

# Using indicators to measure fundamental rights in the EU: challenges and solutions

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FRA SYMPOSIUM REPORT

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## THE SYMPOSIUM – AN INTRODUCTION

The 2011 Fundamental Rights Agency Symposium brought together key experts and stakeholders to discuss the development and use of indicators as a tool to measure progress in the implementation of fundamental rights in the EU. The Symposium was organised in light of the FRA's mandate to develop methods and standards that improve data comparability, objectivity and reliability in this field. The Symposium built on the work of the FRA and other actors, including in particular the conceptual and methodological framework on indicators for human rights developed under the auspices of the United Nations Office of the High Commissioner for Human Rights and the United Nations Treaty Bodies.

This report provides an overview of the Symposium's proceedings. It comprises a general overview of the most current opportunities and challenges concerning indicators, as well as some more specific conclusions from five thematic working groups. The FRA will, in line with the many recommendations offered during the lively sessions, intensify the integration and application of indicators across a range of its on-going projects. In particular, the Agency will seek to ensure that core aspects of the data that will be collected in four upcoming FRA surveys will, in part, be constructed so that fundamental rights indicators can be developed. The four surveys concern: violence against women, discrimination and hate crime against Jews, discrimination and victimisation of LGBT persons, and discrimination against Roma.

A working paper on fundamental rights indicators and the Agency's role in the area will follow within the next twelve months; in the meantime, the FRA will also be holding additional stakeholder and expert meetings in relation to projects where indicators can be developed. The following questions, frequently raised throughout the Symposium, represent possible topics for future discussion:

- the practical importance of establishing clear objectives for indicators;
- improving participatory approaches in the collection of data;
- contextualizing indicators;
- benchmarking;
- the need for a systematic approach to indicators;
- the independence and transparency of statistical bureaus.

As the development of indicators must continue with an outlook to what future policy priorities are, the FRA sincerely hopes the Symposium will have been proof that it is indeed a favourable time for collaboration in this area. Certainly, it has shown the need for continued interdisciplinary learning. In this regard, the FRA can only undertake to advance such an approach as, it believes, opportunities like these contribute considerably to improving the quality of the evidence-based advice it aims to deliver.

# 1. OPENING REMARKS

The first day of the Symposium (the agenda is annexed) saw an initial welcome address by Ms Ilze Brands Kehris, Chair of the Agency's Management Board. This was followed by the opening speech of FRA Director Morten Kjærum and later by three keynote addresses which provided an overview of current issues at the national and international level. The panel debate that ensued, on the other hand, considered the challenges and solutions in developing and using indicators for promoting and assessing the implementation of fundamental or human rights in an EU context. The working groups' sessions took place in the afternoon. The second day saw two plenary sessions devoted to reporting on the findings of the working groups, as well as to the question of what may be learnt from past experiences, with particular regard to how indicators may be used as a tool to assess progress in implementing fundamental rights and formulating rights-based public policies. The outcome of these sessions are briefly summarised in the following pages. However, as it can be said to have very much set the tone for the Symposium, it is worth at this point outlining the main points of Mr Kjærum's opening address (the speech is available in full [here](#))<sup>1</sup>.

Mr Kjærum, analogizing indicators to headlights, primarily stressed that a solid base of evidence is crucial "if we want to move fundamental rights from globally agreed, abstract, rhetorical standards, to the level of local, practical implementation". He thus covered the following issues:

1. What can fundamental rights indicators bring to policy making?
2. What can fundamental rights indicators add to existing work?
3. What is the FRA's role in developing indicators and how can it cooperate with other actors in this process?

In answer to the first question, Mr Kjærum pointed out that, quite simply, indicators allow decision makers to see the state of implementation of rights on the ground; they allow progress to be tracked, which in turn allows better policy assessment; they facilitate comparability between Member States thus permitting systematic identification of good practices; and, they can also generate political momentum as governments will want to avoid being seen as not making progress.

As for the specific contribution fundamental rights indicators would make, Mr Kjærum observed that they would add at least three dimensions of measurement to existing, more general indicators: enforceability, measurement and substance. Fundamental rights indicators would, for instance, track issues such as the existence of complaints mechanisms, and how often they are used; they would permit the measurement of the substance of rights as they would be based around the specifics of the rights themselves; equality would also be more accurately gauged as fundamental rights indicators require data to be disaggregated on the basis of gender, age, ethnicity, disability, religion or

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<sup>1</sup> See: [fra.europa.eu/fraWebsite/attachments/MK-speech-fra-symposium2011.pdf](http://fra.europa.eu/fraWebsite/attachments/MK-speech-fra-symposium2011.pdf)

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sexual orientation (although some existing indicators permit such measurement to a certain degree, it is not systematic across all grounds of discrimination).

Finally, the Director of the FRA commented that a fundamental rights indicators framework would constitute a shared action-basis that could be adopted and advanced by all Member States. This would ensure that the FRA's own primary data collection, for example, its EU-wide surveys, which cannot possibly cover all issues worthy of attention, is complemented by the collection of comparable data by the Member States themselves.

## 2. KEYNOTES – THE CASE FOR INDICATORS

- Aurel Ciobanu-Dordea, Director in charge of Equality, DG Justice, European Commission
- Craig Mokhiber, Chief of the Development, Economic and Social Issues Branch, Office of the United Nations High commissioner for Human Rights (OHCHR)
- Trevor Phillips, Chair, Equality and Human Rights Commission (EHRC), United Kingdom

As mentioned, keynote addresses provided an overview of current issues at the national and international level – from the United Nations and the European Union, as well as from one Member State that has undertaken extensive work on indicator development in the equality and human rights field.

Mr Ciobanu-Dordea’s keynote address helped to situate and explain the role of the FRA within the EU policy-making machine. The European Commission, he confirms, shares the view of the FRA that, inasmuch as they help formulate policy that is more focused, indicators are simply indispensable: one need only think of how problem definition, which is key in policy impact assessment processes, would be practically unattainable without indicator feedback. In this connection, the contextualization of indicators is essential and not to be forgotten. Thus, an obvious, current opportunity that invites the use of enhanced indicators, relates to the consequences of the recent economic crisis: limited resources urge for studies and surveys to be more focused on specific policy targets. Especially in those areas where the EU does possess strong competence and where policy is more mature, there is no reason for such enhancement to be postponed, or for indicators not to be more nuanced and rights-sensitive.

