MANIFESTO

Basic Benchmarks for an Effective Fundamental Rights Agency for the European Union

The members of the Council are now negotiating the creation of a Fundamental Rights Agency for the European Union based on proposals from the European Commission. The European Parliament will present its views in reports to be adopted at the end of the year. As experts in the field of fundamental rights, women’s rights and anti-discrimination, the members of the Social Platform believe that the points listed below are essential and non-negotiable when it comes to establishing a strong and active Fundamental Rights Agency for the European Union. Anything less, and we are wasting our time and the EU’s money!

INDEPENDENCE

Justification:
The Agency must be independent to be credible as well as able to carry out its mandate.

Demands:

1. The Agency must be free from influence by Member States’ governments, the European Commission or other bodies.
2. The Agency’s budget must be sufficient to allow it to do its job.
3. Annual work programmes must be developed by the Agency itself in consultation with civil society, with approval from the European institutions.
4. How can the Executive board be independent if two out of four seats are held by the European Commission? The Executive board must have a higher proportion of members drawn from the board and from the Fundamental Rights Forum.
5. When nominating representatives, Member States should select individuals with a proven record in human rights who are able to work to improve the respect and promotion of fundamental rights across the whole EU.

1 Social Platform Statement on the Fundamental Rights Agency: We need a watchdog not a poodle – Social NGOs expect more than a ‘lightweight structure’ – December 2004: Click here
PLURALISM

Justification:
The United Nations has set out the basic principles of pluralism in the Paris Principles: such an Agency must guarantee the pluralist representation of civil society involved in the promotion and protection of human rights, including NGOs responsible for human rights and efforts to combat discrimination, trade unions and concerned social and professional organisations.

Civil society organisations provide an essential link between the Agency and people who are suffering violations of their fundamental rights.

Demands:
1. A strong Fundamental Rights Forum - the Commission has proposed a Fundamental Rights Forum as the means of linking the Agency with civil society.
   a. The Agency will not be able to fulfil its mandate without closely cooperating with a strong Forum comprised of civil society organisations.
   b. The selection process for members of the Forum must be transparent and include a wide range of representative organisations and people from groups that are likely to experience discrimination.
   c. The Forum must be a credible and active body taking up a strong and constant role in the decision-making of the Agency within an agreed systematic framework.
2. The Forum should elect a Chair to sit on the management board of the Agency, with voting rights to ensure the representation of civil society.
3. The Executive Board of only four members will not be pluralist without representatives from civil society and the Council of Europe and reserving half of the seats on the Executive Board for the European Commission gives it far too much power. Therefore the Executive Board should be expanded to at least seven members and include the Chair of the Forum and a representative from the Council of Europe.
4. Building on existing European commitments to gender equality should be a key element in the Fundamental Rights Agency including when nominating members of the bodies of the Agency: an equal representation of women and men in the Management Board, the Executive Board and the Forum should therefore be ensured through appropriate mechanisms.

A MANDATE THAT MATTERS

Justification:
The Fundamental Rights Agency will be a high profile instrument of the European Union and must have a mandate that gives it the ability to deal with the very serious issue of protecting fundamental rights.

The creation of such an Agency is a significant statement about the value that the EU places on fundamental rights and it should have the capacity to be able to make recommendations that are taken on board by the institutions.

Demands:
1. The Agency should be the EU’s WATCHDOG and monitor the EU institutions.
2. The Agency should be able to speak up if rights are threatened or violated.
3. The Agency should provide advice and ensure that EU institutions are not violating and are protecting and promoting fundamental rights when drafting legislation and policy.
4. The Agency should provide advice and recommendations to Member States when they implement EU law, in particular provide expertise to Member States implementing the employment directive, race directive and the gender directive.

5. The Agency should have the means to check if its recommendations have been implemented.

6. The Agency should provide information to institutions to ‘rights-proof’ policies.

7. The Agency should assure that Impact Assessments accurately reflect potential restrictions on rights.

8. The Agency should systematically mainstream gender in its work by taking goal-oriented action. This includes systematic gender impact assessments and data collection disaggregated by sex.

9. The Agency should ensure continuity with the work of the European Union Monitoring Centre and continue to monitor racism and xenophobia as it expands its capacity to cover the other areas of anti-discrimination and fundamental rights.

**ANTI-DISCRIMINATION AND EQUALITY BETWEEN MEN AND WOMEN**

**Justification:**
Discrimination on all grounds prevents people from enjoying their fundamental rights and the European Union has an obligation as mentioned in Articles 2, 3(2) and 13 of the Treaty on European Union and Articles 21 and 23 in the EU Charter of Fundamental Rights to prevent discrimination and promote gender equality and equality for all.

**Demands:**
1. When looking at fundamental rights, the Agency should pay particular attention to groups that are exposed to discrimination.

2. The Agency should develop specific tools to analyse and take action on the experiences of discrimination and gender inequality which have different dynamics of inclusion, exclusion and marginalisation.

3. The Agency should ensure that when promoting fundamental rights, it integrates and understanding of the multiple discrimination faced by many people.

4. The Agency should ensure the continuity of the EUMC’s work on racism and expand the anti-racism model into other grounds.

5. The Agency should develop staff recruitment procedures to ensure the recruitment of a diverse workforce including positive action measures as well as reasonable accommodation measures required by disabled applicants.

6. The Agency must ensure that its office buildings are fully accessible for disabled persons.

**CREATING COHERENCE**

**Justification:**
The Agency should create coherence in the EU and make links to existing fundamental rights instruments.

**Why is it important to monitor the EU institutions?**
- There is no Constitution to allow the courts to monitor the institutions.
- The European Union has not signed the European Convention on Human Rights
- Therefore it is essential that the EU institutions be monitored to ensure that policies and legislation do not fail to promote fundamental rights or risk violating rights.
Demands:

1. Strong links with the Council of Europe must be developed both to enhance the Agency’s expertise and avoid duplication of work.
2. The Agency should use all existing international human and fundamental rights instruments as references, including the Revised Social Charter and its protocols, etc.

EXPERTISE MEANS BETTER POLICY

Justification:
Expert information, analysis and cooperation with networks are essential. Without this support the Agency will not be able to effectively complete its mandate.

Demands:

1. Obligation for the Agency to work with NGOs who provide expertise on the application of fundamental rights on the ground.
2. Obligation for the Agency to use independent legal expertise, for example, from the Network of Independent Experts on Fundamental Rights which has developed an important body of opinions on pressing issues.
4. Obligation for the Agency to work with other bodies including the European Foundation for the Improvement of Living and Working Conditions, national equality authorities, etc.

A GLOBAL APPROACH TO WORK

Justification:
A coherent respect for fundamental rights across the work of all EU institutions in all policy areas is essential, particularly as regards immigration and asylum issues.

Demands:

1. The Agency should monitor the respect of human rights clauses with third countries in accordance with EU principles
2. The Agency should ensure that international human rights standards guide decision when institutions are working with third countries on particular issues (e.g. immigration).
3. The Agency should develop and maintain strong links with the Council of Europe and its work in this arena.

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