

Introduction



The FRA Annual report identifies achievements and challenges in the field of fundamental rights in the 27 European Union (EU) Member States and Croatia in 2011. Its first nine chapters cover each of the areas identified by the agency's Multi-annual Framework 2007–2012. Chapter 10 provides an overview of international obligations relevant to the areas of EU law covered in this report. This year's focus section deals with the overall fundamental rights landscape in the EU. For each area, the report identifies 'key developments', 'promising practices' and details on 'FRA activities'. The 'outlook' section notes the challenges ahead. The report is drafted in consultation with a variety of stakeholders and undergoes internal and external quality checks.

In line with its founding regulation, the European Union Agency for Fundamental Rights (FRA) is required to “publish an annual report on fundamental rights issues covered by the areas of the Agency's activity, also highlighting examples of good practice”.¹ This annual report thus focuses on fundamental rights developments in the European Union (EU) and its 27 Member States and not on the work of the FRA itself.

Examples of 'good practice' in the fundamental rights field are highlighted in blue boxes entitled 'promising practices'. They are deliberately called 'promising' rather than 'good' practices, since the FRA does not directly scrutinise or evaluate them. Still, they are intended to encourage stakeholders to consider and emulate initiatives, where appropriate, and to allow for an exchange of experiences.

The report's main ambition is to provide a relevant, timely, objective and comparative overview of key developments in the area of fundamental rights. It looks at the EU and the 27 EU Member States while also including developments at the Council of Europe or the United Nations (UN) level where these affect the EU and its Member States. To briefly highlight the agency's contributions, the report includes yellow

boxes entitled 'FRA activity' which sketch out some of its 2011 work in each field.

Areas covered by the report, including the focus section

The agency's founding regulation requires the annual report to deal with the areas the FRA is focusing on as per the five-year Multi-Annual Framework determined by the Council of the European Union. The first framework covers the years 2007–2012 and tasks the FRA with work in the following nine areas: “(a) racism, xenophobia and related intolerance; (b) discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination); (c) compensation of victims; (d) the rights of the child, including the protection of children; (e) asylum, immigration and integration of migrants; (f) visa and border control; (g) participation of the citizens of the Union in the Union's democratic functioning; (h) information society and, in particular, respect for private life and protection of personal data; (i) access to efficient and independent justice.”²

¹ Art. 4 (1) (e) of the Council Regulation (EC) No. 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, OJ 2007 L 53, pp. 1–14.

² Art. 2 of the Council Decision of 28 February 2008 implementing Regulation (EC) No. 168/2007 as regards the adoption of a Multi-annual Framework for the European Union Agency for Fundamental Rights for 2007–2012, OJ 2008 L 63, pp. 14–15.

These nine areas translate, for the purpose of the FRA Annual report, into nine chapters grouped into four sections that reflect different ‘titles’ of the European Union Charter of Fundamental Rights. To differentiate the Charter titles – **Freedom** (Title II); **Equality** (Title III); **Solidarity** (Title IV); **Citizens’ Rights** (Title V) and **Justice** (Title VI) – the FRA uses a colour code. The annual report chapters, covering several titles of the Charter, are therefore colour coded as follows:

1. Asylum, immigration and integration
2. Border control and visa policy
3. Information society and data protection
4. The rights of the child and protection of children
5. Equality and non-discrimination
6. Racism and ethnic discrimination
7. Participation of EU citizens in the Union’s democratic functioning
8. Access to efficient and independent justice
9. Rights of crime victims
10. EU Member States and international obligations

Chapter 10 was introduced in last year’s annual report, following positive feedback from the European Parliament on the former annex on international obligations.³ The chapter is part of an effort to underline the multi-level relevance of fundamental rights: an efficient protection of fundamental rights is only possible if local, national, European and international norms and administrations all efficiently interact. In order to raise awareness of the international dimension of fundamental rights, this chapter is updated in each annual report, making it a regular feature compared with the other chapters which might change with the adoption of a new Multi-annual Framework.⁴

With the current Multi-annual Framework drawing to a close, the annual report takes a step back in this year’s focus section and looks at the overall picture of the protection of fundamental rights. So, after last year’s focus section on ‘Roma in the EU – a question of fundamental rights

implementation’, this year’s is on ‘Bringing rights to life: the fundamental rights landscape in the European Union’. The focus examines a dynamic period for the protection of fundamental rights within the European Union. It describes, in an accessible manner, how the overall ‘landscape’ looks and describes how the different layers, rights, procedures and institutions interact and where the FRA adds value.

