



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 5.8.2003
COM(2003) 483 final

2003/0185 (CNS)

**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL,
THE EUROPEAN PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**on the Activities of the European Monitoring Centre on Racism and Xenophobia,
together with proposals to recast Council Regulation (EC) 1035/97**

Proposal for a

COUNCIL REGULATION

**on the European Monitoring Centre on Racism and Xenophobia
(Recast version)**

(presented by the Commission)

**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL,
THE EUROPEAN PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**on the Activities of the European Monitoring Centre on Racism and Xenophobia,
together with proposals to recast Council Regulation (EC) 1035/97**

1. INTRODUCTION

In June 1994, in response to rising concern about acts of racism in the European Union, the European Council at its meeting in Corfu called for the establishment of a Consultative Commission on Racism and Xenophobia. At Cannes in June 1995, Heads of State and Government called on the Consultative Commission to consider the feasibility of a European Monitoring Centre on Racism and Xenophobia. The Florence European Council of June 1996 approved the principle of establishing the Centre.

The Council adopted Council Regulation (EC) No 1035/97¹ establishing a European Monitoring Centre on Racism and Xenophobia ('the Regulation') on 2 June 1997 on the basis of a Commission proposal. The European Council agreed that the Centre should have its seat in Vienna. It began its operations in 1998, with the appointment of the first members of staff and its move into temporary premises. The official opening of the Centre took place on 7/8 April 2000 in Vienna.

Racism and xenophobia are wide concepts, ranging from small, everyday acts of discrimination, through the barriers which are inadvertently established at all levels by public and private institutions, to acts of the most extreme violence. All these phenomena are unacceptable and are incompatible with the Union's values based on fundamental rights and freedoms and the rule of law. The Union's objective of creating an area of freedom, security and justice will be incomplete as long as effective measures to prevent and combat racism and xenophobia are not in place.

Racism is always with us, though there are also peaks and troughs in racist activity, often linked to particular events inside or outside of the Union. It is important to understand the links of cause and effect which lead to these changes in activity. It is, for example, clear that during the Gulf War in 1991, the European Union saw a dramatic increase in attacks on Muslims and people of Arab origin. More recently, some Member States have witnessed violent anti-Semitism as a reaction to tensions in Israel and Palestine. In the current political context of insecurity linked to the international terrorist threat, the Union must be constantly alert to avoid a repetition of those excesses.

The European Monitoring Centre on Racism and Xenophobia is an important instrument available to help the EU institutions and the Member States to combat these phenomena. The objective of collecting reliable and comparable data about racism and xenophobia is essential. Whatever the policy field, reliable data are essential if policy-makers are going to be able to target their measures effectively. In the field of combating racism, it is essential to have a

¹ Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia (OJ L 151, 10.6.1997, pp. 1-7)

clear picture of the effectiveness of policies and practices across the Union. We must be sure that they are focused on protecting the victims and changing the behaviour of the perpetrators.

2. CONTEXT

The Regulation requires the Commission (Article 16) to forward to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "a progress report on the Centre's activities, together with proposals, if appropriate, to modify or extend its tasks, taking into account, in particular, the development of Community powers in the field of racism and xenophobia". The report is required during the third year following the entry into force of the Regulation.

On 6 October 2000, the Commission forwarded a first report² to the Community Institutions (COM (2000) 625 final). The report concluded that, given that the Centre had not been able to begin its activities in earnest until 1999 and that it was not fully staffed until 2000, it was too early for a comprehensive assessment of the progress made by the Centre. It therefore presented an interim report on the activities carried out so far, and announced that it would organise an external evaluation of the Centre in order to provide an independent view of the efficiency of the Centre in relation to the objectives set out in the Regulation and the efficiency of the human and financial resources used to attain those objectives. It was to provide an assessment of the organisational structure of the Centre, including the extent to which it has met its objectives; the effectiveness of logistic, administrative and management methods; progress in setting up and managing the information network RAXEN; the quality and relevance of the activities and products of the Centre; and the follow-up of activities. It was also to establish the extent to which user needs have been identified and met and highlight user satisfaction with the information products and services developed so far.