Thus, Mr Ciobanu-Dordea stressed that it is a matter of “searching reality at a deeper level”. Indicators need to measure both the situations to which policies are directed and the performances of those same policies: these are two distinct uses of indicators. From here, it may be easier to understand the prudence urged by some participants on what can be expected of indicators: they may help track changes but not necessarily explain them.

Mr Mokhiber, on the other hand, was concerned with the following issues at the international level:

- the need to measure progress on human rights and develop statistical indicators based on the authoritative normative human rights framework itself, including the international human rights instruments and the official jurisprudence of human rights monitoring mechanisms;
- the necessity for rights-sensitive and participatory data collection methods, focusing on vulnerable, marginalised and at-risk-of-discrimination population groups as well as further exploitation of available statistical information;
- the need to beware of elevating indicators to a status beyond their technical value and purpose.

The problematic issues recalled by Mr Mokhiber were indeed confirmed in the working groups and are further discussed below. It is worth pointing out that his keynote address, however, also makes a statement that is positive and highly encouraging of the international trend in the application of specific indicators in the implementation and measurement of human rights. He observes that “contrary to some misconceptions, the use of indicators is not something new or alien to traditional human rights monitoring and mechanisms” – it is already standard practice for an array of stakeholders and other actors; indicator sets, assessment exercises, benchmarking, data collection and disaggregation are already recognized tools. The Convention on the Rights of Persons with Disabilities (CRPD) and its Article 31 exemplify this positive trend. In his keynote address, Mr Mokhiber also highlighted different features of the conceptual and methodological framework on indicators developed by OHCHR.<sup>2</sup>

Adding to the ‘demand-side’ arguments for indicators, Mr Phillips, who chairs the Equality and Human Rights Commission (UK), reflected on the criteria for selecting indicators. He argued that such is the likely subtleness of discrimination and certain other human rights violations that sometimes nothing short of a “scientific and forensic” approach will do. Drawing on the Commission’s first triennial review “*How Fair is Britain*”<sup>3</sup>, Mr Phillips explained that, among immediate necessities are the need for indicators that can really capture diversity, the need for detailed and disaggregated data, and the need for enhanced transparency and independence of the bodies designing the indicators. In this regard, he suggested, overall the Commission’s report should be considered an initial benchmark study. Lastly, Mr Phillips sought to dispel the misconception that indicators are for “nerds and geeks” and countered that, on the contrary, they are a new way of looking at fundamental rights and should be the focus of much political action.

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<sup>2</sup> For details, see the *Report on indicators for promoting and monitoring the implementation of human rights* (HRI/MC/2008/3), available at: [www2.ohchr.org/english/issues/indicators/](http://www2.ohchr.org/english/issues/indicators/).

<sup>3</sup> Equality and Human Rights Commission (2011), *How fair is Britain? Equality, Human Rights and Good Relations in 2010*, available at: [www.equalityhumanrights.com/publications/key-commission-reports/](http://www.equalityhumanrights.com/publications/key-commission-reports/).

### 3. CHALLENGES AND SOLUTIONS – COMMON THEMES TO EMERGE

As much as there was a requirement that the Symposium highlight the potential for the development of indicators, there was a need for it to serve as a forum for exchanging views on the challenges and solutions ahead. Remembering Mr Kjørum's remark in his opening address to the Symposium that "Overcoming some of these hurdles will be an incremental task that takes place over years", there is already something positive in seeing that, especially after pooling experts from various fields, the challenges identified by the working groups still corroborate those mentioned in the FRA's Symposium background report and in the keynote addresses. Significantly, the fact that the five key areas dealt with by the working groups have many common challenges, not unjustly should raise expectations of common solutions.

It was seen, for instance, that most challenges do fall within the two categories noted in the background report. That is, some challenges relate to the existence of insufficient knowledge about what data currently exists and what can be collected realistically; others, to a range of technical considerations – such as comparability, especially when working between Member States and disciplines.

With regard to the former, the suitability of statistics to measure notions that sometimes have significant abstract dimensions (e.g. the right to privacy), received particular scrutiny. To what extent certain statistics contribute to describing a particular human rights situation is still a valid question.<sup>4</sup>

Ms Me of the United Nations Office on Drugs and Crime (UNODC) observed, official statistics produced by national statistical bureaus may be contributing more to the 'Outcome' section than to the 'Structure' and 'Process' sections of the OHCHR framework (for a brief outline of the framework, see Annex I). These concerns inevitably implicate statistical bureaus, and in this regard the discussion also addressed their independence and the objectiveness of their data collection with respect to indicator development assessment. The role of statistical bureaus was also discussed in conjunction with the important 'ranking/comparison' question. Discussion returned to this point more than once. For example, OHCHR representative Mr Mokhiber remarked that a meaningful measurement of progress on human rights can only be made vis-à-vis international standards applied country by country: when seen in this light, comparisons and rankings lose much practical value and become prone to arbitrariness.

Nevertheless, from the discussion that ensued on this point, there emerged strong support for 'clustering' as an approach to comparison – for example, grouping EU Member States

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<sup>4</sup> See further below and, again, the conceptual parts of the *Report on indicators for promoting and monitoring the implementation of human rights* (HRI/MC/2008/3), available at: [www2.ohchr.org/english/issues/indicators/](http://www2.ohchr.org/english/issues/indicators/).



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with similar socio-economic situations. In fact, in spite of the classification implicit in clustering, such a methodology might lead to stronger comparative conclusions.

Thus, whether existing information is actually suitable for the measurement of fundamental rights, and whether new appropriate data can be collected are two questions belonging to the first type of challenge. Within a second type of challenge, more related to technical considerations, the main problems revolved around:

- data comparability;
- data disaggregation;
- data protection;
- methods of data collection;
- forms of validation to ensure quality.

In this context, a number of important points were raised. For instance, the ‘repackaging’ of indicators, especially that occur when transposing indicators from civil and political contexts to economic, social, and cultural ones, should not be seen as the only way forward: new, purposely designed indicators need to be developed.

