



**Overview of the cooperation between the
European Union Agency for Fundamental Rights
and the Council of Europe**
(1 January 2018 – 31 December 2018)

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Part I. Objectives, methods and review of cooperation

1. Introduction

The cooperation between the European Union Agency for Fundamental Rights (the Agency or FRA) and the Council of Europe (CoE) is based on the FRA Founding Regulation¹ and on the Agreement between the European Community and the Council of Europe on cooperation between the European Union Agency for Fundamental Rights and the Council of Europe, which was adopted in 2008.² This Agreement established a general cooperation framework with the aim of avoiding duplication and ensuring complementarity and added value to the work of the Agency and the CoE. Pursuant to Article 23 of the Agreement, based on a positive evaluation of the cooperation, the Council of Europe and the European Union (EU) decided not to revise the Agreement for the time-being as it provides for an appropriate and flexible instrument for cooperation.

The cooperation between the Agency and the CoE has been evolving continuously in recent years towards an improved coordination of activities and synergies between both organisations. This document presents key objectives and methods of this cooperation and provides concrete examples of cooperation activities in relevant fields from the period 1 January 2018 – 31 December 2018.

2. Key objectives – What do we want to achieve together and in which areas?

The key objectives and strategic priorities of the cooperation relate to the promotion and protection of human rights, as identified through a thorough exchange of views between the Agency and the CoE. The cooperation between the two organisations mainly focuses on:

- Developing joint projects in areas of mutual concern;
- Engaging in dialogue with stakeholders in order to improve the situation of fundamental rights in Europe;
- Coordinating communication activities to increase awareness regarding fundamental rights;
- Informing each other on the results of activities of each organisation;
- Exchanging data and consulting each other at operational level.

The cooperation takes place within specific thematic areas of the Agency's Multi-Annual Framework (2018 – 2022), which has been agreed upon by the Council of the European Union and adopted on 7 December 2017.³

- a) Victims of crime and access to justice;

¹ Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, OJ L 53, 22.2.2007, p. 1.

² Agreement between the European Community and the Council of Europe on cooperation between the European Union Agency for Fundamental Rights and the Council of Europe, OJ L 186, 15.7.2008, p. 7.

³ Council decision (EU) No 2017/2269 of 7 December 2017 establishing a Multiannual Framework for 2018-2022 for the European Union Agency for Fundamental Rights, OJ L 326/1, 09.12.2017, p.1.

- b) Equality and discrimination based on any ground such as 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, or on the grounds of nationality;
- c) Information society and, in particular, respect for private life and protection of personal data;
- d) Judicial cooperation, except in criminal matters;
- e) Migration, borders, asylum and integration of refugees and migrants;
- f) Racism, xenophobia and related intolerance;
- g) Rights of the child;
- h) Integration and social inclusion of Roma.

3. Methods and review of cooperation

3.1. Permanent mechanisms of cooperation

Different mechanisms laid down in the Agency's Founding Regulation and in the EU-CoE Agreement ensure complementarity in the relationship between the Agency and the CoE. For instance, the CoE has appointed an independent member to the Management and Executive Boards of the FRA, while representatives of the CoE Secretariat are present as observers at FRA Management Board meetings. Moreover, once a year, a senior representative of the CoE is invited to address the FRA Management Board. This gives the opportunity for an exchange of views between the CoE and the FRA and keeps the FRA Management Board fully informed regarding key activities planned by the CoE. Annual exchanges of views between the Committee of Ministers' Rapporteur Group on External Relations (GR-EXT), the independent person appointed by the CoE, the Chairperson of the FRA Management Board and the FRA Director contribute further towards an efficient cooperation between the two organisations. In 2018, to mark the 10th anniversary of the EU-CoE Agreement the Director addressed the Committee of Ministers of the CoE. These exchanges also ensure a regular review of the cooperation between FRA and the CoE.

Moreover, the CoE is associated with FRA's work with civil society organisations, mainly through FRA's Fundamental Rights Platform.

The Founding Regulation prescribes consultations between the FRA and the CoE during the preparation of the Agency's Annual Work Programmes and the Agency's Annual Report on fundamental rights issues (Article 9 of the FRA Founding Regulation). This ensures that CoE priorities, activities and findings are properly taken into account in key FRA documents in general, and in the FRA Annual Report (*Fundamental Rights Report*) in particular. In addition, Article 3 of the Agreement between the EU and the CoE on cooperation between the FRA and the CoE establishes that the Agency and the CoE shall each appoint a contact person to deal specifically with matters relating to their cooperation. The Council of Europe is part of the pre-selection panel of the members of the Scientific Committee, which verify the eligibility of candidates. Furthermore, the services of both organisations carry out regular reviews at different stages of activities and projects, while the regular exchange of information between the respective contact persons, as well as inter-institutional meetings, and contribute further towards an enhanced collaboration.

3.2. Forms of cooperation at operational level

The operational cooperation between the FRA and the CoE is an ongoing day-to-day process. This cooperation takes various forms, such as: consultations on specific projects and activities; regular exchange of data and information; participation in inception meetings of projects; joint projects and activities; participation in respective civil society structures; granting of observer status in several CoE human rights monitoring and intergovernmental committees; and complementarily through mutual references to each other's work. The contact persons appointed by the CoE and the Agency are informed about these activities on a regular basis so that they can facilitate the whole process and ensure its continuity and consistency. Such exchanges ensure cross-references of each other's work.