The external evaluation was completed in July 2002. The Commission distributed the report to the European Parliament, Member States Governments, the European Economic and Social Committee and the Committee of the Regions and published the results on the Europa server. It has since received the views of members of the European Parliament, of Governments, of the Management Board and staff of the Monitoring Centre and of civil society organisations. Those views have been taken into account in this progress report and the accompanying proposals for changes to the Regulation.

3. EXTERNAL EVALUATION

The external evaluation of the Monitoring Centre was carried out under contract by the Centre for Strategy and Evaluation Services, an organisation based in the United Kingdom. It takes into account developments from the setting up phase until the end of 2001. The full report can be consulted at

http://europa.eu.int/comm/employment_social/fundamental_rights/pdf/origin/Monitoring_Centre_eval2002_en.pdf

² The Committee of the Regions adopted its own report in response to the Commission's interim findings (Opinion of the Committee of the Regions of 14 November 2001 on the Report from the Commission on the activities of the European Monitoring Centre on Racism and Xenophobia (COM(2000) 625 final) - CdR 67/2001 fin). The Commission has taken account of the views and opinions expressed in that report in this Communication.

The following Communication takes account of the findings of the external evaluation and of the various stakeholders who have reacted to the evaluation. It constitutes the Commission's considered view of the progress made by the Centre so far.

3.1. The Monitoring Centre's Primary Objective

The primary objective of the Monitoring Centre, as set out in Article 2 (1) of the 1997 Regulation, is to:

‘Provide the Community and its Member States with objective, reliable and comparable data at European level on the phenomena of racism, xenophobia and anti-Semitism in order to help them when they take measures or formulate courses of action within their respective spheres of competence’.

Providing objective, reliable and comparable data on racism and xenophobia across all the Member States of the European Union is a challenging task. The approaches to the collection of data vary enormously, from sophisticated, official mechanisms in some Member States to more basic approaches, heavily reliant on the collection of data by non-governmental organisations, in others. While the Centre has clearly made significant improvements in the objectivity and reliability of its data over recent years, it is clear that the objective of comparability has not yet been achieved to any substantial degree.

The Monitoring Centre relies heavily on a network of National Focal Points established in each of the Member States (the 'RAXEN' network), which it has created by encouraging co-operation between academic, non-governmental and (sometimes) governmental organisations at national level.

The principal outputs of the Centre are its four annual reports³ and a series of smaller-scale studies, including those on

- anti-Islamic reactions after 11 September;
- the situation of Islamic communities in five European cities;
- racism, football and the Internet;
- anti-racist legislation in the Member States; and
- racism and cultural diversity in the mass media.

The Centre has also published the results of a Eurobarometer survey of public opinion with regard to racism and xenophobia, following up the Commission's own survey carried out in 1997.

These reports and studies, among others, have provided a considerable amount of information. The quality of the data provided so far has been improving, but has not so far allowed genuine comparisons to be drawn between the situations in the different Member States nor an assessment of the effectiveness of the anti-racist policies pursued by individual countries. Yet the production of comparative data and assessments is an essential step if the

³ Published respectively on 22 December 1999 (covering 1998); 22 November 2000 (covering 1999); 18 December 2001 (covering 2000); and 10 December 2002 (covering 2001).

Centre is to be able to make meaningful recommendations about policies and practices to the EU Institutions and the Member States and if policymakers are to be able to draw conclusions about their work on the basis of the experience in other Member States. This is why the external evaluators conclude that, despite the fact that almost six years have passed since the adoption of the Regulation establishing the Monitoring Centre, it is still not possible to measure the *effect* or *impact* of its outputs. A number of factors have led to this situation, some of which are clearly outside the Centre's control.

In seeking to achieve its objectives, the Monitoring Centre cannot be held responsible for the fact that there has historically been a lack of common definitions across Member States relating to racism and xenophobia. However, delays in the RAXEN network becoming fully operational have meant that it is only recently that action is being taken to encourage a convergent approach to data definitions and data collection procedures. The Centre's Secretariat has commented that although the information available in each Member State is extremely variable, with the 15 National Focal Points now in place they hope to see a rapid increase in the availability, and thus dissemination, of comparable information. The Centre reports that it is increasing its efforts to persuade national authorities to adopt compatible if not common systems for data collection, in particular by establishing working groups on long-term strategies for improving data collection and on the methodology for improving the comparability of data.

