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## REPORT

on the proposal for a Council Decision relating to the conclusion of an agreement between the European Community and the Council of Europe for the purpose of establishing, in accordance with Article 7(3) of Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, close cooperation between the Centre and the Council of Europe (COM(98)0255 - C4-0362/98 - 98/0143(CNS))

Committee on Civil Liberties and Internal Affairs

Rapporteur: Mr Glyn Ford

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PE 228.346/fin.

- \* Consultation procedure  
simple majority
- \*\*I Cooperation procedure (first reading)  
simple majority
- \*\*II Cooperation procedure (second reading)  
simple majority to approve the common position  
majority of Parliament's component Members to reject or amend the common position
- \*\*\* Assent procedure  
majority of Parliament's component Members to give assent  
but simple majority under Articles 8a, 105, 106, 130d and 228 EC
- \*\*\*I Codecision procedure (first reading)  
simple majority
- \*\*II Codecision procedure (second reading)  
simple majority to approve the common position  
majority of Parliament's component Members to adopt a declaration of intended  
rejection of the common position, and amend the common position or confirm its rejection
- \*\*\*III Codecision procedure (third reading)  
simple majority to approve the joint text  
majority of Parliament's component Members to reject the Council text

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By letter of 12 June 1998 the Council consulted Parliament on the Commission proposal for a Council Decision relating to the conclusion of an agreement between the European Community and the Council of Europe for the purpose of establishing, in accordance with Article 7(3) of Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, close cooperation between the Centre and the Council of Europe.

At the sitting of 19 June 1998 the President of Parliament announced that he had referred this proposal to the Committee on Civil Liberties and Internal Affairs as the committee responsible.

At its meeting of 30 June 1998 the Committee on Civil Liberties and Internal Affairs appointed Mr Glyn Ford rapporteur.

It considered the Commission proposal and the draft report at its meetings of 1-2 September, 23 September and 13 October 1998.

At the last meeting it adopted the draft legislative resolution unanimously.

The following took part in the vote: d'Ancona, chairman; Wiebenga, vice-chairman; Andersson, (for Schulz), Bontempi, Cederschiöld, Deprez, Elliott, Lehne (for Pirker), Lindeperg, Mohamed Ali, Nassauer, Oostlander (for Stewart-Clark), Posselt, Pradier, Schmid and Van Lancker (for Zimmermann).

The report was tabled on 14 October 1998.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

**A**  
**LEGISLATIVE PROPOSAL**

**Proposal for a Council Decision relating to the conclusion of an agreement between the European Community and the Council of Europe for the purpose of establishing, in accordance with Article 7(3) of Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, close cooperation between the Centre and the Council of Europe (COM(98)0255 - C4-0362/98 - 98/0143(CNS))**

The proposal is approved with the following amendments:

Draft agreement<sup>(1)</sup>

Amendments by Parliament

(Amendment 1)  
Paragraph 2a (new)

2a. The Centre and the ECRI shall apply to their processing and exchange of personal data the provisions laid down in Directive 95/46/EC.

(Amendment 2)  
Paragraph 6

6. Regular consultations shall be held between the Centre and the ECRI, to coordinate their activities and in particular to draw up the Centre's work programme. The purpose of the consultations shall be to ensure that the programmes of the two bodies complement each other and to avoid, insofar as possible, unnecessary duplication.

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<sup>(1)</sup> OJ C 171, 5.6.1998, p. 10

(Amendment 3)  
Paragraph 7a (new)

7a. The Centre and the ECRI shall take care that their cooperation focuses principally on the fight against racism within the EU (and its applicant States) to ensure efficiency and to avoid unnecessary delays in carrying out their different objectives and tasks.

(Amendment 4)  
Title III

**III Appointment by the Council of Europe of a prominent figure to serve on the Centre's Management Board**

**III Mutual appointment of prominent figures to serve on the Centre's Management Board and among the Members of the ECRI**

(Amendment 5)  
Paragraph 8

8. The Secretary General of the Council of Europe shall appoint an independent person from among the Members of the ECRI to serve on the Centre's Management Board, together with a deputy.

8. The Secretary General of the Council of Europe shall appoint an independent person from among the Members of the ECRI to serve on the Centre's Management Board, together with a deputy. The Management Board shall appoint an independent person from the Centre's Management Board to serve among the Members of the ECRI, together with a deputy.