Ms Goodey, Head of the Freedoms and Justice Department at the FRA, highlighted the importance of having joined-up and multi-disciplinary approaches to both users and producers of indicators, so as to ensure that data is produced and collected in a coherent and comparative way. Another point relating to the issue of data variety, concerns the need to provide or adapt data for each specific category of user: a ministry will need far more technical data than that which can possibly be appreciated by the minister.

A further complication is the lack of universalised or standardised definitions or working definitions of many concepts, which sometimes impedes operationalisation and, more in general, hinders comparability in many areas. In this respect, the conceptual framework on indicators developed by OHCHR recommends using as starting point the international human rights normative framework (e.g. United Nations human rights treaties and general comments adopted by the treaty bodies) to identify definitional elements and preliminary indicators relevant to the right(s) under consideration.<sup>5</sup>

Another practical point was that although there is wide recognition of the need to focus on indicators for the most vulnerable and deprived in society, it is often very difficult to effectively sample them for the purpose of indicator development. This is particularly evident in some cases, such as ‘children’ and ‘persons with disabilities’. However, participatory approaches are to be encouraged across all areas and involving all stakeholders (such as national human rights institutions, statistical bureaus, civil society, government) in order to collect data that can reflect the situation of some of the most vulnerable in society.

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<sup>5</sup> This process is facilitated through the identification of ‘attributes’, namely a cluster of the main characteristics of the right or issues under consideration following an exhaustive reading of the international human rights normative framework (for details see HRI/MC/2008/3).

## Using indicators to measure fundamental rights in the EU: challenges and solution

More than once during the Symposium, participants stressed that indicators are needed to take fundamental rights from high-minded rhetoric to reality. This must be a concerted action across and by all Member States, through a structured and consistent approach that reconciles the various levels of action. The OHCHR's conceptual and methodological framework and configuration of 'structure-process-outcome' indicators provides an invaluable starting point in this context (see Annex I).

However, there needs to be a readjustment of the level of attention that is currently given to the various areas of action: the attention being focused on the international arena may seem disproportionate, especially when considering that the reality on the ground commonly receives less of it. The diagram below attempts to illustrate the perceived (blue) and ideal (yellow) trends.

Figure 1: The attention placed on human rights with international obligations (blue triangle) must be matched by greater attention at the local level (yellow triangle)



*Source: inspired by UNICEF CEE/CIS, July 2009, Regional and international indicators on juvenile justice: their applicability and relevance in selected countries of Eastern Europe and Central Asia.*

The two plenary sessions on the last day of the Symposium confirmed the above challenges. While final discussions reaffirmed that ultimate responsibility for discrepancies in data lies primarily with the Member States, speakers variously recalled future EU-wide points of action. Among these:

- the practical importance of establishing clear objectives for indicators;
- improving participatory approaches in the collection of data;
- contextualizing indicators;
- benchmarking;
- the need for a systematic approach to indicators;
- the independence and transparency of statistical bureaus;
- exploring possible links to various processes (e.g. Europe 2020);
- ensuring cooperation for a common development together with OHCHR, other IGOs (e.g. UNICEF, Council of Europe), and national human rights institutions.

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With regard to the role of the FRA, speakers indicated the following as priorities:

- raising awareness in Member States of the need for such data;
- promoting the collection of comparable data;
- providing best practice examples to Member States;
- filling data gaps where needed;
- exchanging 'know-how' with Eurostat and Member States;
- enhancing coordination with the Commission;
- instigating transparency and independence of all actors concerned;
- generally, act as an innovator and leader, stepping beyond the role of coordinator.

## 4. WORKING GROUPS

On the first day of the symposium, working group sessions on five key areas were held in order to explore the possibility of developing fundamental rights indicators, how data may be collected that could feed into these, how they could be used by the FRA in its work, and how they may be employed in the work of other organisations and the Member States.

The focus within each working group’s key area was as follows:

	KEY AREAS	FOCUS
1.	Data protection	Redress mechanisms
2.	Access to justice	Access to and equality before courts and tribunals
3.	Children	Justice
4.	Roma	Education
5.	Persons with disabilities	Convention on the Rights of Persons with Disabilities (CRPD) monitoring

The working group discussions clarified – for each of the key areas – the situation with regard to:

1. Challenges and solutions, in particular the possibility of and how to build on existing initiatives;
2. FRA’s role and where it can best add value.

### 4.1. Data protection: focusing on redress mechanisms

**Challenges and solutions** Much emphasis was placed on the practical implementation of legal instruments, perhaps unsurprisingly given the framework existing at the EU level. Accordingly, it was not contested that compliance with legal obligations is what should be measured, and that this needs to go beyond measuring compliance with ‘the letter of the law’ by looking into whether ‘the spirit of the law’ has been given effect to; that is, there is a particular need in the area of data protection to go beyond a literal interpretation of the law.

Certainly, scepticism was voiced in regard to the viability of structural indicators given the discrepancies in data protection systems across Member States. Whether it would be possible to avoid misuse of data in the attempt to attain a balance between the right to information and the right to privacy was also highlighted as a critical issue. On the latter point, however, it was emphasised by a participant in the working group that data protection indicators are needed precisely because misuse of data occurs. Further, uncertainty transpired as to the operationalisation of indicators of abstract notions, such as one may consider the right to privacy – or at least certain aspects thereof. However, indicators have been developed before that can measure the abstract dimension of a certain notion: it was suggested, for instance, that looking into indicators for the

independence of the judiciary – such as existing mechanisms to ensure impartiality – may provide a valid parallel in this respect to indicators for the right to privacy and data protection, and that valuable lessons can consequently be drawn for their operationalisation.

Significantly, as concerns the issue of redress in the area of data protection, it was reiterated that whereas data on complaints exist, data on actual access to courts is scarce.

**The role of the FRA**

It was generally agreed that, because obvious methodological difficulties inhibit the optimal development of indicators, current efforts should concentrate – if not even return to – the question of what should be measured. It was asked that the FRA not move prematurely into the question of how to measure indicators in this field until a conceptually sound platform is finalised.

The importance of the social dimension in the determination of what should be measured was emphasised. It was advocated, for instance, that the FRA further existing work<sup>6</sup> in the area of citizens' perceptions of their rights: whether they know about their rights, whether they feel sufficiently protected, etc. – to this end, the FRA envisions a 2012 comprehensive sociological report on the right to protection of privacy and personal data in the digital area in the context of ICT usage. Working group participants additionally concurred on the adoption of the Office of the High Commissioner for Human Rights' (OHCHR) structure-process-outcome framework as a starting point for the FRA's work.