Experience of developing comparable datasets in other fields (e.g. economic data, environmental data) suggests that it is essential to work closely with national governments, including statistical offices, to achieve gradual convergence. The Commission's consultations with Member States on this point have underlined that the principal value which can be added by the Monitoring Centre at European level is in providing truly comparable data. This does not necessarily entail a complete harmonisation of approaches to data collection, but ultimately the Monitoring Centre's remit is unachievable unless national authorities adopt compatible if not common classification systems. National authorities have confirmed their willingness to play a more active role in this regard in their consultations with the Commission. The proposals for the modification of the Regulation establishing the Centre reflect this point.

3.2. Other Activities

Round Tables

The Monitoring Centre is required by the Regulation to facilitate and encourage the organisation of regular round table discussions or meetings at national level. However, the actual organisation of national Round Tables is the responsibility of Member States. This has led to a variable response across the Member States: some have held several events, while others have experienced difficulties in holding regular meetings, with the lack of adequate funding cited as one example of the problems faced. Some have held only one meeting in the period to the end of 2002. The Monitoring Centre provides guidelines and support, but is not the prime organiser of national Round Tables.

The purpose of the national Round Tables is to maintain contact with civil society organisations in the Member States. They enable the Centre to take account of the points of view of various actors – NGOs, researchers, Governments – and the information they provide. In practice, the meetings have not been effective from the point of view of gathering data, though they have provided an opportunity for civil society organisations to express their views on issues related to racism and xenophobia in general and for this reason the Secretariat

of the Monitoring Centre believes that they are useful events. In their consultation with the Commission, Member States suggested that the responsibility for organising such events should clearly remain at national level, with the Monitoring Centre free to participate as necessary and appropriate. However, they believed that the Centre should not be bound to promote the organisation of round tables and that other means of involving civil society in the work of the Centre may be more effective. The Commission agrees with this view and accordingly proposes an amendment to the Regulation.

The evaluators note however that there is value in continuing to organise European Round Tables, bringing together actors from the national level, as this activity brings a Community dimension to the work. The Commission recalls in particular the three European round tables on anti-Semitism, Islamophobia and intercultural dialogue organised by the Centre at the request of the Commission in late 2002 and early 2003 as an example of the value this can bring. The amendment proposed by the Commission would allow the Centre to continue with this approach.

Research and Analysis

The Monitoring Centre has until recently had only a very limited internal research and analysis capability, but is in the process of recruiting additional staff to strengthen this function. It is clear that, with the budget available to it, the Centre will not become a major centre of original research in this field. It will rather need to concentrate on the analysis and interpretation of external research, encouraging relevant research to be carried out by universities, research institutes and Governments where appropriate. The external evaluators comment that it is important that the Centre should only take undertake additional research where there is a strategic fit with its overall objectives. The Commission strongly agrees with this view and notes that the energies of the Centre should focus on core business priorities and should not be dissipated by involvement in ancillary research projects.

Dissemination of Information and Data

The Monitoring Centre has developed a wide range of publications, from regular reports, magazines and newsletters to the publication of specific studies as the need arises. Many of the publications are available on the Monitoring Centre's web site, which also provides other information about its activities, role and remit. However the Commission is concerned that there has been no clearly defined communication strategy and that, given that the primary objective of the Centre is to support the Community and the Member States when they take measures, many of the communication instruments have appeared to be inappropriate and untargeted. The Commission supports the conclusion of the evaluators that the Centre should adopt a clear communication strategy which should cover the relationship between all forms of communication, including reports, newsletters and the web, with a key focus on the needs of the target groups – principally policy-makers in the Member States and the Community Institutions. The Communication strategy should be used as a working tool in the design of all activities, ensuring that from the start it is clear exactly how each product is going to be used and with which audience. The Commission welcomes the fact that Centre has begun work along these lines.

