member of the MB, although the decision making power is limited to three issues: the adoption of the Annual Work Programme, the Annual Report, and the appointment of members of the Scientific Committee (FREG, article 12 para 8 in fine). As to the EB, the FREG stipulate (article 13) that the CoE member may participate in the meetings of the EB.

Before developing my views on cooperation between the Council of Europe and FRA, I would like to take this opportunity to refer to some recent developments within the Agency.

The beginning of my term coincided with a crucial moment for the Agency, namely the expiry of the Agency’s first Multi-annual framework (MAF) and the adoption of a new MAF (2013-2017), a partial renewal of the MB and EB (including my own membership), the renewal of the Scientific Committee, an external evaluation exercise and the end of the first term of office of the Director.

Although the previous MAF expired on 31/12/12 and the formal adoption of the MAF 2013-2017 by the EU Council was delayed until 11 March of this year, the 2013 AWP was adopted in December subject to the MAF adoption, and therefore this has not affected FRA’s work.

According to the MAF 2013-2017 the 9 thematic areas on which FRA will work over the next five years are the following¹:

- Access to justice
- Victims of crime
- Information society, in particular respect for private life and data protection
- Roma integration
- Judicial cooperation, except in criminal matters
- Rights of the child
- Discrimination based on sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation
- Immigration and integration of migrants, visa and border control and asylum
- Racism, xenophobia and related intolerance.

An external evaluation of the Agency was carried out by Ramboll Management Consulting in the course of 2012, with questions addressing its effectiveness, efficiency, utility, added value and coordination and coherence. The outcome was a favourable assessment in terms of timeliness and adequacy, in particular among the EU level institutions, which was however more mixed as to the member States calling for a need to explore new modes of cooperation with key national actors at Member State level. The evaluation concluded that FRA’s work was responsive to stakeholders’ needs and that as a unique provider of EU wide studies FRA constituted an added value.

The external evaluator also provided views on co-operation with the CoE, stressing that, overall, the FRA works in close cooperation with the Coe, that no duplication of work has been cited and that the two organisations create strong possibilities for complementarity.

¹ Changes compared to previous MAF: Roma integration added and “participation of citizens of the Union in the Union’s democratic functioning removed”. “Compensation of victims was changed into victims of crime”

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As a follow-up to this evaluation Report, a working group was set up in the MB to draft recommendations, based on a reflection on the future role of the Agency, as regards changes in the Agency's scope of action (including possible amendments to the founding regulations and cooperation with member States) and working practices. The MB in its recent May meeting agreed to transmit a letter to the European Commission outlining a number of suggestions to deal with these various aspects.

Some of these proposals essentially aim at practical adjustments which may increase the effectiveness of the agency. Others are more far-reaching, such as:

- the extension of its mandate in accordance with the changes introduced by the Lisbon Treaty (i.e. former "third pillar issues")
- a more systematic possibility of advice on EU legislative proposals
- a role for the Agency in proceedings under article 7 of the Lisbon Treaty;
- a role for the Agency on the review of the implementation of the Rule of Law in member States
- a role for the Agency on human rights dialogue with third countries.

It will now be for the European Commission to consider these proposals and, where appropriate, to make its own proposals for amending the founding regulation of the FRA in accordance with the procedure set out in Art. 31 of Regulation.

It is clear that some of these proposals, should they be retained by the European Commission in its own proposals and pass through the entire EU legislative procedure, may have an impact not only on the budget and the functions of the Agency, but also on its relations with the Council of Europe. So far, FRA has strictly adhered to its mandate and there have been concretely no problems of duplication or of 'competition' with CoE. On the contrary, the respective work has been enriching for both organisations. I am confident that possible changes to the FRA mandate and working methods will not affect the aspects related to cooperation and complementarity with the Council of Europe but we have to remain vigilant.

The MB also just renewed the 11 members of the Scientific Committee. The Scientific Committee is the guarantor of the scientific quality of the FRA's work and is involved in the preparation of the majority of FRA's documents and reports, mainly to ensure their scientific accuracy. Its members are selected bearing in mind criteria of expertise (there must be a mix of human rights lawyers, academics, social scientists and statisticians), as well as geographical and gender balance. The CoE secretariat was involved in the pre-selection process, while I, as member, took part in the subsequent stages of the procedure, which also required an opinion by the LIBE committee of the European Parliament.

I am happy to note that many members of the new Scientific Committee are experts about Council of Europe, for having previously worked for it or participated as an expert in CoE work or as a Judge. The list will be made public as soon as the appointed persons have been informed which I expect to happen this week.

I do not intend to elaborate on the Agency's numerous activities, as I consider this matter is more appropriately dealt with in your annual exchange of views with the Chair of FRA's MB, Ms Maja Sakslin and the Agency's Director Mr Morten Kjaerum, which I understand is scheduled for 19/11/2013.

Let me highlight however the recent launch in The Hague of a LGBT survey (17 may), whose methodology and the very important findings may be of interest for CoE in the light of the reflection on the implementation of the Committee of Ministers' Recommendation.

The survey on gender based violence, which would also provide very important insight for the monitoring of the implementation of the Istanbul Convention, and after which joint events are in preparation between FRA and CoE, is planned for release at end 2013.