In this respect, the Agency cooperates at an operational level with a number of relevant bodies and services of the CoE, including the Registry of the European Court of Human Rights (ECtHR) and the European Commission against Racism and Intolerance (ECRI). The ECtHR case law regularly cites the Agency's reports.⁴ ECRI's reports also make regular reference to FRA's work, in particular the EU-MIDIS and the LGBT surveys as well as the *Fundamental Rights Report*. Similarly, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) refers to FRA data in its country reports.⁵ FRA also cooperates with the European Committee of Social Rights (ECSR), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) as well as other human rights monitoring committees, the European Commission for the Efficiency of Justice (CEPEJ), the Venice Commission, the Office of the Commissioner for Human Rights, the Special Representative of the Secretary General for Roma Issues, the Special Representative of the Secretary General on Migration and Refugees, the Congress of Local and Regional Authorities, the Conference of INGOs, as well as the Directorate General Human Rights and Rule of Law and the Directorate General of Democracy.

FRA relies in its work on the standards set by the CoE and takes due account of the judgments of the ECtHR and the way they are being implemented, the decisions and conclusions of the European Committee of Social Rights, reports and activities of other CoE human rights monitoring bodies and intergovernmental committees, as well as reports of the CoE's Commissioner for Human Rights. FRA also has an online overview for the 28 EU Member States of the status of acceptance of international human rights obligations (UN and CoE). In addition, these comparative tables include data on acceptance of specific provisions of the European Social Charter and the percentage of compliance with these as assessed by the European Committee of Social Rights as well as core statistics from the ECtHR on cases related to the 28.⁶ The CoE is also regularly invited to comment on FRA draft reports to ensure, amongst other things, that European human rights standards are properly reflected.

In turn, the work of the CoE is supported by FRA data and findings. For example, the ECRI's fifth monitoring reports on France, Italy, and the United Kingdom refer and use data and information of FRA research as evidence, in particular the EU-MIDIS survey,

⁴ See for example: ECtHR, *Bălșan v. Romania* (application no. 49645/09), 23 May 2017 on violence against women.

⁵ See for example: GREVIO, [Baseline Evaluation Report – Denmark](#), 24 November 2017.

⁶ <http://fra.europa.eu/en/publications-and-resources/data-and-maps/int-obligations>.

the LGBT survey, the Roma survey, the opinion on the Framework Decision on Racism and xenophobia – with special attention to the rights of victims of crime and the thematic reports on Access to effective remedies: the Asylum-seeker perspective and Discrimination and hate crime against Jews in EU Member States: experiences and perceptions of antisemitism. Moreover, the Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM) makes reference to FRA reports and surveys (e.g. EU-MIDIS Roma survey, Indicators Framework developed by the Roma Working Party facilitated by FRA; FRA thematic reports on education, housing and gender) in its thematic reports.

For more information:

<http://www.coe.int/t/dghl/monitoring/ecri/library/publications.asp#TopOfPage>
& <http://www.coe.int/en/web/portal/cahrom>

Such cross-references contribute to disseminating on a reciprocal basis the results of the respective activities of the CoE and FRA. Reciprocal consultation and feedback, as well as participation at meetings and events, have become integral parts of the working methods of both organisations.

Part II. Projects and activities undertaken (1 January 2018 – 31 December 2018)

4. Examples of inter-institutional and regulatory cooperation

The independent person appointed by the CoE participated in the FRA Executive Board meetings (8 March 2018, 15 May 2018, 5 October 2018, 13 December 2018) and the FRA Management Board meetings (15-17 May 2018, 13-14 December 2018). The CoE Secretariat representative participated in the FRA Management Board meeting in May as observer.

The CoE Secretariat representative participates as observer in the regular meetings of the Management Board's Annual Report Editorial Committee (AREDIT). The AREDIT Committee was created to assist in the preparation of the Annual Report with a view to its adoption in the FRA Management Board. It considers the first draft of the text and provides comments and recommendations.

On 1 March 2018, the Head of Anti-Discrimination Department and Head of Department a.i. Roma and Travellers Team in the Directorate of Democratic Governance and Anti-Discrimination, Directorate General of Democracy – Mr. Hallvard Gorseth, visited the EU Agency for Fundamental Rights to meet with FRA colleagues and discuss potential areas of further cooperation in areas such as equality, hate crime and hate speech, LGBTIQ, Roma inclusion and the FRA's cooperation with the EEA and Norway Grants as an International Partner Organisation (as is the Council of Europe).

On 15 June 2018, a delegation from the Council of Europe visited the EU Agency for Fundamental Rights. Mr Christos Giakoumopoulos, Director General of Human Rights and Rule of Law led the Council of Europe delegation composed of Mr Jeroen Schokkenbroek, Executive Secretary of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (CPT) and Tatiana Termacic, Council

of Europe contact person for FRA cooperation. During the visit they discussed FRA work at the hotspots in Greece and Italy, the future of the four Platforms and other relevant cooperation initiatives including the EU Fundamental Rights Information System (EFRIS), Roma work, Human Rights Cities and the Fundamental Rights Forum 2018.

As a follow up to this meeting, on 17 September the FRA Head of Sector, Asylum Migration and Borders visited the Council of Europe for a coordination meeting on migration. Possible areas of cooperation were discussed with the CPT, the SRSG on migration and refugees, the Parliamentary Assembly and other relevant Council of Europe actors.

On 17 October 2018, the FRA Director visited the Council of Europe in Strasbourg. During his visit he gave a speech at the Committee of Ministers of the Council of Europe (see annex for full speech) to mark the 10th anniversary of the agreement on cooperation between the Council of Europe and the Agency. The exchange of views with representatives of Council of Europe Member States highlighted aspects of particular interest in that cooperation. The Director also met with the President of the Parliamentary Assembly of the Council of Europe for the first time. In addition, he exchanged views with the European Committee of Social Rights on 18 October, exploring possibilities for further FRA support for the Committee's work. It was also an opportunity to meet with high-level Council of Europe officials dealing with Human Rights and the Rule of Law, Human Dignity, Equality and Governance, Democratic Participation, Information Society and Action against Crime.