Annual Reports

The Monitoring Centre has published annual reports for the years 1998, 1999, 2000 and 2001. Inevitably, the coverage of the reports for 1998 and 1999, and in particular the quality and comparability of data, was not as robust as would be wished. The reports are becoming

increasingly focused and better linked to EU priorities in the fields of employment, social inclusion and anti-discrimination. This trend needs to continue. The Commission proposes that a clear link between the work of the Centre and wider EU priorities should be made in the Regulation to ensure that it adds value to the policy development process at European and national levels. In this way, the Commission believes that the Centre will have a greater impact on current policy-making at the different levels.

3.3. Resources Available to the Monitoring Centre

For the period from its commencement in 1998 to the end of 2002, the Monitoring Centre has had an available budget of some €20,5 million in commitments. An additional amount of €1,5 million was available in 1998 but not used. For the years 1998 to 2000, there was some underspending of the available budget mainly due to the Monitoring Centre not becoming fully operational as quickly as expected.

The budget in commitments for 2003 is € 6,5 million, of which € 3,3 million is for running and personnel costs and € 3,2 million for operations. The evaluators do not comment on the overall level of resources allocated to the Centre, but note that a higher proportion of resources (both operational and staff related) should be devoted to the work linked to its principal objective of providing objective, reliable and comparable data. The Centre has commented that following the appointment of National Focal Points in all 15 Member States, the financial resources allocated to the RAXEN information gathering system represent 53% of the operational budget. The Commission believes that the overall level of the EU subsidy is generally sufficient for the activities of the Centre, though it will need to be increased to take account of enlargement.

The evaluators conclude that, to give an overall assessment of the value of the Centre, the investment made by the Community budget needs to be measured against the impact and effect that the Centre has produced. However, as noted above, the difficulties surrounding the comparability of data have so far limited its effectiveness for the Community and the Member States and this fact prevents the evaluators from reaching an overall conclusion. In this context, they note that the Centre cannot be said to have demonstrated value for money for the €13 million it had committed in the years 1998 to 2001. The evaluators note a change in priorities which may mean that this situation will change. The Commission recommends that the question of value for money should be reviewed again once these changes take effect. This conclusion is covered in more detail below.

3.4. Appropriateness of the Monitoring Centre's Objectives

The Regulation establishing the Monitoring Centre was adopted before the entry into force of the Amsterdam Treaty, which introduced new powers for the Community in the field of fighting discrimination and for both the European Union and the Community in establishing an area of Freedom, Security and Justice⁴. Since the entry into force of the Amsterdam Treaty, Directives⁵ have been adopted to give effect to the principle of non-discrimination, modernising the approach to equality issues and promoting convergence between the Member States. Action has also been taken under Title IV of the EC Treaty to promote the protection and integration of immigrants and asylum seekers, notably in the field of family reunion⁶, and proposals are currently before the Council to strengthen judicial co-operation in dealing with racist and xenophobic crimes, based on Articles 29, 31 and 34 of the EU Treaty (see footnote 4), which update the Joint Action on Racism and Xenophobia adopted in 1996. Moreover, the Community has made a commitment, in the context of the Lome Conventions and the Cotonou Agreement between the EU and the African, Caribbean and Pacific States, to enhance non-discrimination in economic, social and cultural life and to develop measures against racism and xenophobia. The Monitoring Centre is on response to that commitment.

The evaluators recommend that the areas in which the Centre operates should be updated to reflect the current situation in terms of competence in order to cover the phenomenon of racism and xenophobia comprehensively. The Commission agrees with this approach and is making proposals to this effect.

The evaluators also conclude that there is currently some legal uncertainty surrounding the ability of the Centre to deal with situations that include issues such as racial violence, as this is not specifically mentioned in the Regulation. In the light of its consultations, including with the Member States, the Commission does not believe that it is necessary to clarify this point, as it is clear that racial violence and hatred are part of the phenomenon of racism and

⁴ The Treaty of Amsterdam gave the Community new powers under the Treaty establishing the European Community and in particular under Article 13 to combat discrimination inter alia on the grounds of racial or ethnic origin. It also introduced a new title IV to the Treaty which provides for the adoption of measures in the field of free movement of persons, immigration and asylum, judicial co-operation in civil matters and measures in the field of police and judicial co-operation in criminal matters.

Furthermore, Article 29 of the Treaty establishing the European Union sets out, as a means to achieve the Union's objective of providing citizens with a high level of safety within an area of freedom, security and justice, the development of common action among the Member States in the fields of police and judicial co-operation in criminal matters and the prevention of racism and xenophobia. The above mentioned objective has to be achieved through approximation, where necessary, of rules on criminal matters in the Member States and in accordance with article 31 e) TEU (ex article K3). This article states that common action on judicial cooperation in criminal matters shall include progressively adopting measures establishing minimum rules relating to the constituent elements of criminal acts and to penalties, in particular in the field of organised crime.

At EU level the Council adopted on 15 July 1996 a Joint Action concerning action to combat racism and xenophobia on the basis of article K3 of the Treaty on European Union (this instrument is cited in the recitals of the Regulation).

On 28.11.2001, the Commission adopted a proposal for a draft framework decision on combating racism and xenophobia, based on articles 29, 31 and 34 TEU.

⁵ Council Directive 2000/43/EC establishing the principle of equal treatment irrespective of racial and ethnic origin (OJ L 180, 19.7.2000, p. 22).

Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16).

⁶ See especially the draft directive on the right of third country nationals legally established in a European Union member state to family reunification, on which political agreement was reached in the Council on 28 February 2003.

xenophobia, as referred to in Article 2.2 of the Regulation. The Commission believes therefore that the fears of legal uncertainty are unfounded.

Geographical Coverage

The evaluators conclude that there is no need to amend the geographical scope of the Centre to include comparisons with countries outside of the EU. Preparations for enlargement are already underway (funded in 2003 by PHARE) with the establishment of an initial series of contact points in the new Member States which will become members of the RAXEN network following accession. The Commission agrees with this view, but suggests that to facilitate future accessions, the Management Board should be able to invite independent experts from candidate countries to its meetings (see below).

Changes to Scope of Monitoring Centre's Remit

The evaluators considered two possible changes to the remit of the Monitoring Centre, first to encompass a greater campaigning or lobbying role and the second to extend its scope to cover other forms of discrimination (such as those covered in Article 13 TEC) and/or human rights more generally. The Commission's consultation exercise suggested that there was broad agreement with the evaluators' conclusion that such changes were neither appropriate nor necessary. Most respondents to the consultation believed that the Centre should continue to concentrate on racism and that an extension to other fields would be an unwelcome distraction within the limits of the resources likely to be available to the Centre and that it would lead to a weakening of the emphasis on racism. The Commission agrees with this conclusion and proposes that the Centre should continue to focus on the issue of racism and related intolerance.

The Monitoring Centre's Name

The external evaluation reflects concerns expressed about the fact that the Monitoring Centre's name appears to have different shades of meaning in different Community languages and that in some it suggests a regulatory or 'overseeing' function. The Commission's consultations suggest that there is no strong support, either from the Member States nor from the Management Board, for changing the name. On the contrary, there are some concerns that a change of name would serve to weaken the Centre's identity, in particular if it sought to focus more on the promotion of diversity rather than monitoring racism.

3.5. Organisational Efficiency

Management Structure

The management structure of the Monitoring Centre is set out in the 1997 Regulation. It provides for a Management Board, an Executive Board and a Director. The Management Board consists of independent members appointed by each Member State, by the European Parliament and by the Council of Europe as well as a representative of the Commission. The Executive Board comprises the Chair of the Management Board, the Vice-Chair and a maximum of three other members of the Management Board, including the person appointed by the Council of Europe and the Commission representative. Decisions of the Boards have to be approved by a two-thirds majority of members.

There is an overriding need for a Management Board in the Monitoring Centre to provide overall policy direction within the framework of the Council Regulation and to perform certain supervisory functions such as the establishment of work programmes and budgetary

control. The evaluators conclude that it is difficult for a single group to cover all of these tasks. This situation is complicated by the fact that the Regulation requires members of the Board to have expertise in the field of human rights and analysis of racist, xenophobic and anti-Semitic phenomena, rather than in the fields of organisational management, planning and budgetary control. Moreover, the evaluators note that the board is already a large body (with 18 members) and that the enlargement of the EU will increase the size of the Board, to at least 28 persons on the current basis. However, they conclude also that, in the light of the sensitivity of the subject matter, the management structures of the Centre should continue to include members from all Member States. They recommend revising the functions of the Management Board so that it operates in a supervisory role, meeting once a year, with key, specific functions. Most of the existing management and technical functions would then be devolved to smaller and more efficient bodies. They propose strengthening the Executive Board and creating a Scientific Committee, which together would have the responsibility of guiding and controlling the Director and her staff. The evaluators recommend that if an enhanced Executive Board and a Scientific Committee were to be set up, an appropriate payment should be made to those members not otherwise remunerated for their contribution to the Centre. The Secretariat of the Centre sees merit in the overall approach recommended by the evaluators.

The evaluators also suggest that the Management Board might, in its new guise, consist of representatives of Member State Governments rather than independent experts, and that the guarantee of independence as regards the overall policy direction should be ensured by the new Scientific Committee. The Commission's consultations suggest that there is wide support for the evaluators' conclusion that there needs to be much closer co-operation between the Centre and the Member States' authorities, both in the data-gathering function and to ensure that the information produced by the Centre is taken into account by the Member States when they take measures to combat racism. However, the current Management Board of the Centre believes that the independence of members of the Board is essential to the credibility of an institution which gathers information, at least in part, about the impact of the policies and practices of individual Member State Governments on levels of racism and xenophobia. They note that other human rights bodies, such as those of the UN, are also made up of independent experts.

Finally, the evaluators note that the decision-making procedures based on a two-thirds majority in the Management Board are unnecessarily difficult for more routine decisions. They recommend the adoption of a system whereby minor decisions of the Management Board or, in future, the Executive Board would require only a simple majority. Major decisions, such as approving the annual budget, work programmes and the annual report, would continue to require a two-thirds majority. The Commission notes that such a voting arrangement would potentially facilitate the decision-making process and has recently been adopted by a comparable agency, the European Monitoring Centre for Drugs and Drug Addiction, based in Lisbon.

The Commission agrees that the existing management structure foreseen by the Regulation is not adapted to many of the decisions with which it is currently charged. As with the Consultative Commission on Racism and Xenophobia (the so-called Kahn Commission) which preceded the Monitoring Centre, the Management Board provides a wealth of knowledge and experience, drawn from many academic disciplines and areas of civil society, about racism and xenophobia. The expertise of the members of the Board lies in the field of racism, and their contribution to discussions on developments in the Member States, on the substance of draft reports and on the definition of priorities and approaches has been extremely valuable. The Board has also been involved in discussions of the political

relationship of the Centre with Governments and EU institutions, thus trying to define the Centre's identity in relation to other bodies. The first Management Board in particular (1998-2001) concentrated on these issues to a greater extent than its pure management tasks.

However, there is also evidence of some confusion about the overall role and responsibility of the Board, partly as a result of its being seen by some as a continuation of the Kahn Commission. Many of the principal responsibilities of the Board under the Council Regulation are related to long term and strategic planning, organisational decisions within the Centre, budgetary management and control, and human resources issues (in particular the appointment of the Director). Despite their responsibility for the oversight of these functions, members of the Board are not required by the Regulation to have skills in these areas (though some do) and budgetary and management problems have arisen. The comments regularly made by the Court of Auditors and the European Parliament on the discharge of the Centre's budget are a cause for concern. The Commission believes that the current difficulties will be exacerbated by enlargement unless measures are taken now to modify the decision-making structures and to clarify the responsibilities of the different actors.

The Commission broadly welcomes the proposals drawn by the evaluators to ensure that the members of the Management Board have the skills, experience and opportunity to ensure the smooth management of the Centre. The evaluators' proposals also have the advantage of strengthening the links between the Centre and the policy-makers in Member States, in particular by proposing that the Board should consist of representatives of Member State Governments. However, the Commission also sees some potential disadvantages in the structures the evaluators propose, particularly in terms of the perceived independence of the Centre. The consultations held by the Commission have tended to confirm the Commission's conclusions.