The FRA/ ECHR handbook on asylum which will be presented here in Strasbourg on 11 June is a true "joint project", which follows the very successful handbook on non-discrimination and precedes other handbooks in preparation on data protection and children's rights.

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FRA's "statutory reports", the Annual Report on Fundamental rights and the Annual Activity Report, have been adopted by the MB last week and will soon be officially launched. They extensively refer also to relevant CoE findings and instruments, as well as to the ECHR case-law in areas relevant for the FRA mandate.

Cooperation between FRA and the CoE is based on Article 9 of FREG as well as an agreement concluded in 2008 (15.07.2008) with the European Commission, which is due to be reviewed by end 2013.

First talks with the Commission seem to show that on the basis of the experience gathered so far there is no particular need for a review, but I would like to profit of this opportunity to invite you to reflect on this and to express your views in this respect.

There are, as you know, regular exchanges taking place in various contexts (Independent member elected by CoE; observers of CoE Secretariat in MB meetings; the exchanges of views in GR-EXT and in the FRA MB (exchange of view once a year with CoE representative); contact person, desk-to-desk contacts etc.).

This is supplemented by systematic consultation of all CoE concerned services on the Annual Work Programme and on the Annual report, at various stages of their elaboration, as well as consultation on specific projects and activities².

The CoE contact person³ is also member of the recently established editorial committee in charge of the review of the annual report.

Cooperation between FRA and the Council of Europe is further strengthened by participation in respective events.⁴

Joint meetings such as the one scheduled for 7-8 October between the Council of Europe Equality Bodies, the FRA, National Human Rights Institutions and selected Ombudsperson institutions in preparation on "Strengthening fundamental rights protection together" are similarly very useful.

Joint awareness raising exercises, such as for example FRA's distribution within its network (FRANET) of the CoE Guidelines on child friendly Justice, are further examples of good cooperation.

Finally joint projects such as the publication of Handbooks on issues addressed by both the CoE (and ECHR) and FRA are further excellent examples of complementarity⁵.

Let me conclude with a few more words on my first experience as member of FRA's MB/EB.

The agenda of MB in the two meetings I attended⁶ contained a huge number of administrative or internal, managerial, very time consuming, items⁷.

² For example results of GRETA findings will be a source of inspiration for the report on severe labour exploitation ; for a project on the use of biometric data Fra will take into consideration the updated CoE interim report on the use of biometric data.

³ Daniele Cangemi

⁴ for example representatives of the CoE and the Office of the Commissioner attended the meeting organised by FRA bringing together leading representatives of national human rights bodies and the European Ombudsman office (Vienna, 15/10/2012) and FRA attended the 2nd meeting of the CoE Gender Equality Commission (Strasbourg, 14-16 November).

FRA informed participants of the CoE's Regional Conference on the Istanbul Convention (Helsinki, 17-18 January 2013) about its survey on gender-based violence against woman.

The launching of 2 Reports on victims of crime on in Budapest on the occasion of a Conference on hate speech organised by the CoE and Norway grants on 27/11/2012 is another example of interaction.

⁵ Handbook on discrimination, a Handbook on asylum, a Handbook of European case-law on the rights of the child as well as a Handbook on European data protection legislation both foreseen in 2013

⁶ Retreat and 15th MB: 26/28 September 2012 attended by Professor Rainer Hofman, alternate Member

25th EB: 12 December 2012

16th MB: 13/14 December 2012

26th EB: 21/22 February

27th EB: 22 May

17th MB: 22/24 May

⁷ Examples: Rules on management of conflict of interests (for MB and SC members with professional relations with FRA contractors, Human Resources matters (including rules on conduct of administrative inquiries and disciplinary proceedings and complaints on harassment by (former) staff members), financial and budgetary matters (budgetary transfers, annual accounts, annual activity report, state of execution of budget), Auditing Issues (e.g. risk-assessment in the area of procurement), Rules on Public Access to documents,

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However important these issues are for a sound management of the Agency, it means that the MB has little opportunity and time for discussion on substance matters, and exercising its strategic role. Exceptions are obviously the Annual Report with its focus section and the Annual work programmes, but the time allocated to these discussions is limited by all the other tasks (on many of which, moreover, the CoE has no right to vote and limited interest) and by the sheer volume of documentation provided. It is also for these reasons that a reflection on the role of MB, following the external evaluation Report, and my own suggestion, is currently on going

The selection of the members of the Scientific Committee has also been an extremely time consuming exercise for the MB, in spite of excellent preparatory work done by Secretariat and the pre-selection panel.⁸

However, let me conclude by saying that it is my view that FRA is a well-functioning organisation, with highly professional and motivated staff, producing reports and surveys of excellent quality and high standard. The Organisation is well managed in budgetary and financial terms as well as of management of human resources⁹

I am also pleased to say that there is a lot of attention and awareness on CoE work and a very effective complementarity and synergy.

I am confident that the well-established relations with Morten Kjaerum, whose mandate has been extended by the MB with another 3 years, will contribute to ensuring that ensuring cooperation with the CoE will remain a high priority for the FRA in the forthcoming years.

Thank you for your attention and I am of course ready to take questions.

⁸ which included the CoE contact person

⁹ OLOF closed on 12.03.2013 an investigation opened on 22 May 2012: no recommendations; Audit by ECA: FRA only agency which received no comments from ECA; FRA congratulated by LIBE on the occasion of budgetary discharge)