5. Other contacts and coordination activities at inter-institutional level

The European Union Fundamental Rights Information system (EFRIS)

The Agency's European Fundamental Rights Information System brings together relevant EU, UN and Council of Europe information on fundamental rights to improve visibility and accessibility of existing monitoring mechanisms. It seeks to provide a window to as many as possible of the 80 plus mechanisms with a strong human rights remit. On 22 to 23 March, the Agency hosted its third expert meeting on developing the online tool EFRIS with essential participation by the Council of Europe. Continuous exchange on EFRIS with the Council of Europe has been maintained throughout the year. The tool is scheduled to be launched in 2019.

6. Examples of joint projects and other types of operational cooperation in different thematic areas

6.1. FRA-CoE Joint Projects

a. Update of the Handbook on European data protection law

The European Union and the Council of Europe have reviewed their legal frameworks for the protection of personal data to keep pace with changes in this fast-moving area. Building on the popular practical handbook on European data protection law, the European Union Agency for Fundamental Rights (FRA), the Council of Europe and the

European Data Protection Supervisor have published on 25 May an update as the EU's new data protection rules take effect and the modernised text of the Council of Europe's Convention 108 has just been adopted.

On 21 June in Strasbourg, Judge Robert Spano of the European Court of Human Rights and FRA jointly presented the 2018 edition of the handbook on European data protection law at a plenary meeting of the Council of Europe's Consultative Committee of the *Convention for the protection of individuals with regard to automatic processing of personal data* (Convention 108+). The handbook is proving to be popular as both the EU and Council of Europe have recently reviewed their legal frameworks for protecting personal data. The handbook was produced jointly between FRA, the Council of Europe and the European Data Protection Supervisor.

For more information: <http://fra.europa.eu/en/publication/2018/handbook-european-data-protection-law> & <https://www.coe.int/en/web/data-protection/36th-plenary-meeting-of-committee-of-conv.-108>

b. Update of the Handbook on European non-discrimination law

The Handbook on European non-discrimination law is jointly produced by the European Court of Human Rights and the FRA. It is a comprehensive guide to non-discrimination law and relevant key concepts. The 2018 edition contains recent examples of relevant case law with new chapters on multiple discrimination, hate crime and hate speech. This handbook is designed to assist legal practitioners who are not specialists in non-discrimination law to introduce them to the key issues. It seeks to raise awareness and improve knowledge of relevant standards set by the European Union and the Council of Europe, particularly through case law of the EU's Court of Justice and the European Court of Human Rights. Where relevant, it also refers to the European Social Charter, other Council of Europe instruments and international UN treaties related to non-discrimination. The first edition was published in 2010 with over 100,000 downloads to date.

For more information: <http://fra.europa.eu/en/publication/2018/handbook-european-law-non-discrimination> & <https://www.echr.coe.int/Pages/home.aspx?p=caselaw/otherpublications&c>

6.2. Operational cooperation in different thematic areas

a. Racism, xenophobia and related intolerance

As every year, ECRI and FRA, jointly with the OSCE/ODIHR, issued a statement on 21 March 2018 to mark the international day for the elimination of racial discrimination. This year's statement focussed on the importance of strengthening equality bodies, which play an essential role in countering racism and discrimination.

For more information: <https://rm.coe.int/as-millions-remain-exposed-to-racism-equality-bodies-must-be-strengthe/16808b3d83>

b. Cooperation related to Roma and Travellers

On 22 to 23 May 2018, the Agency attended the Council of Europe's Ad hoc Committee of Experts on Roma and Travellers' issues (CAHROM) in Athens. FRA gave a presentation

on 'Anti-Gypsyism as a barrier to Roma inclusion: a persisting concern' based on EU trends in Roma inclusion from the 2011 and 2016 FRA surveys, drawing on findings from FRA's latest report on Anti-Gypsyism published on 6 April 2018. While in Athens, FRA also cooperated with the Greek Labour Ministry's General Secretariat for Roma inclusion about the planning and implementation of the Roma inclusion programme.

On 29 May, the Agency took part in a Roma integration panel debate in Sofia, part of a Roma inclusion conference organised by the Bulgarian EU Presidency. The conference 'Roma Inclusion – where we stand and where we are heading to?' brought together national actors, civil society organisations as well as international organisations such as the European Commission, the European Parliament, the Council of Europe and the OSCE.

For more information: <http://fra.europa.eu/en/publication/2018/roma-inclusion>

c. Equality and non-discrimination

i. FRA projects related to the rights of persons with disabilities

In February 2018, FRA provided evidence to support the Commissioner for Human Rights' visit to Slovakia in March. FRA also liaised with the Committee for the Prevention of Torture, the Council of Europe Secretariat and the Commissioner's office with respect to the Agency's project on deinstitutionalisation.

d. Rights of LGBTI persons

On 24 to 27 October 2018, the Agency discussed its upcoming lesbian, gay, bisexual, trans and intersex (LGBTI) survey during ILGA Europe annual conference in Brussels. FRA spoke with member organisations from all 28 EU Member States plus "the former Yugoslav Republic of Macedonia". They were asked to help FRA raise awareness about the survey among their members and then help disseminate the results. They were also informed about how they will be able to use the outcomes for their national advocacy and policy work. FRA also discussed the survey with ILGA Europe, representatives of other LGBTI international non-governmental organisations, the Council of Europe and national government representatives.