## 4.2. Access to justice: focusing on equal access to courts and tribunals

**Challenges and solutions**

The federal systems of some countries, the varying crime classifications across judicial systems, the reluctance of public officials to disclose data that may bring their country's access to justice scheme into disrepute, but even the sheer number of avenues through which, for example, legal aid can be sought at national level, are some of the concerns that emerged among participants. They can nevertheless give an idea of the complexities tied to data collection and comparability in the area of access to justice. The working session allowed for discussion on existing initiatives upon which the FRA could build its work. For instance:

- data collected by the European Commission for the Efficiency of Justice (CEPEJ) on the resources and performances of judicial systems could expedite the development of indicators – data from Council of Europe and UN expert and monitoring mechanisms could similarly be used;
- future work by the EU, the United Nations Office on Drugs and Crime (UNODC), Eurostat, and others on crime classifications could help ensure

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<sup>6</sup> See, for instance, *Special Eurobarometer 359 – Attitudes on Data Protection and Electronic Identity in the European Union* (2011), available at: [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_359\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_359_en.pdf).

greater comparability across criminal law systems;

- the tools developed by Tilburg University – through research that sought to identify universal aspects of access to justice – could be used for survey measurement of access to justice across different judicial systems.

#### **The role of the FRA**

Again, strong support was voiced for the OHCHR framework as a starting point for the FRA's work, though it was suggested that the FRA start incrementally and initially focus only on one specific area of access to justice. Regular data collection and the standardisation of methodologies were also among the tasks it was suggested the FRA undertake and promote. Significantly, it was generally supported that the FRA also take the initiative to formulate actual indicators. However, given the socio-political sensitivities that can be stirred when pronouncing on a country's judicial system in general, it was asked that the FRA, *inter alia*:

- consider, first and foremost, the objective of the indicators – how they will be used should be outlined at the outset;
- take into account the interpretation and understanding at national level of the indicators developed, as this could have an effect, for example, on resource allocation and policy-making;
- be careful to develop indicators that are sensitive to lack of progress as much as they are to progress;
- examine stakeholders' expectations of the indicators and their use, in particular those of the EU Commission;
- consider stakeholders' perspectives and the value they respectively attribute to the various indicators. For example, in a legal case it might not matter from the claimant's point of view whether the case is dealt with by an advisory body or a court.

### 4.3. Children: focusing on justice mechanisms

#### **Challenges and solutions**

Given that the FRA has already initially developed indicators for the protection, respect and promotion of the rights of the child in the European Union,<sup>7</sup> the discussion during the working group turned to the issues of their use, review, as well as to the identification of new policy priorities. Thus, critical questions to address were identified as:

- how to establish the right level of detail and number of indicators needed;
- how already existing data is being used, especially how the EU is using it;
- the remedying of the lack of common definitions and the standardising of data-collection methodologies and their contribution to solve issues of data comparability across and within Member States: the active engagement of statistical offices and relevant ministries in this connection was considered

<sup>7</sup> European Union Agency for Fundamental Rights (FRA) (2010) *Developing indicators for the protection, respect and promotion of the rights of the child in the European Union* – Conference edition, available at: [www.fra.europa.eu/fraWebsite/research/publications/publications\\_per\\_year/pub-rightsofchild-summary\\_en.htm](http://www.fra.europa.eu/fraWebsite/research/publications/publications_per_year/pub-rightsofchild-summary_en.htm).

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as key;

- how to place indicators within the OHCHR's framework and to ensure the correct connection between structural, process and outcome indicators;
- how to address the discrepancy in data disaggregation levels across countries;
- how to further the involvement of children in research.

Regardless of the many existing efforts to develop indicators, there remains ample space for initiative. In developing new indicators attention should be paid as to whether they will be used and for what purpose, especially in relation to policy-making and legislation at EU level. It was suggested, for instance, that indicators be further developed at the level of the EU to incorporate Council of Europe policies, including in connection with child participation in civil justice.

### **The role of the FRA**

Given the advances in the development of children's rights indicators, post-data collection processes were emphasised. Thus, it was recommended that the FRA:

- ensure more efforts are put to the collection of data at the level of outcome indicators;
- identify the key partners having data available in key fields of EU competence such as civil justice;
- look beyond the practice of developing indicators based on already existing data, so as to encourage the conceptualisation of new and innovative indicators;
- develop indicators which are flexible and robust enough to encompass future policy priorities;
- ensure cross-disciplinary work on indicators in order to avoid duplication;
- facilitate dialogue between data collectors and policy makers.

## 4.4. Roma: focusing on education

### **Challenges and solutions**

Collection of data is hindered principally by unresolved identity issues. Roma people having at times multiple identities, coupled with the lack of a common understanding of the term 'Roma', makes it difficult to even determine which individuals may be considered to fall within the group of addressees of a given policy. Putting in place self-identification mechanisms has revealed itself as being a difficult matter, especially given the risk of further stigmatisation in what is an already sensitive context.

By drawing on and furthering the existing plentiful work done on inequality in education, research could then start focusing on aspects that are particular to Roma people's educational situation. For example, account should be taken of:

- the presence of minority teachers, and how important a factor this is for individuals coming from a minority;
- drop out and absence rates, including of teachers, in segregated schools;
- teachers' qualifications in segregated schools;

- the quality of infrastructure of schools;

In line with OHCHR's framework, in identifying potential structural, process and outcome indicators, it was suggested to draw further on international human rights standards, such as the General Comment on the Right to Education adopted by the United Nations Committee on Economic, and Social Rights.

**The role of the FRA**

Discussion did not centre as much on development of new indicators as it did on the follow-up work that the FRA could carry out with respect to its on-going work on the Roma. In this connection, it was suggested that the FRA:

- follow up on data collection at Member State level through regular publication of reports;
- improve data comparability;
- carry out peer review of its work at national level to ensure that indicators capture the relevant nuances;
- seek to improve overall cooperation between the various actors at Member State level and beyond.