This question shall be dealt with in the context of the regular contacts between the European Commission and the Secretary General of the Council of Europe.

These questions shall be dealt with in the context of the regular contacts between the European Commission and the Secretary General of the Council of Europe.

## DRAFT LEGISLATIVE RESOLUTION

**Legislative resolution embodying Parliament's opinion on the proposal for a Council Decision relating to the conclusion of an agreement between the European Community and the Council of Europe for the purpose of establishing, in accordance with Article 7(3) of Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, close cooperation between the Centre and the Council of Europe (COM(98)0255 - C4-0362/98 - 98/0143(CNS))**

**(Consultation procedure: first reading)**

The European Parliament,

- having regard to the Commission proposal to the Council, COM(98)0255 - 98/0143(CNS)<sup>(1)</sup>,
  - having been consulted by the Council (C4-0362/98),
  - having regard to Rule 58 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties and Internal Affairs (A4-0365/98),
1. Approves the Commission proposal, subject to Parliament's amendments;
  2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
  3. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
  4. Instructs its President to forward this opinion to the Council and Commission.

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<sup>(1)</sup> OJ C 171, 5.6.1998, p. 10.

## **B**

### **EXPLANATORY STATEMENT**

#### **Background to the agreement**

On 2 June 1997 the Council adopted Regulation (EC) No 1035/97 establishing a European Monitoring Centre on Racism and Xenophobia<sup>(1)</sup>. The Regulation establishes the Monitoring Centre and lays down its objective and tasks, and also its working methods and areas of activity. The Regulation also includes provisions on data protection and details concerning the Monitoring Centre's legal personality and its organisational structure (Management Board, Executive Board, Director and staff).

The Regulation also requires the Centre to cooperate with national and international organisations: according to Article 7(3) the Monitoring Centre *'shall coordinate its activities with those of the Council of Europe, particularly with regard to its programme of activities ... . To this end, the Community shall, in accordance with the procedure provided for in Article 228 of the Treaty, enter into an agreement, on behalf of the Centre, with the Council of Europe for the purpose of establishing close cooperation between the latter and the Centre. This agreement shall include the appointment by the Council of Europe of a person to sit on the Centre's Management Board.'*

When it adopted the Regulation the Council approved the directives authorising the Commission to negotiate with the Council of Europe on concluding such an agreement. In a letter dated 23 June 1997 the Commission forwarded a draft agreement to the Secretariat of the Council of Europe. Negotiations between the Commission and the Secretariat of the Council of Europe took place on 2 October and 4 December 1997. The Secretariat of the Council of Europe submitted the results of the negotiations to the Committee of Ministers, which approved them at its meeting of 18 December 1997.

The Commission considers that the terms of this draft agreement, thus negotiated, are consistent with the Council's negotiating directives and are in keeping with the Community's interests. Accordingly, it recommends that the Council approve the proposal for a Decision concerning the conclusion of an agreement between the Community and the Council of Europe.

#### **Substance of the agreement**

Section I of the agreement (Exchange of information and data) provides that regular contacts are to be established between the Director of the Centre and the Secretariat of the Council of Europe, in particular the Secretariat of the European Commission against Racism and Intolerance (subsequently referred to as the ECRI). The Centre and the ECRI are to provide each other with information about their activities (this excludes confidential data); the information and data thus exchanged may be used and disseminated by both bodies. Finally, there is to be regular exchange of information between the two bodies about proposed activities and those which are under way or have been completed.

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(<sup>1</sup>) OJ L 151, 10.6.1997, p. 1

According to Section II of the agreement (Cooperation), both bodies are required to hold regular consultations in order to coordinate their activities and, in particular, to draw up the Centre's work programme. This is intended to ensure that the programmes of the two bodies complement each other and that unnecessary duplication is avoided. Further, both bodies are to reach agreement on conducting joint and/or complementary activities in areas of common interest, with the aim of optimising the use of available resources.

Section III of the agreement (Appointment by the Council of Europe of a prominent figure to serve on the Centre's Management Board) provides that the Secretary-General of the Council of Europe will appoint an independent person from the ECRI to serve on the Centre's Management Board, together with a deputy. This question is to be dealt with in the context of the regular contacts between the Commission and the Secretary-General of the Council of Europe.

## **Position regarding the draft agreement and reasons for the amendments**

### 1. The European Parliament's views regarding cooperation

In its resolution of 9 April 1997 on the proposal for a Council Regulation establishing a European Monitoring Centre for Racism and Xenophobia<sup>(1)</sup>, the European Parliament called for close cooperation between the Centre and regional, national and international organisations and non-governmental organisations competent in the field of racist and xenophobic phenomena.

This call for close cooperation with other organisations is basically enshrined in Article 7 of the Regulation, paragraph 3 of which provides explicitly for the need for an agreement to be concluded with the Council of Europe. Close cooperation with the Council of Europe makes sense particularly with a view to the opportunities for continuing and consolidating the work done to date by that institution - and especially by the ECRI - , but also in terms of avoiding duplication of the future work of these two bodies.

### 2. The Council of Europe's European Commission against Racism and Intolerance (ECRI)

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe set up by the first Summit of Heads of State and of Government of the Member States of the Council of Europe held in Vienna in October 1993. ECRI is composed of independent members with recognised expertise in dealing with questions of racism, xenophobia, anti-Semitism and intolerance. ECRI's activities, which are multidisciplinary and wide-ranging, are based around its terms of reference:

- examine and assess the effectiveness of the range of measures (legal, policy and other) taken by Member States to combat racism, xenophobia, anti-Semitism and intolerance and propose further action in this field at local, national and European level,
- formulate general policy recommendations to Member States,
- study international legal instruments applicable in the area with a view to their reinforcement where necessary,
- data collection and publications.

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<sup>(1)</sup> OJ C 132, 28.4.1997, p. 68

One of the main aspects of ECRI's work over the past few years has been its country-by-country approach. This approach consists of an in-depth analysis of the situation in each Member State of the Council of Europe with a view to drawing up specific recommendations. The aim of this exercise is to assist governments by putting forward concrete, specific proposals for action.

### 3. Reasons for the amendments

The European Parliament basically approves the draft agreement, especially since its substantive terms are broadly laid down already in Article 7(3) of the Regulation. There are, however, modifications that we wish to see with regard to details, and these should be incorporated into the text of the agreement before it is formally concluded between the Council and the Council of Europe. The changes are as follows:

- Article 5 of the Regulation deals with the protection and confidentiality of personal data: the Centre is required to apply the provisions of Directive 95/46/EC to its processing and exchange of personal data. If data are now to be forwarded to the ECRI, the latter must guarantee the same degree of data protection as the Centre in its collection and use of such data. This must be stated unequivocally in the agreement (Amendment 1);
- optimum cooperation between the Centre and the ECRI requires that their activities be coordinated on a reciprocal basis. This makes it necessary to hold regular consultations between them - particularly when the work programmes of the two bodies (and not just the work programme of the Centre) are drawn up (Amendment 2);
- the Council of Europe has already carried out extensive work in the field of the fight against racism and xenophobia, in the course of which it has built up wide-ranging knowledge. This will be of use to the Centre. It should be borne in mind, however, that at present the Council of Europe has to turn its attention to the situation in 40 member countries<sup>(1)</sup>. Even though the overall European context in which the Centre carries out its work is not unimportant, the priority at present must be for it to concentrate its attention on the situation 'within its own walls'. Where the work of the Council of Europe has a bearing on the situation in the 15 EU Member States, it will be very valuable to the Centre as a starting-point for continuing, more detailed activities. In addition, the Centre will have to address the situation in the applicant countries in detail. However, its work should not be hampered or delayed by the fact that the ECRI is also dealing with issues pointing to racism and xenophobia outside the EU and its applicant countries, in Council of Europe members such as the Russian Federation, Moldova or Ukraine. This broader geographical sweep of the ECRI's mandate must not affect the efficiency of the Centre's work (Amendment 3);
- in order to optimise coordination of the activities of the two bodies, it makes sense to provide an institutional foundation for the flow of information: this may be achieved by each body having an independent figure from the other body serve on its own planning and decision-

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<sup>(1)</sup> Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, FYROM, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom.

making organ. For this reason it is appropriate for a Member of the ECRI to be appointed to serve on the Centre's Management Board. The same also applies in the opposite direction, however: it will be equally appropriate for a member of the Centre's Management Board to be involved in the deliberations of the Members of the ECRI. These reciprocal appointments also appear necessary to ensure a proper balance between the two bodies and to avoid giving the impression of the existence (or creation) of a relationship between the two bodies in which one takes precedence over/is subordinate to the other (Amendments 4 and 5).