

Ladies and gentlemen,

Thank you for inviting the Fundamental Rights Agency to this important meeting. Like you, we also strive to give a voice to the voiceless; we do this through our surveys which target those invisible in general population statistics, those hard to reach population groups, like minority ethnic and religious groups, migrants and asylum seekers or LGBT people, in an effort to make fundamental rights a reality for everyone in the EU.

These voices speak of extreme disparities:

- The results of a survey we carried out in eleven EU countries with large shares of Roma, such as Hungary, Romania and Slovakia, and also Spain, Italy, France and Greece found that about 90 % live below their national poverty line compared to an average of 23% for the general population; around 40 % said that someone in their household had to go hungry at least once a month, because they could simply not afford to buy food; 20% could not read and write compared to almost none in the general population, while only about 15% had completed any education beyond primary school.

These voices also speak of alarming rates of discrimination and hate crime:

- Our EU-wide survey of more than 23,500 people with a minority background (EU-MIDIS) showed that nearly every fifth Roma and every fifth African interviewed said that they had been a victim of racially motivated assault, threat or serious harassment over the past year. We are now conducting the second wave of this survey to identify trends over time.

- Our survey of Jewish communities published last November shows that on average, every fifth Jewish person surveyed had experienced physical attacks, serious harassment or verbal insults, simply because they were Jewish, over the past year.

- Our EU-wide survey of 92,000 LGBT people showed that 26% of the respondents had been attacked or threatened with violence at home or elsewhere in the five years preceding the survey, with the figure rising to 35% for the transgender respondents.

At the same time, the majority of those who experienced physical violence or threats of violence in all those diverse groups surveyed said that they did not report the most serious incident to the police; the overwhelming majority of those who felt unequally treated, because of their ethnic origin, sexual orientation or gender identity also did not report this to any competent authority. In both cases, hate crime and discrimination, the majority of respondents said that they did not report it because **“nothing would happen or change”** by reporting it.

This is serious, because in a democratic society trust in public authorities, especially law enforcement is a necessary precondition for the rule of law. And in this regard it is striking to see that the finding of all our surveys on migrants, on Roma and on LGBT people reveal a fundamental issue of trust in law enforcement. And, even more worrying, our last EU wide survey on violence against women based on a representative sample of 42,000 women (who can hardly be considered a ‘minority’) revealed similar findings.

The results of our surveys are useful to policy and decision makers as guides for targeted and therefore more effective action to protect and promote fundamental rights. They are even more useful when we place them in a context of specific indicators that show progress towards the

fulfilment of rights together with other evidence, including the results of **your work**. In this way, we empower those who are “voiceless” communicating their message to policy and decision makers.

Ladies and gentlemen,

The Fundamental Rights Agency was created in 2007 by the Council of the European Union to provide the institutions and Member States of the EU with assistance and expertise when it comes to fundamental rights issues, where the EU has a competence to act.

The Council has tasked us to do this by collecting and analysing robust and reliable data comparable across the EU in order to provide useful conclusions and recommendations.

We consider this as step one of our work.

The next important step is to use this data to populate indicators that show progress in the fulfilment of fundamental rights in the areas we work on that range from child rights, equality and non-discrimination, asylum and migration to access to justice, data protection and privacy, etc.

And the final step is an on-going and concerted effort to follow-up on our recommendations guided by our indicators; we do this by engaging with public authorities, as well as with national human rights bodies, equality bodies and Ombudsmen in order to facilitate their efforts to explore and implement concrete measures to improve the situation.

This work is important and urgent to ensure the protection of the rights of those who have become more vulnerable by the effects of the economic crisis, in particular persisting high unemployment, especially among our youth. This crisis that the EU has been facing over the course of the past years is not yet over and it transcends issues of finance. It has implications for the social protection of our citizens, but also for democratic legitimacy and the rule of law, therefore also for the respect of fundamental rights. And it puts the EU’s commitment to shared values and fundamental rights to the test.