## 4.5. Persons with disabilities: focusing on CRPD monitoring

**Challenges and solutions**

A clear common concern among participants was the impression that the development of indicators in the area of disability has fallen into a state of uncertainty, creating unjustified and unnecessary delay in their development and operationalisation. From here came the view that development should 'just go ahead', be accelerated and not become drawn out.

Among the factors perpetuating this situation, the following were frequently mentioned:

- an understanding of what 'disability' means in the various countries is missing, precluding further comparison;
- there is a dearth of initiatives to reach a common definition of 'disability'; and, difficulties universalising or standardising the working definitions of those organisations that are already working on the issue;
- the expansion of data is often halted as a result of restraints (of diverse nature) on organisations that are working on the issue;
- with specific regard to the CRPD, it was observed that certain outcomes may not be operational because of the instrument's abstract language.

**The role of the FRA**

It was suggested that the FRA strive to provide new impetus, in this way acting as a driving force behind the development of indicators more generally with regard to disability. In this connection, it could, for example, kick-start the development of new indicators by taking advantage of the fact that relatively little has been done so far when it comes to indicators based on CRPD articles. The FRA could:



- work on social accessibility to measure the interaction between impairment and barriers, for example, discrimination, stigma and stereotyping within society that lead to the exclusion of persons with disabilities. This would allow the establishment of the CRPD as a human rights treaty, not just one for persons with disabilities;
- address gaps in indicators being developed by the Academic Network of European Disability Experts (ANED), with a focus on process indicators – structure and outcome indicators are relatively well developed;
- take account of the importance of participation, and strive to include this as much as possible within its future methodology;
- address the priority areas under Europe 2020: employment, education and poverty;
- look into the feasibility of a common ‘disability’ definition at the European level.

## 4.6. Cross-cutting issues

Clearly, because of the particularities of each of the five key areas addressed in the working groups, generalisation of concerns across the groups is difficult. What follows below, however, is an attempt to list certain recurrent issues that emerged from the discussions:

- discrepancies in data collection methodologies, as well as in the nature, depth, and use made of the actual data collected across Member States, for example, irregular data collection, inadequate participatory approaches, and inconsistent disaggregation levels;
- problematic operationalisation of concepts – in part due to a lack of common definitions and/or working definitions;
- lacking identification and understanding of what should be measured and, more in general, the objective of indicators;
- tendency to develop indicators based solely on already existing data;
- the OHCHR’s framework not being fully operationalised.

## ANNEX I – THE OHCHR S-P-O FRAMEWORK

<p><b>STRUCTURE</b></p>	<p>‘Structure’ indicators relate to the availability of aspects such as formal commitments to international human rights standards, adoption of legislation, and establishment of enforcement and monitoring mechanisms. Examples of such projects at the FRA include studies that examined the architecture of fundamental rights protection in the EU; with reports on National Human Rights Institutions, national Equality Bodies, and Data Protection Authorities (launched at the FRA Symposium in Vienna May 2010).<sup>8</sup> These projects were aimed at a basic mapping of mechanisms with analyses of the respective bodies’ advantages and disadvantages in the various EU Member States. As of 2011 the Annual Report of the FRA will also include a chapter on formal commitments of EU Member States to core international treaties and monitoring mechanisms.</p>
<p><b>PROCESS</b></p>	<p>‘Process’ indicators relate to, for example, the existence of policies, effectiveness of various complaints mechanisms, and whether a governance system is sufficiently adapted to deal with fundamental rights issues. Projects predominantly looking at such aspects at the FRA include an on-going study on access to justice through national Equality Bodies, with qualitative interviews of, in particular, complainants that have considered or have actually sought assistance through these bodies.</p> <p>Another example is a project on joined-up governance. In cooperation with a number of project partners in selected EU Member States, the project identifies key criteria allowing different levels of government (local, regional, national, international) to be able to implement fundamental rights more effectively.</p>
<p><b>OUTCOME</b></p>	<p>‘Outcome’ indicators relate to the situation on the ground, with respect to how people experience rights as being realized in practice, or not. Such information can be presented through statistics in various ways. The surveys that the FRA is undertaking aim to capture the actual situation on the ground. A variety of outcome-dominated indicators can be extracted from the results, and also a number of more process-oriented ones, such as the perceived independence of a complaints body; or even indicators focused on structures, for example, knowledge of a complaints body’s existence. In addition, survey instruments can offer comparable disaggregated data by gender, age etc.</p>

<sup>8</sup> FRA (2010), *Data protection in the European Union: the role of National Data Protection Authorities*, Luxembourg, Publications Office of the European Union, available at: [http://fra.europa.eu/fraWebsite/attachments/Data-protection\\_en.pdf](http://fra.europa.eu/fraWebsite/attachments/Data-protection_en.pdf); FRA (2010), *National Human Rights Institutions in the EU Member States*, Luxembourg, Publications Office of the European Union, available at: [fra.europa.eu/fraWebsite/attachments/NHRI\\_en.pdf](http://fra.europa.eu/fraWebsite/attachments/NHRI_en.pdf).

## ANNEX II - AGENDA

<b>DAY 1: THURSDAY, 12 MAY 2011</b>	
09.30-09.45	Welcome by <b>Ilze Brands Kehris</b> , Chairperson of the Management Board, FRA
09.45-11.00	Opening speech by <b>Morten Kjaerum</b> , Director, FRA  <b>Keynote addresses:</b>  <b>Aurel Ciobanu-Dordea</b> , Director in charge of Equality, DG Justice, European Commission <b>Craig Mokhiber</b> , Chief of the Development, Economic and Social Issues Branch, Office of the United Nations High Commissioner for Human Rights (OHCHR) <b>Trevor Phillips</b> , Chair, Equality and Human Rights Commission (EHRC), United Kingdom  <b>Questions &amp; answers</b>  Chaired by <b>Ilze Brands Kehris</b> , Chairperson of the Management Board, FRA
11.00-11.30	Coffee break
11.30-13.00	<b>Panel debate:</b> Challenges and solutions in developing and using indicators for promoting and assessing the implementation of human rights in an EU context  <b>Angela Me</b> , Chief of Statistics and Survey Section, United Nations Office on Drugs and Crime (UNODC), Member of FRA Scientific Committee <b>Todd Landman</b> , Director, Institute for Democracy and Conflict Resolution, University of Essex <b>Eitan Felner</b> , International Consultant <b>Joanna Goodey</b> , Head of Department – Freedoms and Justice, FRA  Followed by discussions:  Moderated by <b>Ioannis Dimitrakopoulos</b> , Head of Department – Equality and Citizens' Rights, FRA
13.00-14.00	Lunch
14.00-17.00	<b>Parallel Working Groups:</b>  <u>Data protection – Redress Mechanisms</u> Speakers: <b>José-Manuel de Frutos Gomez</b> , Policy Officer at the Data Protection Unit, DG Justice,

