



European Network Against Racism
Réseau européen contre le racisme



Equality for lesbian, gay, bisexual, trans and intersex people in Europe



EUROPEAN WOMEN'S
LOBBY
EUROPÉEN DES FEMMES



30 years of LGBTQ activism



European Network on Religion & Belief

JOINT STATEMENT

Round-table discussion with European Commission First Vice-President Frans Timmermans Strengthening equality and fundamental rights protection in the EU

Brussels, 9 January 2015 – At the first fundamental rights round-table with the newly appointed European Commission First Vice-President, Frans Timmermans, our organisations¹ call on him to show clear commitment on strengthening the EU fundamental rights and equality framework and ensuring its enforcement.

Over the past two decades, the EU has progressively given more attention to the protection and promotion of fundamental rights. In particular, the European Commission has been key in giving life to the principle of equal treatment for all, including gender equality, positively influencing the development of national legislation and practices. The EU has also shown strong commitment to human rights by concluding the UN Convention on the rights of persons with disabilities. Yet six years after the Commission's proposal for new legislation to ensure equal treatment on all grounds of discrimination listed under Article 19 TEU, the proposed Equal Treatment Directive has not been adopted by Member States, due to strong resistance from a few countries. Despite progress made, there continues to be serious gaps in both the EU fundamental rights and equality legislation and its enforcement:

- In many EU countries, older persons often face negative attitudes and age discrimination in particular in access to health care, employment, goods and services, information and life-long learning, in contradiction with Article 25 of the EU Charter on Fundamental Rights. Unjustified upper age limits prevent them from accessing essential financial services such as travel insurance, restricting their freedom of movement within the EU.
- Surveys by the EU Fundamental Rights Agency (FRA) show that Muslims and Jews experience high levels of discrimination in private services and schools, respectively.
- In schools and at work, LGBTI people experience severe bullying and harassment due to their sexual orientation. Same-sex couples are being denied visiting rights to their partners as some hospital policies only accept visits from legal partners.
- A survey from the European Youth Forum on youth and multiple discrimination shows that young people particularly experience discrimination in terms of education and employment/occupation as well as when accessing goods and services, including housing.
- 78% of Europeans who participated in the disability survey on freedom of movement said that they would make more use of their right to free movement in the EU if there were no barriers, such as inaccessible goods and services, non-adapted public spaces and discriminatory attitudes.
- Extensive research shows that Roma children are overrepresented in special, sub-standard education and that Roma are one of the most discriminated communities in Europe.
- Existing requirements to access legal gender recognition for trans people (such as sterilisation) violate their human rights.

¹ AGE Platform Europe; European Disability Forum (EDF); European Network Against Racism (ENAR); European Youth Forum; ILGA-Europe - the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association; European Women's Lobby; International Lesbian, Gay, Bisexual, Transgender and Queer Youth and Student Organisation (IGLYO); European Network on Religion and Belief (ENORB).

- Different official and NGO sources confirm the prevalence of hate crime/bias violence in the EU, especially on grounds of race and ethnic origin; sexual orientation or gender identity; and religion or belief. Recent FRA surveys all show that a significant proportion of victims of hate crime did not trust the authorities enough to report the attacks.
- The FRA EU-wide survey on violence against women showed astounding high levels of violence against women: one in five have experienced physical and/or sexual violence, one in 10 sexual violence since the age of 15 and one in 20 women have been raped. Such levels of violence clearly impact on women's full enjoyment of their fundamental rights which is contrary to both the EU Treaty obligations with regards to gender equality and Article 23 of the EU Charter on Fundamental Rights.
- In spite of efforts at European level to mainstream gender and diversity, there is a lack of legal remedies on multiple and intersectional discrimination.

We urge First Vice-President Timmermans to use his leading position to advance equality for all and promote a holistic vision of equality grounded in a universal human rights based approach.