For more information: <https://fra.europa.eu/en/project/2018/eu-lgbti-survey-ii>

e. Rights of the Child

From 21 to 23 March, the Agency took part in the fourth meeting of the Ad hoc Committee for the Rights of the Child (CAHENF) in Strasbourg, as well as the first subgroup meeting on "Responses to Violence against children" from 17 to 18 May. The Agency gave an update on its most recent work in these priority areas. It also spoke about the upcoming publications on national minimum age requirements, with a specific focus on justice, migration and digital world. On 7 September, the Council of Europe and the Agency also jointly presented their work on child-friendly justice at a high-level conference in Germany.

f. Guardianship for unaccompanied children and age assessment

On 1 and 2 February, the Agency took part in the Council of Europe's drafting group responsible for developing standards on guardianship for children in the context of migration. The meeting, held in Strasbourg, finalised principles and guidelines on guardianship for unaccompanied migrant children. The group started the discussion on principles and guidelines to ensure safeguards are in place for the protection of people

undergoing age assessments in the context of migration. The Agency also provided input to the draft a handbook on child-friendly information for children in migration.

g. Violence against Women

On 26 February 2018, the Agency presented its research to the Council Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons (FREMP) in Brussels. In support of the EU's current efforts to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (the 'Istanbul Convention'), FRA stressed the importance of acknowledging the prevalence and particular severity of domestic partner violence. In line with the Istanbul Convention, the police should be entrusted with issuing emergency barring orders allowing victims to return to a life free of fear.

On 8 March, the Agency presented data from its violence against women survey International Women's day to the European Commission's representation in Austria. The discussions fed into the discussion on the ratification and implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in the EU and in Austria. The event introduced the most recent report on Austria from the Convention's monitoring body. The report contains recommendations on how to ensure the right of women and girls to have a violence free life.

On 25 April, a panel discussion on 'Breaking myths about the Istanbul Convention on violence against women' took place in Brussels. This event was organised by the Friedrich Ebert Stiftung to discuss the reasons why some EU Member States have not yet ratified the Convention, and how the obstacles could be tackled. The Agency fed the discussions with evidence from its large-scale, EU-wide survey on violence against women. The panel discussion also included speakers representing the Council of Europe, the European Commission and European Women's Lobby, among others.

On 8 November 2018, FRA participated in a training seminar for experts from the Member States - Mapping support services for victims of violence against women in line with the Istanbul Convention standards. The main objective of the seminar was (1) to present practical aspects of support services for victims of violence against women as observed by GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence) and (2) to discuss with States' experts what kind of support would work efficiently in a concrete situation of their state or even local community.

h. Asylum, immigration and integration of migrants; visa and border control

On 21 - 22 February and on 4 - 5 September 2018, the Council of Europe's Committee of Experts on Administrative Detention of Migrants (CJDAM), operating under the supervision of the Council of Europe's European Committee on Legal Cooperation, met in Strasbourg. The committee aims at codifying existing European rules and standards on administrative detention of migrants. The Agency has been part of the committee since autumn 2016 and also took part in these meetings. The committee carried out a quality and coherence check of the entire 2nd version of the draft codifying instrument. The Committee also started examining certain parts of the draft explanatory memorandum to this codifying instrument. The last meeting of 2018 took place in December and the committee's work will continue until early 2019.

i. Criminal detention and alternatives

On 27 and 28 March 2018, FRA and the Council of Europe participated in a forum of National Preventive Mechanism (NPM, a requirement under the UN OPCAT, the optional protocol to the torture convention) organized by the Austrian Ombudsman Board in Vienna. The forum focused on the creation of a database for the exchange of national standards in places of detention and NPM recommendations.

FRA had follow-up discussions in November with the Committee for Prevention of Torture (CPT) and the Parliamentary Assembly of the Council of Europe (PACE) about the possibilities of presenting their work in the database comprising national and international standards of criminal detention as well as reports of monitoring bodies and jurisprudence.

j. Information Society, Privacy and Data Protection

On 6 to 7 March 2018, the Agency took part in the first meeting of the Council of Europe's Committee of experts on human rights dimensions of automated data processing and different forms of artificial intelligence (MSI-AUT) in Strasbourg. The meeting discussed the upcoming work of the committee to follow up previous work on automated processing of data (particularly algorithms). It also covered a study on the impact of artificial intelligence on fundamental rights and freedoms. FRA's participation ensured its work on the topic of artificial intelligence, big data and fundamental rights complements that of the Council and set the ground for future exchange on the topic.

From 11 to 13 July, FRA attended the Octopus Conference on Cybercrime, organized by the CoE in Strasbourg. This meeting provided relevant information from key stakeholders that will feed the future Handbook on European Law relating to cybercrime and fundamental rights to be co-edited by FRA and the Council of Europe.

On 15 to 16 November 2018, the Agency and the CoE jointly organised a cybercrime experts meeting in Bucharest to start discussion on the scope on future handbook on European law relating to cybercrime and fundamental rights that has been requested by the European Parliament.

For more information: <http://fra.europa.eu/en/project/2018/handbook-european-law-relating-cybercrime-and-fundamental-rights>

On 3 and 4 December 2018, the Council of Europe's European Commission for the Efficiency of Justice met in Strasbourg. The Agency took part in the plenary which focused on recent developments in the justice field in the CoE Member States. It also covered possibilities of cooperation and other topics, such as for example the use of artificial intelligence in judicial systems.

k. Human Rights /Citizenship Education and Fundamental Rights Promotion

From 25 to 27 September, FRA's Fundamental Rights Forum 2018 took place in Vienna. Over 700 human rights actors, including a significant delegation of the CoE, which also contributed in shaping the event, convened to deliver concrete calls to action that could help bring about change and counter the many threats facing human rights in Europe today. The Council of Europe actively contributed to the working groups and open sessions, on topics such as social rights, hate speech, human rights defenders, human rights and business, etc. In the opening ceremony, Christos Giakoumopoulos, Director General of Human Rights and Rule of Law, underlined the link between institutions, which need to be democratic and inclusive, and the importance of trust people have in them. The open session on corruption and the independence of the judiciary triggered a major interest because it made a clear link between corruption and the lack of

enjoyment of human rights. In FRA's Chair Statement, which seeks to capture the spirit of the Fundamental Rights Forum 2018, FRA has committed to a number of actions, including forging even closer ties with institutional partners like the Council of Europe and the UN to confront the threats to human rights. In this framework, the Agency, in cooperation with the United Nations Office on Drugs and Crime and the Council of Europe, hosted the annual meeting of the International Contact Group on citizenship and human rights education on 25 November 2018.

l. Human Rights at the Local Level

The Agency cooperates closely with the Congress of Local and Regional Authorities and the Intercultural Cities Programme. FRA contributed to the preparation of the Congress manual on human rights at local level, which was published in early 2018. A representative of the Intercultural Cities Programme to contribute to its 'Policy lab on human rights cities' in Vienna on 23-24 May 2018.

m. Civil Society cooperation and civil society space

There is close cooperation between FRA and the Council of Europe in the area of civil society (notably with the Commissioner for Human Rights, the Conference of INGOS, the civil society unit, and the Steering Committee for Human Rights (CDDH)).

The president of the Conference of INGOs is an observer to FRA's Fundamental Rights Platform (FRA's civil society cooperation network) Advisory Panel.

On 25 January, the Agency was invited to present its new report on the challenges facing civil society organisations in the EU at the Council of Europe's conference of INGOs in Strasbourg. The Agency also presented findings and promising practices from its report at the March session of the CDDH Drafting Group on civil society and national human rights institutions, and participated in the Drafting Group's work on a Declaration of the Council of Europe Committee of Ministers on the need to strengthen the protection and promotion of the civil society space in Europe.

The office of the Commissioner for Human Rights, as well as the president of the Conference of INGOs, gave input to FRA's questionnaire on civil society space for its consultation of the Fundamental Rights Platform.

The Conference of INGOs organised and co-hosted a session at FRA's Fundamental Rights Forum in September on citizen participation and civil society space, and the president of the Conference was a speaker in the Forum's opening panel.

On 29 November 2018, the Agency presented its work on civil society space at a dedicated workshop on 'Protection and promotion of the civil society space in Europe' at the CoE in Strasbourg, FRA provided an analysis of challenges for civil society in the EU as well as possible ways forward.

6.3 CoE-FRA-Equinet-ENNHRI cooperation within the thematic Platforms

The CoE, the European Network of Equality Bodies (Equinet), the European Network of National Human Rights Institutions (ENNHRI) and FRA reiterated, in the course of the joint conference in Vienna in October 2013, their commitment to work together to

strengthen the protection of human rights in Europe focusing on four topics (asylum and migration, Roma integration, combating hate crime, and advancing social and economic rights and socio-economic equality), and organising regular meetings of thematic platforms.

From 15 to 16 May, the right to adequate housing and the link between the European Pillar for Social Rights and the European Social Charter was the focus of discussions during thematic platform meetings hosted by the Northern Ireland Human Rights Commission in Belfast. The Thematic Platform on Social and Economic Rights and the Operational Platform on Roma Equality are joint initiatives of the Council of Europe, FRA, the European Network of Equality Bodies (Equinet) and the European Network of National Human Rights Institutions (ENNHRI) since 2013.

On 28 November, a Collaborative Platform on Social and Economic Rights met in Strasbourg to discuss the right to housing. The Agency presented its recently published report 'Combating child poverty: an issue of fundamental rights' which highlights the housing dimension of the fight against child poverty. The platform is a joint initiative between FRA, the Council of Europe and the European network of Equality Bodies (EQUINET) and the European Network of National Human Rights Institutions (ENNHRI).

Part III: Annex

Speech - FRA Director Michael O'Flaherty addresses the Council of Europe Committee of Ministers, 17 October 2018

Today we celebrate the 10th anniversary of the Agreement between the EU and Council of Europe on cooperation of the Council of Europe and our Agency. 10 years on from the Agreement, our collaboration has become a fixture in Europe's human rights landscape. I am grateful to the Council of Europe for its support, and look forward to continuing our work together to ensure that the rights of everyone in the EU and in Europe are defended and respected. ** CHECK AGAINST DELIVERY **

Excellencies,

Thank you for inviting the European Union Agency for Fundamental Rights to address you.

I have come to this meeting directly from a gathering in Vienna of the EU High Level Group on racism, xenophobia and other forms of intolerance. That meeting was striking on a number of counts.

First, it drew attention to and triggered debate on a grave and worsening human rights issue within the EU: the relentless rise in levels of racism, xenophobia and related intolerance.

However, another striking feature of the event was the extent to which it brought together a wide array of actors necessary to make a difference. These certainly included EU bodies such as ours, but also notably the United Nations and the Council of Europe.

With regard to the role of the Council of Europe, there was a clear acknowledgement of its work for the combat of racism, including through development of standards and the work of ECRI.

In my own contribution to that Vienna discussion, I pointed to efforts and achievements which would not have been possible without a strong collaboration of the Fundamental Rights Agency and the Council of Europe.

That is why it is a great honour to address you today, as we celebrate the 10th anniversary of the Agreement between the EU and Council of Europe on cooperation of the Council of Europe and our Agency.

I recently re-read the agreement document, and was struck by drafters' efforts to create vital channels for cooperation based on extensive coordination and exchanges. The arrangements have worked well.

You may recall that, when our Agency was established, there were concerns that it would duplicate many of the Council of Europe's own activities.

Looking back on these 10 years, I would instead argue that the story of our work has been one of impressive complementarity. And this has been present from the outset.

The Council's participation, via an independent expert, in the Agency's Executive Board and Management Board meetings has been consistently constructive. Here I would like to single out the excellent contributions made by Professor Rainer Hofmann, and thank him for enriching our Management Board's work.

We also consult the Council on all of our key strategic outputs, from the Programming Document that structures our work to our flagship yearly fundamental rights report.

More generally, we always aim to ensure our work reinforces and lends visibility to the Council of Europe's activities and standards. This is done both informally—through regular contact between our respective staff members—and formally, as for example when we shine a spotlight on case law from the European Court of Human Rights in our assessments of the fundamental rights compliance of draft EU legislation.

I think we can be satisfied, then, that the processes and mechanisms detailed in the Agreement are having their intended effects, 10 years on. Given the environment in which we and other human rights bodies currently operate, these concerted efforts could not be timelier, or more needed.

In Europe and across the world, human rights protection systems as a whole are being rejected. Words and deeds that were unacceptable back when this Agreement was signed in 2008 have become—if not mainstream—then certainly normalised. In the European Union alone, three brave investigative journalists—two of them women—have been murdered in the recent past. In some places, civil society is denied funding and the legal protections it requires to operate freely and independently.

All of these concerns are front of mind for human rights defenders. They certainly were three weeks ago, at our Agency's Fundamental Rights Forum in Vienna, at which the Council of Europe played such a key role.

We assembled 700 people to debate the great human rights issues for the EU. Those participants came from a very wide array of backgrounds, well beyond the "traditional" human rights community.

In my comments to you this morning, I wish to emphasise the work of the Forum, because in spite of the generally gloomy analysis of the state of human rights in Europe, it provided welcome reasons for optimism.

I saw new networks being formed, heard more about what is making a real difference on the ground, and felt our Agency's own work galvanised. Above all, I was struck by the hope expressed by so many of our younger participants.

During the Forum, we also heard positive feedback from participants about many activities that we and the Council carry out in parallel and in partnership, like our work on migration, where the analyses that my Agency provides to the European Commission, European Parliament and Council of the European Union draws on the standards developed by the Committee for the Prevention of Torture. And where the Country Reports filed by the Council of Europe's Special Representative of the Secretary General on Migration and Refugees help us prepare and refine the technical assistance and advice we provide on fundamental rights at migration hotspots.

Both the Fundamental Rights Agency and the Council of Europe have undertaken to maintain regular consultations at all levels in the migration context to ensure synergies. This is and will continue to be key to achieving the objectives we share, on the basis of promoting our common values and standards.

I was also pleasantly surprised by the appreciation expressed at the Forum for the handbooks we have been producing together with the Council and the European Court of Human Rights since 2010. You might recall that the series began with a Handbook on European non-discrimination law, which incidentally was updated this year.

The series has now grown to include Handbooks on topics like asylum, migration and borders, children's rights, and data protection. These and all areas where combining our organisations' expertise has met strong demand from judicial actors. On our joint data

protection handbook in particular, it was a great professional satisfaction to be able to present European Commissioner Věra Jourová the first copy on 25 May this year, the day General Data Protection Regulation entered into force. In the time since, there have been over 18,500 downloads from our website alone.

By way of a final remark about the Fundamental Rights Forum, I was particularly impressed by the discussion there about the United Nations' 2030 Agenda for Sustainable Development and the Sustainable Development Goals. It was recognised that these can play a very important role for the strengthening of human rights protection within European states. Indeed, in navigating these challenging times, we see the SDGs as both a roadmap towards and vehicle for delivery of strong, rights-respectful societies.

Mention of the SDGs reminds me that today, October 17th, marks the International Day for the Eradication of Poverty. And again in this area we must draw on Council of Europe standards and proceed in a great complementarity of the activities of the Council and our Agency.

Today, we publish a report entitled Combating child poverty: an issue of fundamental rights. It highlights Eurostat data that show 1 in 4 EU children live at risk of poverty. And that 2.5 million of our children experience extreme poverty.

Ensuring a child's right to an adequate standard of living is not just a policy choice made with the goal of a more cohesive society. It is a matter of legal obligations: the right to health, to social security and assistance, to social, legal and economic protection of the family and of children.

As you well know, these rights are all enshrined in the European Social Charter. And we are advocating that EU institutions draw more effectively on its legal standards—and consider acceding to the Treaty—in order to help break the poverty cycle. We also recommend that the EU's Member States consider ratifying the European Social Charter, and accept to be bound by its Article 30.

Excellencies,

In my remarks this morning, I have attempted to convey the scale and intensity of the cooperation between the Fundamental Rights Agency and the breadth of the Council of Europe.

Today, 10 years on from the Agreement that defines the relationship, our collaboration has become a fixture in Europe's human rights landscape. I am grateful to the Council of Europe for its support, and look forward to continuing our work together to ensure that the rights of everyone in the EU and in Europe are defended and respected.

Speech by Christos Giakoumopoulos, Director General Human Rights and Rule of Law of the Council of Europe to the 30th Management Board Meeting, 13 December 2018

Dear Madam Chair, dear Director, dear members of the Management Board, Ladies and Gentlemen.

Thank you very much for your invitation to present an overview of the cooperation between the Council of Europe and FRA in 2018. I am delighted to address you for the first time in my capacity as Director General of Human Rights and Rule of Law, after a year that has been rich in developments in our relationship and in joint endeavours.

These developments are even more important in a period when not only human rights are being challenged, but also the international protection mechanisms that have secured protection against State's arbitrariness during the last 70 years. In the year when we are marking the 70th anniversary of the Universal Declaration of Human Rights, which precedes the 70th anniversary of the Council of Europe in 2019, it is important to recall the European understanding of human rights. It has never been ideological, "us vs them". On the contrary, human rights have been considered as a central element of good governance based on the principles of tolerance and inclusiveness, with the aim in particular to avoid the majority imposing its views without any control. With their capacity to smooth rough edges, human rights provide the stability that is necessary for democracies to function efficiently. Today, this role tends to be forgotten among increasingly wider circles in society, and what we believed could never be heard again in Europe has unfortunately become part of the discourse and part of some political leaders' actions. Some do not believe in the absolute prohibition of torture anymore, migrants are detained even without having committed any offence, journalists are being killed because of the topics they investigate, human rights defenders are attacked for the voice they carry, while independent judiciaries are unravelled shamelessly. **We must be strong together** to ensure that these facts that happen not across an ocean and thousands of kilometres away but on our own continent are irremediably stopped.