<p>European Commission <b>Katarzyna Cuadrat-Grzybowska</b>, Office of the European Data Protection Supervisor (EDPS) <b>Rafael García Gozalo</b>, Spanish Data Protection Authority (tbc) Moderator: <b>Mario Oetheimer</b>, Programme Manager – Legal Research, FRA</p> <p><u>Access to Justice – Access to and equality before courts and tribunals</u> Speakers:</p> <p><b>Georg Stawa</b>, Head of Department for Projects, Strategy and Innovation, Ministry of Justice, Austria <b>Kaijus Ervasti</b>, Head of Administration, Senior Researcher, National Research Institute of Legal Policy, Finland <b>J. Maurits Barendrecht</b>, Professor, Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems, The Netherlands <b>Martin Gramatikov</b>, Assistant Professor, Tilburg Law School, The Netherlands Moderator: <b>Sami Nevala</b>, Statistician, FRA</p> <p><u>Children – Justice</u> Speakers:</p> <p><b>Margaret Wachenfeld</b>, Senior Policy Advisor, UNICEF <b>Maria Amor Estebanez</b>, Programme Manager – Legal Research, FRA Moderator: <b>Ioannis Dimitrakopoulos</b>, Head of Department – Equality and Citizens’ Rights, FRA</p> <p><u>Roma – Education</u> Speakers:</p> <p><b>Mihai Surdu</b>, Research and Policy Development Manager, Roma Education Fund, Hungary <b>Jaroslav Kling</b>, Project Manager, United Nations Development Programme (UNDP) <b>Isabelle Martijn</b>, Attaché, Anti-Poverty Policy Unit, Federal Public Planning Service for Social Integration, Belgium <b>Katharina Mathernova</b>, The World Bank Moderators: <b>Eva Sobotka</b>, Human Rights and Networking Coordinator, FRA <b>Michail Beis</b>, Programme Manager – Social Research, FRA</p> <p><u>Persons with disabilities – CRPD monitoring</u> Speakers:</p> <p><b>Jerome Bickenbach</b>, Head of the Disability Policy Unit, Swiss Paraplegic Research <b>Anna Lawson</b>, Senior Lecturer, School of Law, University of Leeds <b>Simon Walker</b>, Advisor Human Rights and Disability, OHCHR <b>Inmaculada Placencia-Porrero</b>, Deputy Head of Unit Rights of persons with disabilities, DG Justice, European Commission (tbc) Moderator: <b>Kasia Jurczak</b>, Programme Manager – Social Research, FRA</p>
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19.30	Evening reception (18.45: shuttle service from hotel)
<b>DAY 2: FRIDAY, 13 MAY 2011</b>	
09.30-10.45	<p><b>Plenary:</b> Learning from practice: experiences of using indicators as a tool to assess progress in implementing fundamental rights and formulating rights-based public policies</p> <p>Developing a equality measurement framework and human rights indicators for the national level – <b>Anna Henry</b>, Head of Social Analysis and Foresight, Equality and Human Rights Commission (EHRC)</p> <p>Developing an anti-discrimination index for the local level – <b>Marcello Scarone Azzi</b>, Chief, Struggle against Discrimination and Racism, Division of Human Rights, UNESCO</p> <p>Human rights indicators in development – <b>Hans Otto Sano</b>, Senior Program Officer, The World Bank</p> <p>Migrant Integration Policy Index (MIPEX) – <b>Jan Niessen</b>, Director, Migration Policy Group</p> <p>Experience and perspectives from OHCHR's work on human rights indicators in Mexico - <b>Mila Paspalanova</b>, Senior Human Rights Assistant, OHCHR Mexico</p> <p>Moderated by <b>John Kellock</b>, Head of Department – External Relations and Networking, FRA</p>
10.45-11.30	Group photo Coffee break
11.30-12.45	<p><b>Plenary:</b> Report on the findings of the working groups, plenary discussion and conclusions</p> <p>Presented and moderated by</p> <p><b>Joanna Goodey</b>, Head of Department – Freedoms and Justice, FRA and <b>Jonas Grimheden</b>, Programme Manager – Legal Research, FRA</p>
12.45-13.00	Closing remarks by <b>Morten Kjaerum</b> , Director, FRA

## ANNEX III – LIST OF PARTICIPANTS

No	NAME	SURNAME	ORGANISATION	JOB TITLE	COUNTRY	WORKING GROUP
1	Liene	Abolina	Central Statistical Bureau of Latvia	Senior Officer	Latvia	Children
2	Shams	Asadi	City of Vienna	Vice Department Head	Austria	Persons with disabilities
3	Krisztina	Baranyos	Office of the Parliamentary Commissioner for Data Protection and Freedom of Information	Data Protection Expert	Hungary	Data protection
4	Maurits	Barendrecht	Tilburg University	Professor of Private Law and Dispute Resolution	The Netherlands	Access to justice
5	Michael	Bennetsen	Centre for Equal Opportunities and Opposition to Racism	Research Coordinator	Belgium	Persons with disabilities
6	Jerome	Bickenbach	Swiss Paraplegic Research	Head, Disability Policy Unit	European level	Persons with disabilities
7	Aleksandra	Bojadjieva	Roma Decade Watch	Programme manager	European level	Roma
8	Jamie	Bolling	European Network for Independent Living (ENIL)	Executive Director	European level	Persons with disabilities
9	Ilze	Brands Kehris	EU Agency for Fundamental Rights (FRA)	Chairperson of the Management Board	European level	-
10	Marco	Buemi	The National Office Against Racial Discrimination	Expert	Italy	Data protection
11	Ilze	Burkevica	European Institute for Gender Equality (EIGE)	Statistics officer	Lithuania	-
12	Patrick	Charlier	EU Agency for Fundamental Rights (FRA)	Management Board Member	Belgium	Access to justice
13	Silvia	Chiorean	National Institute of Statistics	Expert	Romania	Persons with disabilities
14	Sera	Choi	German Institute for Human Rights	Project Coordinator	Germany	Access to justice
15	Georgina	Christou	Mediterranean Institute of Gender Studies	Project Coordinator		Cyprus Roma
16	Aurel	Ciobanu-Dordea	European Commission	Director in charge of Equality, DG Justice	European level	-
17	Katarzyna	Cuadrat-Grzybowska	European Data Protection Supervisor	Legal Adviser, Policy and Consultation	Belgium	Data protection