In response to the crisis and to address the shortcomings of our growth model the EU developed its EU2020 Strategy confronting key long term challenges, ranging from environmental constraints to demographic and technological change, poverty and social exclusion.

A key instrument for the implementation of this strategy are the EU’s Structural and Cohesion Funds designed to help Member States and regions to achieve the strategic investment levels needed to implement the five ambitious headline targets set by the EU’s 2020 Strategy, which include: 75% of the 20-64 year-olds to be employed; reducing the rates of early school leaving below 10%; and, reducing those in or at risk of poverty and social exclusion by at least 20 million.

The disbursement of these Funds, which amount to over €350 billion for the period 2014-2020, is regulated by a legislative package that foresees certain general and thematic ex-ante conditionalities that must be fulfilled. These among else refer to some fundamental rights, such as non-discrimination, gender equality, as well as the ‘needs’ of persons with disabilities and Roma integration.

However, as the European Ombudsman pointed out recently launching an own initiative investigation, this legislative package has ‘no reference to the **general applicability** of the Fundamental Rights Charter in regard to the implementation of cohesion policy both at national and

EU level. Furthermore, there is no provision allowing the Commission to impose **sanctions** on any MS failing to comply with fundamental rights when implementing EU cohesion policy.’

Another question is how compliance to fundamental rights will be monitored during implementation.

According to Council Regulation 1303/2013 on common provision for the structural and cohesion funds monitoring will be conducted in Member States in accordance with their institutional and legal framework through a partnership with the competent regional and local authorities. The partnership shall also include (a) competent urban and other public authorities; (b) economic and social partners; and (c) relevant bodies representing civil society, including environmental partners, NGOs, and bodies responsible for promoting social inclusion, gender equality and non-discrimination.

Apparently these provisions combine monitoring of the financial management & administration of the Funds with monitoring compliance to the Fundamental Rights Charter, at least, in reference to Article 21 (non-discrimination), in particular concerning accessibility rights for disabled persons, and Article 5(2) on forced or compulsory labour, according to recital 13 of Council Regulation 1303/2013.

In addition, these monitoring provisions will also need: **first**, to assess compliance to the general and thematic ex-ante conditionalities related to non-discrimination, gender equality, the UN CRPD and to Roma inclusion; **second**, to feed into the Commission’s reporting obligations as Focal Point to the UN CRPD, as well as the Commission’s needs to follow-up specific commitments in the European Disability Strategy 2010-2020 on promoting the transition from institutional to community-based care; **third**, to contribute in assessing the effective allocation and use of at least 20% of the total ESF resources in each Member State for the promotion of social inclusion and the socio-economic integration of marginalised groups, such as Roma, as set out in Article 4 of Regulation 1304/2013 on the European Social Fund.

As Member States develop their monitoring structures in partnership with key actors, and given the centrality of fundamental rights issues in the disbursement of the Funds, it would be useful to engage in a meaningful way national human rights institutions, equality bodies and Ombudsman institutions, as these institutions may have important information, for example through assessing citizens’ complaints, on the use of EU funding.

The FRA is contributing in certain areas to the overall monitoring process by developing and promoting a model of rights based indicators, as well as specific tools, such as research methodologies that can reach elusive populations, such as Roma or persons with disabilities, to collect their experience, which can include information on how they benefit from EU funded actions.

The principal feature of this indicator model is its composition of three distinct categories of indicators, corresponding to the duty bearer’s (i.e. the state’s) commitments, efforts and results in fulfilling specific fundamental rights standards; respectively therefore these categories are labelled as structural indicators (law and policy), process (measures) and outcome indicators reflecting people’s (i.e. rights-holders) experience of the fulfilment of their rights. Together, these indicator categories measure progress made in meeting fundamental rights obligations derived from international and EU standards.



I will briefly give you two examples of how we apply these indicators.