A multi-modular approach

Fundamental rights cover all areas of human life. Different groups of rights are of interest to different groups of persons. This report, therefore, applies a multi-modular approach allowing single chapters to stand alone. Every chapter has a separate introduction, which summarises the key developments over the past year in that field, as well as an outlook, which outlines the major fundamental rights challenges to be expected in the immediate future, in 2012 and just beyond. As in the past, emphasis is placed on properly substantiating and referencing all the statements in the report. Each chapter also has a separate and full bibliography. This is important because 90 % of the non-governmental organisations (NGOs), which answered the 2011 consultation with civil society on the FRA Annual report, said that they use the report as a reference for further analysis.

This multi-modular approach does not, however, change the fact that the chapters are interlinked and that many of them should be read in combination with others. The chapter on access to justice looks at a cross-cutting topic which is of relevance to all fundamental rights, while the chapter on racism and the one on equality are, of course, tightly interwoven. Other chapters are to be read in tandem with others because certain elements are covered in both but to a different degree or from a different angle. This is the case, for instance, with the chapter on the rights of the child and the chapter on the rights of crime victims, both of which look at human trafficking. Another example is the integration of third-country nationals, which is examined in the chapter on asylum, immigration and integration, while the integration of Roma and other disadvantaged groups is analysed in the chapter on racism and ethnic discrimination. The chapters all make reference to international agreements. A full overview of progress as regards ratification and signatures of the relevant international instruments is given in the chapter on EU Member States and international obligations. And, of course, the focus section on the EU’s fundamental rights landscape complements all the other chapters of the annual report.

The annual report is accompanied by a stand-alone summary – *Highlights 2011* – entitled *Fundamental rights: key legal and policy developments in 2011*. It reproduces the key developments of each area covered, which introduce every chapter in the annual report

³ European Parliament, *Report on the situation of fundamental rights in the European Union (2009) – effective implementation after the entry into force of the Treaty of Lisbon*, (2009/2161(INI)), A7-0344/2010, para. 32.

⁴ European Commission, Proposal for a Council decision establishing a Multi-annual Framework for the European Union Agency for Fundamental Rights for 2013–2017, COM(2011) 880 final, 13 December 2011.



and are supplemented by issues and events of special importance for the year 2011. The 'Highlights 2011' also contains yellow boxes, entitled 'FRA Publications', which reference 2011 FRA reports of relevance to the topic. The Annual report 2011 and Highlights 2011 are published in English, French and German.

FRA Annual report 2011: drafting, scope and timeframe

The report draws on data and information from in-house research and from the agency's Franet network, a multi-disciplinary research network composed of National Focal Points in each EU Member State and the acceding country Croatia. Franet supplies the FRA with objective, reliable and comparable socio-legal data on fundamental rights issues to facilitate the agency's comparative analyses. FRA 2011 research projects are referred to only when the findings are directly relevant to the thematic area covered. A first draft of the report is sent to the 27 liaison officers from the governments of each EU Member State to check the information provided for factual accuracy. The draft subsequently undergoes an internal quality review at the FRA and is submitted to the FRA Scientific Committee for evaluation. As a general rule, the rapporteur within the Scientific Committee responsible for the annual report is the Committee Chair. After incorporating stakeholder comments, including those of FRA's Management Board, that Board adopted the report on 16 May 2012.

The report focuses on developments, events and debates in the area of fundamental rights that took place between 1 January 2011 and 31 December 2011. Where relevant, the FRA Annual report also takes into consideration key events that took place between October and December 2010 or in early 2012. Geographically speaking, the report covers developments that took place in the EU and in its 27 EU Member States and the acceding country Croatia. In May 2010, the EU Croatia Stabilisation and Association Council gave Croatia observer status at the FRA, making it possible to cover 2011 developments.⁵

The FRA is committed to further improving this report. The annual report is evolving, with the aim to produce a central reference document which offers an annual update on the situation of fundamental rights in the EU. This is why the FRA consults a wide spectrum of stakeholders, including the 350 NGOs that participate in the Fundamental Rights Platform, and why it welcomes any feedback (annualreport@fra.europa.eu).

⁵ See Decision No. 1/2010 of 25 May on the participation of Croatia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities thereof, OJ 2010 L 279, pp. 68-70. Compare with Art. 28 of Council Regulation (EC) No. 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights.