## MINUTES OF THE 23rd MB MEETING

### EVENT:
23rd Meeting of the FRA Management Board

### PLACE
Vienna

### DATE:
15 - 16 December 2015

### STATUS:
FINAL VERSION

### Participants:
- Frauke Seidensticker (DE, Chairperson), Manfred Nowak (AT, Vice-Chairperson), Jacqueline Blesheuvel-Vermeijden (NL), Pierre Calmes (LU), Philip Geddes (UK), Rainer Hofmann (CoE), David Joyce (IE), Imre Juhász (HU), Hent Kalmo (EE), Krassimir Kanev (BG), Jarmila Lajčáková (SK), Julie Lejeune (BE), Daniel Ludet (FR, alternate), Fredrik Malmberg (SE), Sofvita Olsena (LV, alternate), Zinaida Onoufrion (CY, alternate), Nuno Picarra (PT), Lawrence Quintano (MT), Sirpa Rautio (FI), Filippo di Robilant (IT), Alejandro Saiz Arnaiz (ES), Harald Scheu (CZ), Cecilia Sjölander (SE, alternate), Márton Sulyok (HU, alternate, 15.12.), Andreja Valič Zver (SI), Regina Valutytė (LT, alternate), Jens Vedsted-Hansen (DK, 15.12.), Lora Vidovic (HR), Mirosław Wróblewski (PL), Irina Zištescu (RO)

### Representatives
- Chiara Adamo (JUST), Nathalie Stockwell (JUST)

### Operational services:
- Michael O’Flaherty (Observer 15.12., Director 16.12.), Constantinos Manolopoulos (Director a.i. 15.12., Head of ADMIN 16.12.), Xavier Català (Acting Head of ADMIN and HRP 15.12., Acting Head of HRP 16.12.), Ioannis Dimitrakopoulos (Head of ECR), Joanna Goody (Head of FJ), Primo Roscam Abbing (Head of COR), Andreas Accardo (DIR), Luca Burelo (ADMIN), Alina Jalea (DIR), Francesco Saverio Lugli (HRP), Mario Oetheimer (FJ), Eva Sobotka (COR), Gabriel Toggenburg (DIR), Dennis van der Veur (COR)

### Excused Members:
- Anete Erdmane (LV), Jean-Paul Jean (FR), Julija Kiršienė (LT), Stelios Perrakis (EL), Eliza Savvidou (CY)

### Observers/Guests:
- Han Entzinger (SC), Philippe Boillat (CoE), Markus Jaeger (CoE), Christine Loudes (EIGE), Ambassador Bente Angell-Hansen (EFTA), Finn Denstad (EFTA)

### Contents:

1. Opening remarks and approval of the draft agenda, possible conflicts of interest ........................................ 2
2. Approval of the draft minutes of the 22nd MB meeting .................................................................................. 2
3. In camera session ............................................................................................................................................. 2
4. - Report from the 37th Executive Board Meeting and on the Chairperson’s activities representing FRA
   - Report of the interim Director on the work of FRA in the last period ....................................................... 2
5. Update and discussion on EU-Fundamental Rights Policy developments ................................................... 3
6. FRA’s work on migration in the context of the refugee crisis ........................................................................ 3
7. Financial Matters ............................................................................................................................................ 3
8. Budgetary transfer and amendment of the Annual Work Programme 2015 ................................................ 4
10. Draft Budget and Annual Work Programme 2016 ..................................................................................... 4
11. Welcome to the new Director .................................................................................................................... 5
12. a) Draft estimate of revenue and expenditure 2017
    b) Programming Document 2017 - 2019 .................................................................................................... 5
13. Report from the Working Group STRATEGY ........................................................................................... 6
14. Exchange of views with the Council of Europe and the cooperation between the Agency and the CoE ........ 6
16. Amendment of the Code of good administrative behaviour ................................................................. 7
17. Fundamental Rights Forum 2016 .............................................................................................................. 8
18. FRA meeting with national stakeholders .................................................................................................. 8
19. Update on international activities, including the administrative arrangement for cooperation with the Financial Mechanism Office .................................................................................. 8
20. FRA’s chairmanship of the Justice and Home Affairs agencies network ................................................. 8
21. Any other business ....................................................................................................................................... 9
1 Opening remarks and approval of the draft agenda, possible conflicts of interest

Main Conclusions:

1.1 The draft agenda was approved.

Decision: A.
The draft agenda was approved.

2 Approval of the draft minutes of the 22nd MB meeting

Main Conclusions:

2.1 The draft minutes of the 22nd MB meeting were approved.

Decision: B.
The draft minutes of the 22nd MB meeting were approved.

3 In camera session

Main Conclusions:

3.1 The MB was informed about the procedure concerning the standard probationary period of the new director.
3.2 The MB discussed media strategy.
3.3 The MB discussed issues related to Human Resources.

4 Report from the 37th Executive Board Meeting and on the Chairperson’s activities representing FRA
- Report of the interim Director on the work of FRA in the last period

Main Conclusions:

4.1 The Chairperson briefed the MB on the presentation of the FRA Annual Report in the LIBE Committee of the European Parliament. She also reported on her involvement, as observer, in the process of preparing the appointment of the new FRA Director by the MB. She informed of her latest engagements with FRA’s external partners and stakeholders, including participation in the FRA meeting with national stakeholders, meeting of FRA National Liaison Officers, and a panel debate on fundamental rights in Germany, where the Council of Europe Commissioner for Human Rights presented his findings on Germany.

4.2 The Chairperson informed the MB about the discussions of the EB regarding the issue of conflicts of interest. As regards MB members/alternate members, the following situations we observed:
   1) There was one situation where a member/alternate was also member of FRANET. This person already had withdrawn from his/her tasks related to FRANET and therefore this problem was considered to be solved.
   2) Another member/alternate of the MB had been named ambassador of her/his country and had already announced that he/she would withdraw from his/her seat in the MB.
   3) One case was pending: one of the members/alternates had taken a position in the national parliament of his/her country. The Chairperson informed that she would make sure that this person be approached.

   All cases were considered to be settled in the near future.
4.3 The FRA Director a.i. reported on the work of FRA since the May meeting of the MB.

4.4 The MB thanked the FRA Operational Services for the comprehensive Director’s Report. The MB in particular welcomed the new section on ‘Issues and challenges’ (at the end of each chapter) and the policy context chapter (in the beginning of the report). In response to a question about FRA’s contributions to the Universal Periodic Review, the FRA Operational Services explained that FRA was providing the UN (OHCHR and some treaty bodies) with country data, available in FRA reports. The FRA input contributes to improving the quality and availability of data used in the review process.

5 Update and discussion on EU-Fundamental Rights Policy developments

Main Conclusions:

5.1 The Commission updated the MB on the main fundamental rights policy developments that occurred since May 2015. The Commission’s priorities in the area of fundamental rights included: a) ensuring rigorous monitoring (more than forty infringements with regard to fundamental rights provisions of the asylum and migration acquis); b) analysing the current legislation in order to assess the need for new legislative acts that guarantee the respect of the EU Charter of Fundamental Rights or the promotion of fundamental rights; c) assisting frontline Member States facing a disproportionately migratory high pressure; d) child protection in the refugee and migration context; e) combatting growing hate crime and hate speech (e.g. Annual Colloquium on anti-Semitism and anti-Muslim hatred). The Commission also informed on developments in the data protection area (Directive and Regulation will soon be approved) and a recent judgment of the Court of Justice of the EU, which annulled the safe harbour decision on the transfer of data from the EU to the USA.

5.2 MB members expressed interest in the actions of the Commission in the area of education. The Commission informed on several lines of action. Considerable financial sources have been reprioritised (e.g. Erasmus programme – diversity, inter-cultural understanding, Europe for Citizens programme – EU values).

6 FRA’s work on migration in the context of the refugee crisis

Main Conclusions:

6.1 The FRA Operational Services presented the work of the Agency on migration, with a focus on the current situation of refugees in Europe and on the impact on fundamental rights. The MB expressed high appreciation for FRA’s work and the new initiatives taken in the area of migration and asylum in the response of the refugee situation.

6.2 Several MB members shared their impressions from their visit to Traiskirchen, one of the main reception centres for refugees in Austria, which took place before the MB meeting.

6.3 The MB encouraged the FRA services to continue strengthening its work in the area of migration and asylum to ensure respect of fundamental rights in the current refugee context. Some MB members expressed concern that FRA had not been invited to contribute to the ‘hotspots’. The MB expressed strong support of the upcoming visits of the FRA Director to the hotspots to assess the need for FRA support.

7 Financial Matters

Main Conclusions:

7.1 The chair of the MB Budget Committee updated the MB on the status of the FRA budget execution and on necessary budgetary transfers.
7.2 The consumption of the 2015 budget in committed appropriations was 81%, while paid appropriations reached 57%. Compared to the budget estimate, there had been a budget surplus of €640,000 due to more advantageous offers received during the procurement for the second EU Minorities and Discrimination Survey. The MB was also informed that the Translation Centre communicated that it would return an amount of €80,898 to the Agency.

7.3 Five budget transfers took place since the last MB meeting, which maintained the number of transfers low, similar to the financial year 2014.

8 Budgetary transfer and amendment of the Annual Work Programme 2015

Main Conclusions:

8.1 The FRA Operational Services proposed several budgetary transfers and explained the impact that they would have on operational projects. A number of questions from MB members on background and purpose of the budgetary transfers were responded to.

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<td>The MB adopted the proposed 2015-02 MB budgetary transfer.</td>
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<td>The MB adopted the proposed 2015 - 02 Amending Budget.</td>
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9 Strategic Plan 2013 – 2017: midterm review

Main Conclusions:

9.1 The Chair of the MB Working Group Strategy introduced a midterm review document on FRA’s Strategic Plan 2013-2017, which was discussed at the MB Retreat and developed further by the FRA Operational Services on the basis of a stocktaking of FRA’s work to date.

9.2 A number of suggestions for amendments were made and agreed. In particular, it was agreed to remove a formulation that could mislead the reader into thinking that the situation of the Roma is no longer a focus of FRA’s research. It was also suggested to remove certain paragraphs in the document that give the impression of making recommendations to the EU institutions.

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<td>MB adopted the midterm review of the Strategic Plan 2013-2017 with the modifications suggested at the meeting.</td>
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10 Draft Budget and Annual Work Programme 2016

Main Conclusions:

10.1 The Chair of the MB Budget Committee explained necessary changes to the Draft Budget and Annual Work Programme 2016, including a budget decrease of €294,580 compared to the draft estimate adopted at the 20th MB meeting.

10.2 The MB was informed that FRA was one of only five EU Agencies benefitting from a staff increase, with two additional Temporary Agent posts approved by the budgetary authority.

10.3 In accordance with Art. 30 (4) of the FRA Founding Regulation, the MB was requested to determine the timing of future external evaluations of the FRA. The first evaluation had been conducted in 2012. The MB agreed to have an external evaluation every five
years, with the next one taking place in 2017. The Commission agreed to a five-year periodicity of future external evaluations.

**Decision:** **F.**
The M3 adopted the draft budget and the Annual Work Programme 2016.

**Decision:** **G.**
The MB agreed to a five-year periodicity of external evaluations of the FRA. The next external evaluation will take place in 2017.

### 11 Welcome to the new Director

**Main Conclusions:**

11.1 Michael O’Flaherty, the new FRA Director, presented highlights of his vision of the Agency. He underlined the substantial potential of the FRA mandate and the importance of basing FRA’s work and opinions on law. The Director expressed his commitment to increase the Agency’s impact and visibility in the fundamental rights area. He shared his vision of FRA as a centre of excellence and a catalyst at the heart of multiple partnerships and networks.

11.2 The Director also informed about his upcoming introductory meetings with the EU Commissioners whose work is relevant to FRA’s activities, as well as on plans to visit the hotspot centres for refugees in Greece and Italy. The MB welcomed the Director’s intention to undertake a visit to the hotspots.

11.3 The MB assured the Director of its support for an optimal functioning of the Agency and an increased promotion of the fundamental rights.

### 12 a) Draft estimate of revenue and expenditure 2017

**Main Conclusions:**

12.1 The FRA Operational Services presented the draft estimate of revenue and expenditure for 2017. It proposed that the Agency’s EU subsidy for 2017 is based on the 2016 draft estimate increased by 2% and including €1.8 million requested by the European Parliament during the budget procedure 2016. The draft estimate of revenue and expenditure 2017 therefore amount to €23,586,000. The MB was also informed that the Agency requested two additional temporary agent posts (AD6 and AD7) for the 2017 establishment plan. The two new posts proposed are necessary for FRA to adequately perform its many additional tasks stemming from requests of EU institutions, Member States and EU agencies to provide a fundamental rights-based analysis of key developments in the field of migration and asylum, social inclusion, including racism and ethnic discrimination.

12.2 The FRA Operational Services explained the importance of the Programming Document (PD) and the changes that it implies for the planning processes of the Agency. The MB was asked to endorse provisionally the draft PD 2017-2019 so that it could be sent to the European Parliament, the Council and the European Commission at the end of January 2016. The Commission will provide its opinion to FRA by 1 July 2016 and the MB will receive the revised draft PD for adoption later in 2016.

12.3 During the discussion on the Programming Document, MB members underscored the importance of allowing for flexibility in responding to emerging issues. Some MB members stressed the need to ensure the mainstreaming of the rights of the child in all FRA research areas.
12.4 The MB was informed of the opinion of the Scientific Committee and the comments of the Council of Europe.

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<td>The MB adopted the proposed draft estimate of revenue and expenditure 2017 with the Commission abstaining from voting.</td>
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<td>The MB adopted the final draft of the Programming Document, pending the Commission’s Opinion and with the Commission abstaining from voting.</td>
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13 **Report from the Working Group STRATEGY**

**Main Conclusions:**

a) **Report from the MB retreat**

13.1 The Chair of the MB Working Group (WG) STRATEGY presented a summary report of the MB retreat of September 2015, which focused on the mid-term review of the Strategic Plan and the thematic areas of work for the period 2018-2022.

b) **Draft MB Opinion on the Multiannual Framework (MAF) 2018-2022**

13.2 The Chair of WG STRATEGY introduced the MB to the draft opinion and pointed out to that continuity is central to the Opinion. Two amendments are of special importance: a) extend the MAF to police and judicial cooperation in criminal matters, and b) extend the MAF to areas related to social inclusion.

13.3 Some MB members expressed disagreement with the fact that Roma integration does not appear anymore as a thematic area *per se*. One MB member stressed the importance of adding health or other specific social rights to the MAF. The need to ensure that the MAF would cover “majority population themes”, as much as themes concerning minority groups, was raised.

13.4 The MB endorsed the draft Multiannual Framework 2018-2022. It left the elements related to social inclusion and Roma integration to further discussion. A revised text concerning the wording of these two MAF areas only will be circulated by written procedure by the end of January 2016. The FRA Operational Services will integrate these revised paragraphs once adopted by the MB and edit the entire text (including changes to the subheadings etc.) so that the Executive Board can sign off the complete text of the opinion in February 2016, which will then be submitted to the Commission by 29 February 2016.

c) **FRA’s national impact**

13.5 The Chair of WG STRATEGY presented a guide with practical suggestions on how MB members could support FRA’s strategic priority to contribute to processes at the national level. The document was developed by MB WG STRATEGY supported by FRA Operational Services on the basis of a document prepared by the former MB working group on national impact. MB members agreed to start reporting on national initiatives in future MB meetings.

**Decision:**

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<td></td>
<td>The MB endorsed the draft Multiannual Framework 2018-2022, pending the elements related to social inclusion and Roma integration. A revised text concerning the wording of these two MAF areas will be circulated by written procedure by the end of January 2016.</td>
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14 Exchange of views with the Council of Europe and the cooperation between the Agency and the CoE

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<td>14.1 Philippe Boillat (Director General of the Directorate General of Human Rights and the Rule of Law) presented an overview of the main developments in the Council of Europe in 2015, as well as the strategic priorities for 2016. In addition, he outlined past cooperation activities with FRA and underscored the value of FRA data and methodologies for many projects of the Council of Europe, both in EU and in non-EU Member States.</td>
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<td>14.2 The MB exchanged views on further cooperation with the Council of Europe, such as in the area of migration (alternatives to detention), hate speech/crime, human rights education, and the rights of the child. FRA is also invited to contribute to the discussions of the Committee of Ministers of the Council of Europe.</td>
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15 Annual Report 2015: update

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<td>15.1 The AREDDIT Working Group updated the MB on the development of the drafting of the Annual Report. It announced that the operational departments will submit to AREDDIT the first draft for comments on 11 February 2016. The report shall be adopted by the MB in May 2016. The Working Group informed that the Annual Report will be improved in terms of size, conclusions and linguistic diversity. The focus section will be dedicated to the theme of migration.</td>
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<td>15.2 The MB supported the principle of a wider distribution of the Annual Report into all the languages of the EU. The MB decided to have the FRA conclusions of the Annual Report (AR), together with the lead paragraph of each chapter, translated into all languages of the EU. In addition, the outline of the focus section will be translated into French to facilitate the discussion in the MB. Thereby the rule that MB preparatory documents need to be made available in EN and FR is observed. The new approach allows for increased levels of linguistic diversity and enhanced dissemination at national level.</td>
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<td>The MB decided to have the conclusions and the lead paragraphs of the Annual Report translated into all languages of the EU (including Gaelic) and published as a separate document for a wider impact. The full version will be in English only. The focus section will be in French in addition to English. The executive summary will be in French and German in addition to English.</td>
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16 Amendment of the Code of good administrative behaviour

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<td>16.1 The FRA Operational Services presented the new Code of good administrative behaviour. He explained that the new version replaces several outdated references without substantial changes to the articles of the Code.</td>
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<td>The MB adopted the updated version of the Code of good administrative behaviour.</td>
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17 Fundamental Rights Forum 2016

Main Conclusions:

17.1 The FRA Operational Services updated the MB on the development of the preparations of the Fundamental Rights Forum (FRF).

17.2 The MB encouraged FRA to narrow down the three main themes of the Fundamental Rights Forum (migration, inclusion and digital age). In particular, it was requested that in the area of migration the focus be on refugee protection.

17.3 EEA & Norway Grants committed to support financially and with recommendations of speakers. The Council of Europe committed to a meaningful cooperation with FRA on the FRF and announced that it would establish an internal task force for the preparation of its collaboration on the Forum. The Commission also expressed interest to cooperate and to seek synergies with other events, such as the Annual Colloquium. It expressed its hope that the FRF will succeed in feeding into a wider policy cycle. It also suggested that the focus section of the Annual Report should be connected to the FRF theme on migration. It also recommended that FRA closely follows the development of the Digital Agenda in 2016 and explores links with the FRF theme on the digital age.

18 FRA meeting with national stakeholders

Main Conclusions:

18.1 The FRA Operational Services informed the MB on the main outcomes of the recent FRA meeting with national stakeholders.

18.2 MB expressed appreciation for the meeting of national FRA stakeholders. It advised FRA services to ensure an appropriate follow up and manage expectations from stakeholders in terms of FRA capacities. Members of the MB also encouraged creating conceptual links between the meeting and the Fundamental Rights Forum.

19 Update on international activities, including the administrative arrangement for cooperation with the Financial Mechanism Office

Main Conclusions:

19.1 The MB was briefed by the Norwegian Ambassador to Austria on the priorities of the new programming period of the Financial Mechanism Office (FMO) for the European Economic Area (EEA) and Norwegian Financial Mechanisms. The FMO looks forward to concluding an agreement with FRA, in 2016, as soon as the umbrella agreement between the EEA and EU is signed.

19.2 MB members welcomed FRA’s cooperation with the FMO and reiterated the importance of the EEA & Norway grants as an instrument to promote fundamental rights on the ground.

20 FRA’s chairmanship of the Justice and Home Affairs agencies network

Main Conclusions:

20.1 The FRA Operational Services informed the MB on the Agency’s priorities for its chairmanship of the network of Justice and Home Affairs Agencies in 2016. A thematic focus will be on cooperation in supporting the European Agenda for Migration and the Agenda for Security.
20.2 The MB underlined the importance for FRA to place fundamental rights high on the agenda of the JHA Agencies during its chairmanship.

21 Any other business

Main Conclusions:

21.1 The Commission informed about two new candidate countries which requested observer status in the FRA: Serbia and Albania. FYROM, Turkey and Montenegro also submitted earlier requests. The Commission deems this to be a positive development. On the one hand, these states will benefit from a timely harmonisation of fundamental rights standards before the de jure accession to the EU community. On the other hand, FRA will be able to collect data and information on fundamental rights in these countries.

Date of the next meeting: 19-20 May 2016

Approved on 10 May 2016

by the Chair