From this perspective, I am glad that this year has been marked by more intense cooperation in long-standing and new areas. The Fundamental Rights Forum was also a formidable occasion to demonstrate our strong partnership. Michael O'Flaherty's address to the Committee of Ministers on 17 October was a great opportunity to recall ten years of cooperation that have been marked by trust, coherence and mutual reinforcement.

Before I give you a brief overview of the main highlights, let me also tell you that through dialogue, we managed to agree on a common approach in view of FRA's mandate when it provides advice to member states or EU institutions in the field of **migration detention**.

In a meeting I had with the Director in June this year, we agreed that it is crucial that the Agency and the **CPT** work closely together within their respective mandates. We also agreed that the complementarity of FRA's support and advice to EU member states and the CPT's monitoring of these states, be it in the area of immigration detention or other relevant fields, is crucial. I am delighted to confirm that FRA has played an important role in ensuring that the CPT's recommendations are properly taken into account by the EU and its member states [e.g. after the publication of the CPT's preliminary observations following the 2018 ad hoc visit to Greece]. Also, I would like to underline that FRA's views on areas where CPT monitoring would be beneficial have been particularly appreciated.

This was achieved through a constructive and operational discussion, which will undoubtedly contribute to obtaining better results together.

If I look back at the year that is ending, I can see that the Council of Europe and FRA have found practical ways to work together in an increased number of areas and through a multiplicity of working methods.

Joint endeavours have continued to produce success stories. For example, the new edition of the **Handbook on European Data Protection Law**, launched on 25 May. This new edition reflects changes brought to the data protection frameworks of the Council of Europe (Modernised Convention 108+) and of the European Union (GDPR – General Data protection Regulation - and Law enforcement and judicial cooperation Directive). The number of downloads is phenomenal and other linguistic versions are under preparation, also in non-EU member states languages such as Albanian and Georgian. This clearly demonstrates the broad interest in this latest version.

The success of the joint handbooks has led us to launch a new initiative in an increasingly challenging area for fundamental rights, **cybercrime**. The handbook will highlight the key fundamental rights challenges of investigating cybercrime and securing electronic evidence following the standards provided by the EU and the Council of Europe's rules and case law. It will also map the obligations of member States to protect individuals against crime and safeguard the fundamental rights of cybercrime victims. Finally, it will identify promising practices of effective investigative techniques on cybercrime and electronic evidence in line with fundamental rights and rule of law requirements. We expect the handbook to be ready by the autumn 2020, depending on the advancements of two important initiatives: the preparation of a 2nd additional Protocol to the Budapest Convention on Cybercrime on enhanced international cooperation and access to evidence in the cloud and the preparation by the European Union of a Regulation and a complementary Directive on electronic evidence.

Apart from the handbooks, I am also pleased with the stepping up of our cooperation under the **European Programme for Human Rights Education for Legal Professionals**, better known as HELP, notably through the use of the handbooks and other FRA materials such as videos and infographics that are embedded in the HELP courses, the participation of FRA staff in the launching of the courses or in the European seminars, such as the one on the Fight against Racism, Xenophobia, Homophobia and Transphobia. For us, what would be a great added value would be to have FRA staff or experts, such as you, participating in the working groups that develop the courses. So far, unfortunately, this has not materialised despite FRA being open to this possibility.

Let me note that one area where there has been intense collaboration between the HELP Secretariat and FRA is business and human rights.

Mutual reliance on resources and work products has continued on migration, violence against women, anti-discrimination, minorities and Roma issues, as well as regarding democratic education and citizenship. Let me briefly illustrate this.

The Special Representative of the Secretary General on **Migration and Refugees**, Ambassador Tomas Bocek, relied on data, research material and studies of FRA in his activities; the FRA Director during his last visit to Strasbourg acknowledged the importance of the SRSG's report of his fact-finding mission to Spain for FRA's activities. Also, FRA's contribution to the SRSG's calls for good practices respectively on child-friendly procedures in the migration context and on family reunification was very timely and highly appreciated.

The Fundamental Rights Forum was the occasion for the Council of Europe to organise a meeting of the **International Contact Group on Democratic Education for Democratic Citizenship and Human Rights Education** (ICG) of which FRA is part. On this occasion, the participants, who also include representatives of OHCHR, OSCE-ODIHR, UNODC, and UNESCO, agreed to join each other's activities in 2019, with a view to increasing joint efforts to contribute to the implementation of SDG 4.7 and SDG 16.

The secretariats of **ECRI and CAHROM**, to name just them, have continued to draw on the FRA surveys and data collection for their monitoring activities. The monitoring body of the Istanbul Convention on combating violence against women and domestic violence,

GREVIO, has also made continued use of FRA's surveys in its' country evaluation reports. It is worth noting that this positive cooperation takes place both at personal and institutional levels.

Let me turn to a form of contribution by FRA that is very valuable to the work of the Council of Europe: this is its contribution to the drafting process of different types of documents. For example, the **Venice Commission** consulted FRA during the drafting process of the Principles for the Protection and Promotion of the Ombudsman Institution so-called "The Venice Principles", and is very grateful for its contribution. Of course, FRA will be invited at the launching event of these Principles once they are adopted, in 2019.

You may recall that under the authority of the European Committee on Legal Co-operation (CDCJ), the Committee of experts (CJ-DAM) has been mandated to codify existing international standards relating to the **administrative detention of migrants**. The active participation in the work of CJ-DAM by a representative of FRA has been much appreciated both by the Council of Europe and the members of the committee, as he provided high-quality technical contributions.

On-going cooperation also concerns the development of the **European Fundamental Rights Information System**, the EFRIS project, which the Council of Europe continues to actively support. Work is being carried out as I speak, to allow for a continuous flow of up-to-date information from several of our key human rights mechanisms to EFRIS. More monitoring bodies will be joining in at the beginning of next year, hopefully in time for the launch of your first prototype which I understand is due in the spring.

We are convinced that EFRIS will play a key role in any future Rule of Law mechanism which the EU might establish. It may be also a model for future collaborative Information systems opening the possibility of data-sharing projects on a wide range of human rights topics, thus supporting the strengthening on international human rights law.

Growing areas of cooperation emerged last year.

In this context, I would like to highlight the cooperation between FRA and the Department of the **European Social Charter**. To mention just a few things, there is the CoE-FRA-ENNHRI-EQUINET collaborative Platform on social and economic rights, and the Social Charter's input into the FRA Fundamental Rights Forum.

Social rights are human rights and social and economic rights are locked into a tight mechanism of interdependence and mutual reinforcement with civil and political rights. This equation that includes belonging and inclusiveness ultimately adds up to social and democratic sustainability. This was the soul of the FRA Forum: leaving no one behind is not just a mantra for other regions of the world; it is a requirement for a sustainable Europe.

I have been informed of the excellent and constructive exchange between the European Committee of Social Rights and Director Michael O'Flaherty. I welcome his appeal, which he recalled during that exchange and that he had previously made in the framework of the FRA Forum, inviting the EU to consider acceding to the European Social Charter and inviting also EU member states to subscribe to the Revised Charter and accept the collective complaints system.

Information sharing and dissemination is an important part of our cooperation. Here again, I could mention one example. During the exchange with the European Committee of Social Rights, Michael offered access to FRA's considerable and mostly unpublished data resources. This could be a valuable source of factual information for the Committee.

My final word concerning social rights would be to encourage further dialogue and cooperation between the Department of the European Social Charter and FRA.

In the same vein, the **Steering Committee for Human Rights**, CDDH, which is the Council of Europe's main intergovernmental body when it comes to the development of human rights, is keen to expand its cooperation with FRA in areas such as human rights and business, statistics on aging Europe, data and figures on human rights and the environment etc. Thus, the CDDH, at its last plenary session at the end of November, has decided to invite Professor Rainer Hofmann, in his quality of independent person, to discuss on work of common interest carried out or envisaged by the Agency. This may contribute to identifying new areas of cooperation.

An important development since last year has been the intensive work carried out in the Council of Europe on **artificial intelligence**. Just last week, the European Commission for the Efficiency of Justice, CEPEJ, adopted the first European text setting out ethical principles relating to the use of artificial intelligence (AI) in judicial systems. The Charter provides a framework of principles that should guide policy makers, legislators and justice professionals when they grapple with the rapid development of AI in national judicial processes. The application of AI in the field of justice can contribute to improve the efficiency and quality and must be implemented in a responsible manner which complies with the fundamental rights guaranteed in particular in the European Convention on Human Rights (ECHR) and the Council of Europe's Convention on the Protection of Personal Data. It is essential to ensure that AI remains a tool in the service of the general interest and that its use respects individual rights. More generally, all the work carried out by the Council of Europe in the area of AI, for example as regards personal data, on-line dispute settlements, criminal liability of autonomous vehicles, the use of AI to combat terrorism etc. aims at preventing abuses of the use of algorithms built with AI technologies. The idea is to build a doctrine that will guarantee the protection of all fundamental rights when AI is involved, including by preventing any forms of discrimination when using algorithms. This is clearly an area where the Council of Europe and FRA could expand their cooperation.

More generally, I believe that we have shown the potential for reinforcing each other when we face difficulties with our stakeholders. Let me give you one example. Regarding the sensitive issue of the **Additional Protocol to the Oviedo Convention** aiming at protecting the rights of persons subject to involuntary placement and involuntary treatment, we attach particular importance to open and constructive dialogue with all relevant stakeholders. FRA's support in providing data and available information on the topic would be most welcome to help promote such measures in member States.

Ladies and Gentlemen,

The **Fundamental Rights Forum** was yet another great opportunity to show the strong and sustainable cooperation between the Council of Europe and FRA. Our delegation was probably the largest one, with almost twenty staff members and experts, who actively contributed to the working groups and open sessions, on topics such as social rights, hate speech, human rights defenders, human rights and business etc. I had the honour to participate in the opening ceremony, during which I underlined the link between institutions, which need to be democratic and inclusive, and the importance of trust people have in them. We organised an open session on corruption and the independence of the judiciary, which triggered a huge interest because it made a clear link between corruption and the lack of enjoyment of human rights. We were delighted to see that much of our discussions were reflected in the Chair's statement. The Council of Europe was closely involved in the "reflect" and "connect" parts of the Forum; it is also committed to the "act" part, and evidence of this is the distribution of the Chair's Statement to all the chairs of the intergovernmental committees and of the monitoring bodies.

Before I end this overview, I would like to use this opportunity to thank Michael O'Flaherty for his strong support to the Council of Europe in all the areas I have just described and those that I did not mention simply for lack of time.

In conclusion, dear members of the Management Board, the Council of Europe and FRA naturally work on the same topics to secure that no one is left behind in the protection of human rights in Europe. Our respective mandates have demonstrated their complementarity over the last ten years of cooperation. It is only by reinforcing each other that we will overcome the present challenging period. I am glad that our alliance has become stronger over the years and look forward to working even more closely together.