**The first example concerns the rights of persons with disabilities:** we are developing and populating with data indicators that reflect the respect, protection and fulfilment of their rights according to the standards set by the UN CRPD; this work will contribute to the monitoring of the implementation of the Structural Funds and is also part of our obligations as member of the EU's Monitoring Framework set up under Article 33 (2) of the Convention to "promote, protect and monitor" its implementation. The other members of the Framework are the European Parliament, the European Ombudsman, the Commission and the European Disability Forum.

A recent example of this work concerns political participation of persons with disabilities developed in close cooperation with the European Commission and the academic network of experts on disability, ANED:

**First,** structural indicators were developed and populated by analysing relevant legislation and policies; for example, a structural indicator was CRPD ratification without reservation or declaration to Article 12 on equal recognition before the law: we found that 3 Member States entered a declaration to Article 12 providing that they will implement it in accordance with their respective national legislation, which allows restrictions on the right to vote of persons deprived of legal capacity.

**Second,** process indicators were developed and populated by identifying and analysing specific measures; for example, a process indicator was the existence of guidelines to public administrations on how to make polling stations accessible: we found that 17 EU MSs have such guidelines issued either by government departments, election authorities or national human rights bodies; in 3 EU MSs guidelines do not cover accessibility; and for 8 MSs no information on any guidelines was available.

**Third,** outcome indicators were populated by analysing data from the European Quality of Life Survey and the European Social Survey; the analysis showed that persons with disabilities are as interested in political life as the general population; they participate in elections as much as persons without disabilities and have similar levels of trust in political institutions. However, the most important finding from the analysis of the data concerned the data itself, which do not actually reflect the experiences of exclusion from political participation that many persons with disabilities face, particularly those with more severe impairments, because these persons are simply not included in the samples of these surveys.

We are now starting a major project to develop and populate indicators to assess the transition from institutional to community-based care. This project will be useful in contributing to the monitoring of the implementation of the Structural Funds. We will first analyse legal and policy measures promoting independent living and de-institutionalisation processes. Then we will conduct fieldwork research on the experiences of de-institutionalisation of persons with disabilities, which will also help us to identify drivers of and barriers to de-institutionalisation in order to develop knowledge about what works and what does not with regard to the transition from institutional to community-based care.

**The second example concerns the fundamental rights and socio-economic inclusion of Roma:** we

are also developing and populating indicators on progress made in supporting their social and economic inclusion through the use of structural funds, as well as the respect, protection and fulfilment of their rights according to the Charter. This is very important, because while efforts to improve the social and economic inclusion of Roma are essential to allow them to escape a vicious circle of poverty and social exclusion, we should not forget that racism and intolerance play an important role in defining community relations and in influencing the outcomes of social inclusion measures. Only last week the President of France, where almost 20,000 Romanian Roma were reportedly deported last year, spoke of the 'unspeakable and unjustifiable attack on all the principles on which our Republic was founded' referring to the brutal gang assault on a 16-year-old Roma boy in Paris which left him nearly dead. Therefore, indicators should not only capture and assess outcomes of EU funded social inclusion actions, but also actions of public authorities to tackle racism and exclusion from essential public services, such as education.

Our work on Roma inclusion indicators is conducted in close cooperation with a group of 14 MSs and the services of the European Commission, including DG JUST, REGIO and EMPL. Although building consensus on this type of rights based of indicators is proving to be challenging, the work is continuing: In December 2013 the Council Recommendation on effective Roma integration measures asked Member States to make use of relevant core indicators or methods of empirical social research or data collection for monitoring and evaluating progress on a regular basis, particularly at the local level, making use of the support provided by our Agency.

Ladies and gentlemen,

Ombudsman institutions are instrumental in providing a true voice to the voiceless. These voices can be amplified by contributing more systematically and effectively to monitoring the implementation of EU funded actions. This would in my view significantly contribute to improving the legitimacy and credibility of European Union financial processes. It would therefore be useful to discuss further with the support of the European Ombudsman how this could be best achieved in practical and operational terms.

Thank you for your attention!