Over the past few weeks, several Member States lifted their outstanding reservations to the adoption of the EU Equal Treatment Directive. It is time to put pressure on those countries that still do not support the Directive. Vice-president Timmermans must present this as a priority issue during all meetings with Member States representatives, including at high political level. The Commission should combine a message of human rights approach with a pragmatic one: existing barriers to accessing goods and services prevent EU residents from contributing to Europe's growth recovery as users, consumers and volunteers and create obstacles for businesses and service providers to benefit from a large internal market covering more 500 million consumers. We urge the Commission to take a leadership role and **keep pushing for a strong anti-discrimination Directive with a broad scope of application**, and not for a reinforced cooperation approach which could weaken protection, increase market fragmentation and set a precedent of cherry picking when it comes to fundamental rights.

Apart from EU non-discrimination legislation, broader human rights policies are also needed to ensure the protection and respect of human rights within the EU. Therefore, we ask Vice-President Timmermans to take the lead in proposing an overarching **internal human rights strategy** as an effective watchdog mechanism to enable the EU to respond to human rights violations within its own borders. It is now crucial to improve processes to ensure that Member States are accountable for their human rights commitments, including under the European Convention on Human Rights (ECHR), the EU treaties, the EU Charter of fundamental rights and the UN Convention on the rights of persons with disabilities.

Steps to ensure compliance of Commission's proposals with the EU Charter of fundamental rights should be strengthened through on-going training and capacity-building of the Commission's staff in all policy areas. Impact assessments of Commission's proposals should devote a larger consideration to fundamental rights compliance, include the Commission's fundamental rights check-list and go beyond compliance with the Charter by taking into consideration international human rights standards. Commission's services dealing with fundamental rights mainstreaming must receive the necessary resources and leverage to perform effective compliance check across all Directorates General. The European Parliament and the Council must also undertake similar fundamental rights screenings.

To support the EU internal fundamental rights strategy, the Commission must **make use of existing data relating to human rights** when available, including expertise from the Fundamental Rights Agency, the European Institute for Gender Equality, the Council of Europe, the United Nations and civil society. The Commission must **call for the systematic collection of data when gaps are**

identified, while recognising that action on enforcement of rights should be delayed as little as possible because of data gaps.

Respect for the principles of proportionality, subsidiarity and better regulation should not result in lowering human rights protection level. Fundamental rights are applicable throughout the EU and therefore cannot and should not be undermined in the name of subsidiarity particularly as the EU Charter on Fundamental Rights is an agreed set of rights endorsed by all EU Member States. The principle of subsidiarity does not relieve Member States from their obligation to implement EU law and other European and international human rights standards. It must not be used to limit the Commission's role to address threats to the rule of law and fundamental rights. The Commission should not shy away from opening **infringement proceedings when Member States violate EU human rights law including EU non-discrimination legislation.** The Commission should therefore react to threats to the rule of law and EU values, notably through the use of the framework on the rule of law.

The December 2014 the Court of Justice of the European Union published an opinion stating that the agreement on the EU accession to the ECHR is in violation of EU Treaties. **We urge Vice-President Timmermans to do his utmost to ensure that identified legal barriers are rapidly overcome and EU accession to the ECHR made possible** as requested by the Lisbon Treaty to fill gaps in human rights protection in Europe and ensure that the EU institutions comply with the ECHR.

We invite First Vice-president Timmermans to **create meaningful consultation mechanisms with civil society**, both at grassroots level – via an annual forum on human rights - and on an on-going basis with representative European networks. For the moment discussions on the Equal Treatment directive are restricted to Member States within the Social Questions Working Party. Our organisations also call for the organisation of a specific multi-stakeholder forum on the Equal Treatment Directive led by Vice-President Timmermans. Such a Forum would bring together representatives of discriminated groups, social partners, MEPs and Member States and would meet regularly until an agreement can be found and the Directive is adopted, to guarantee transparency and exchange with all interests at stake.