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No	NAME	SURNAME	ORGANISATION	JOB TITLE	COUNTRY	WORKING GROUP
18	Monir	Dastserri	Ministry of Employment	Senior Adviser	Sweden	Roma
19	José-Manuel	De Frutos Gomez	European Commission	Policy Officer at the Data Protection Unit, DG Justice	European level	Data protection
20	Patrick	De Rond	Centre pour l'égalité de traitement	President	Luxembourg	Persons with disabilities
21	Georgia	Dimitropoulou	Ministry of Justice, Transparency and Human Rights - Juvenile Custody Service of the Court of Minors in Athens	Juvenile Guardian	Greece	Children
22	Maciej	Dybowski	Adam Mickiewicz University	Assistant Professor	Poland	Access to justice
23	Kaijus	Ervasti	National Research Institute of Legal Policy	Head of Administration, Senior Researcher	Finland	Access to justice
24	Nicolas	Fasel	Office of the United Nations High Commissioner for Human Rights	Human Rights Officer	Switzerland	Roma
25	Eitan	Felner	Independent Consultant		Spain	Roma
26	Michael	Fembek	Essl Foundation	Programm Manager	Austria	Persons with disabilities
27	Daniëlle	Fiolet	Municipality of Utrecht	Account manager social development at the Research department	The Netherlands	Children
28	Eilionoir	Flynn	Centre for Disability Law and Policy	Director of Research	Ireland	Persons with disabilities
29	Cedric	Foussard	International Juvenile Justice Observatory (OIJJ)	Director	International level	Access to justice
30	Radi	Foutekov	Ministry of Labour and Social Policy	State Expert	Bulgaria	Roma
31	Simona	Giarratano	European Disability Forum	Social Policy Officer	European level	Persons with disabilities
32	Gábor	Gombos	Mental Disability Advocacy Centre (MDAC)	Senior Advocacy Officer	Hungary	Persons with disabilities
33	Urszula	Góral	Bureau of the Inspector General for Personal Data Protection	Director of the Department	Poland	Data protection
34	Martin	Gramatikov	TISCO, Tilburg University	Researcher	The Netherlands	Access to justice

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No	NAME	SURNAME	ORGANISATION	JOB TITLE	COUNTRY	WORKING GROUP
35	Josefine	Gustafsson	Agency for Disability Policy Coordination (HANDISAM)	Researcher	Sweden	Persons with disabilities
36	Sano	Hans-Otto	The World Bank	Senior Program Officer, Nordic Trust Fund, Operations, Policies & Country Services	International level	-
37	Anna	Henry	Equality and Human Rights Commission	Head of Social Analysis and Foresight	United Kingdom	Data protection
38	Marianne	Hirschberg	German Institute for Human Rights	Researcher CRPD National Monitoring Body	Germany	Persons with disabilities
39	Ágnes	Honecz	Equal Treatment Authority	President	Hungary	Roma
40	Andrey	Ivanov	United Nations Development Programme (UNDP)	Human Development Policy Advisor	International level	Roma
41	Barbara	Jurgeleviciene	State Data Protection Inspectorate of the Republic of Lithuania	Head of the Complaints Investigation and International Cooperation Division	Lithuania	Data protection
42	Tamas	Kadar	European Network of Equality Bodies (EQUINET)	Policy Officer	International level	Access to justice
43	Mirjam	Karoly	OSCE - ODIHR- Contact Point for Roma and Sinti	Adviser on Roma and Sinti	Poland	Roma
44	Alexandros	Kessopoulos	Ministry of Justice, Transparency and Human Rights	General Secretary of Transparency and Human Rights	Greece	Children
45	Jaroslav	Kling	United Nations Development Programme (UNDP), Bratislava Regional Centre	Project Manager	International level	Roma
46	Karin	König	City of Vienna, Department Integration and Diversity	Legal Affairs Officer	Austria	Access to justice
47	Martin	Kovats	European Commission	Special Advisor to Commissioner Andor	United Kingdom	Roma
48	Alena	Kotvanova	Government Office of the Slovak Republic	Officer	Slovakia	
49	Siim	Krusell	Statistics Estonia	Analyst	Estonia	Children
50	Magdalena	Kurus	Human Rights Defender Ombudsman Office	Senior Legal Specialist	Poland	Access to justice
51	Eleni	Kyrou	European Investment Bank	Social Development Specialist	International level	Roma



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No	NAME	SURNAME	ORGANISATION	JOB TITLE	COUNTRY	WORKING GROUP
52	Cyril	Lacombe	Ministère de la Justice et des Libertés	Chef du pôle d'évaluation des politiques pénales	France	Data protection
53	Todd	Landman	University of Essex	Director of the Institute for Democracy and Conflict Resolution	United Kingdom	Data protection
54	Anna	Lawson	University of Leeds	Senior Lecturer	United Kingdom	Persons with disabilities
55	Mikael	Luciak	University of Vienna, Department of Education	Post-Doc Researcher	Austria	Roma
56	Elke	Lujansky-Lammer	Equality Body	Head of the Regional Office Styria	Austria	Data protection
57	Anne-Claire	Luzot	UNICEF Regional Office for CEE/CIS	Regional Advisor, Monitoring and Evaluation	International level	Children
58	Steven	Malby	United Nations Office on Drugs and Crime (UNODC)	Research Officer	International level	Children
59	Jonas	Markelevicius	Statistics Lithuania	Deputy Director General	Lithuania	Data protection
60	Isabelle	Martijn	Anti-Poverty Policy Unit, Federal Public Planning Service for Social Integration	Attaché	Belgium	Roma
61	Nicolas	Marugan Zalba	Ministry of Labour and Immigration	Director of Spanish Observatory on Racism and Xenophobia	Spain	Roma
62	Martin Jeremy	Mcbride	FRA Scientific Committee	Barrister	France	Access to justice
63	Siobhán	McInerney-Lankford	The World Bank	Senior Policy Officer	International level	-
64	Angela	Me	United Nations Office on Drugs and Crime (UNODC)	Chief Statistics and Surveys Section	Austria	Access to justice
65	Vera	Messing	Central European University, Center for Policy Studies	Research Associate	Hungary	Roma
66	Marius	Mocanu	Romanian Institute for Human Rights	Expert	Romania	Persons with disabilities
67	Craig	Mokhiber	Office of the United Nations High Commissioner for Human Rights (OHCHR)	Chief of Development, Economic and Social Issues Branch	International level	-
68	Nathalie	Morgenthaler	CET (Centre pour l'égalité de traitement)	Executive director	Luxembourg	Access to justice

Using indicators to measure fundamental rights in the EU: challenges and solution

No	NAME	SURNAME	ORGANISATION	JOB TITLE	COUNTRY	WORKING GROUP
69	Mall	Muidre	The Gender Equality and Equal Treatment Commissioner	Adviser	Estonia	Access to justice
70	Kati	Mustola	FRA Scientific Committee	Researcher	Finland	Children
71	David	Newman	University of Leeds	Assistant to Anna Lawson	United Kingdom	Persons with disabilities
72	Jan	Niessen	Migration Policy Group	Director	Belgium	-
73	Ingrid	Nikolay-Leitner	Ombud for Equal Treatment	Director, Ombud for Equal Treatment	Austria	Data protection
74	João	Paiva	Comission for Citizenship and Gender Equality	Coordinator of Regional and Municipal Cooperation	Portugal	Access to justice
75	Michele	Palma	Department for Equal Opportunities	General Director	Italy	Children
76	Kapka	Panayotova	European Network on Independent Living (ENIL)	Board Member	Bulgaria	Persons with disabilities
77	Mila	Paspalanova	Office of the United Nations High Commissioner for Human Rights (OHCHR)	Senior Human Rights Assistant on Indicators Generation	Mexico	Children
78	Vitalija	Petrauskaite	Office of Equal Opportunities Ombudsmen	Adviser	Lithuania	Roma
79	Mark Trevor	Phillips	Equality and Human Rights Commission	Chair	United Kingdom	-
80	Julia	Planitzer	Ludwig Boltzmann Institute for Human Rights	Researcher	Austria	Children
81	Stéphanie	Poirel	Council of Europe	Secretary of the Monitoring Committee	International level	Roma
82	Patricia	Prendiville	EU Agency for Fundamental Rights (FRA)	Member of the Management Board	Ireland	Children
83	Krisztina	Rajos	Office of the Parliamentary Commissioner for Data Protection & Freedom of Information	Data Protection Expert	Hungary	Data protection
84	Jernej	Rovsek	Human Rights Ombudsman of the Republic of Slovenia	Deputy Ombudsman	Slovenia	Data protection
85	Marcello	Scarone Azzi	UNCESCO	Chief, Struggle against Discrimination and Racism, Division of Human Rights	International level	Data protection
86	Vit A.	Schorm	Ministry of Justice of the Czech Republic	Government Agent before the ECHR	Czech Republic	Access to justice
87	Marianne	Schulze	Free-lance Consultant		Austria	Persons with disabilities

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No	NAME	SURNAME	ORGANISATION	JOB TITLE	COUNTRY	WORKING GROUP
88	Miri	Sharon	United Nations Office on Drugs and Crime (UNODC)	-	International level	Access to justice
89	Daniel	Skobla	United Nations Development Programme (UNDP)	Social Inclusion Officer	International level	Data protection
90	Therese	Spiteri	National Commission for the Promotion of Equality	Manager	Malta	Data protection
91	Klaus	Starl	European Training and Research Centre for Human Rights Graz	Director	Austria	Children
92	Georg	Stawa	Council of Europe, CEPEJ, Vice President, Ministry of Justice, Austria	Head of Department for Projects, Strategy and Innovation,	European level	Access to justice
93	Grace	Steffan	Office of the United Nations High Commissioner for Human Rights (OHCHR)	Huma Rights Officer	International level	Data protection
94	Fiona	Steinert	Ludwig Boltzmann Institute for Human Rights	Executive Director	Austria	-
95	Mihai	Surdu	Roma Education Fund	Research and Policy Development Manager	Hungary	Roma
96	Jelena	Tadlic	UNDP	Programme officer	International level	
97	Tatiana	Termacic	Council of Europe	Acting Head of Division	France	Access to justice
98	Claartje	Thijs	Dutch Equal Treatment Commission	Policy employee	The Netherlands	Persons with disabilities
99	Kaisa	Tiusanen	Ministry of Justice	Ministerial Adviser	Finland	Children
100	Wendy	Tol, van der	Dutch Equal Treatment Commission	Policy employee	The Netherlands	Access to justice
101	Hannes	Tretter	Ludwig Boltzmann Institute for Human Rights	Scientific Director and Vice Chairperson of the FRA Management Board	Austria	-
102	László	Ulicska	Ministry of Public Administration and Justice	Advisor	Hungary	Roma
103	Charlotte	Vanneste	Institut National de Criminalistique et de Criminologie	Chef de Département	Belgium	Children
104	Margaret	Wachenfeld	UNICEF	Senior Policy Adviser	Belgium	Children
105	Simon	Walker	Office of the United Nations High Commissioner for Human Rights (OHCHR)	Advisor, Human Rights and Disability	International level	Persons with disabilities

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No	NAME	SURNAME	ORGANISATION	JOB TITLE	COUNTRY	WORKING GROUP
106	Veronika	Zuffova-Kuncova	Office for Personal Data protection of the Slovak Republic	Major State Counsellor	Slovakia	Data protection
107	Vít	Zvánovec	Czech Data Protection Authority	Advisor	Czech Republic	Data protection
108	Marcel	Zwamborn	Human European Consultancy	Managing partner	The Netherlands	Access to justice

## ANNEX IV – GROUP PHOTO, SYMPOSIUM PARTICIPANTS