In its consultations, the Commission explored the possibilities for optimising the effectiveness of the decision-making structures of the Centre while taking account of three essential criteria:

- First, that the Management and Executive Boards should retain the necessary expertise to take decisions on the substance of racism and xenophobia in the EU;
- Second, that the Boards should also have the expertise to take decisions on the budgetary, financial and management questions with which any public sector organisation is faced;
- Third, that the composition of the Boards should maximise the influence of the Centre with policy-makers in the Member States, while retaining their ability to guarantee its independence.

The Commission therefore considered a number of options, ranging from maintaining the existing arrangements⁷, through to the proposal made by the evaluators based on national Government representatives, to mixed systems involving independent experts and Government representatives, and, finally, a model based on drawing on the expertise of the heads of the specialised bodies in the Member States which are charged with independently promoting racial equality and combating racial discrimination.

⁷ The current Management Board is strongly in favour of maintaining the existing structure, though reinforced through the creation of particular sub-committees which could be responsible for different aspects of the work.

Taking account of all the views expressed in the consultations, the Commission believes that the proposal made by the evaluators might be regarded by some stakeholders as an unacceptable interference in the independence of the Monitoring Centre. A mixed system, combining an independent expert and a Government representative from each Member State would be likely to be cumbersome and extremely expensive. A continuation of the current arrangements, whereby the emphasis is placed on the expertise of the members in the field of racism, would not solve the problems identified by the evaluators in relation to management control. However, the suggestion that the Boards should draw on the expertise of the already existing specialised bodies (whether those formally designated by the Member States under Council Directive 2000/43/EC or other public bodies with equivalent expertise) attracted broad support from stakeholders. The heads of these bodies (whether Chairpersons, Directors or Ombudsmen)

- necessarily have close contacts with national, regional and local authorities in their statutory roles within Member States;
- have expertise in the field of combating racism and a good understanding of the national context;
- have expertise in the management of a publicly funded organisation; and
- are required to be able to act independently from national governments.

The Commission believes therefore that a Management Board which is made up of such individuals will be able to bring to the Centre the necessary skills and expertise to ensure effective direction and control. It has therefore made a proposal to this effect.

Organisational Structure

The balance between administration and operational staff is broadly in line with the balance of staff at other agencies.

The balance of staff between data collection, research and publications is under the control of the Director of the Centre. The Monitoring Centre chose to build up its staff working on the dissemination of information and the establishment of the profile of the Centre at an early stage rather than concentrate on its data-gathering, research and analysis capability. The Commission believes that this decision delayed the benefits to be gained from the Centre and that it had some effect on the quality of some of its early outputs. As noted earlier, the Centre now intends to recruit further researchers, but maintains that it nevertheless needs a strong communication policy in order to disseminate the available information and to provide information efficiently to the Community, its Member States, other organisations and the media. The Member States have commented in the consultations with the Commission that they would appreciate a greater focus on contact with national governments and policy makers. The Commission agrees with the evaluators that more effort is required to improve the quality (rather than the quantity) of data collection to enable the Centre to offer products to the Community and the Member States which add value to the policy-making process. The changes proposed in the structure of the Management Board will help to address this issue, but they are not sufficient on their own. Closer co-operation with national authorities, particularly national statistical offices, is also required.

Development and Monitoring of Work Programmes

The Monitoring Centre has prepared a work programme for each of its years of operation, and this work programme has been approved by the Management Board, as required by the 1997 Regulation. Work programmes have been prepared on an annual basis, though an overall strategy paper was approved by the Management Board in June 2002. The evaluators note that the early work programmes did not clearly relate back to the Centre's objectives, making it difficult to see how individual projects fitted within the overall strategy framework, but that this problem has now been corrected. To look at the longer-term perspective of some of the Monitoring Centre's work – such as data collection – the evaluators recommend the development of a three-year programme, accompanied by detailed annual programmes. This would require the identification of strategic goals and allow the Management and Executive Boards to ensure that the Centre is following an agreed medium-term strategy.

The evaluators note that the Monitoring Centre has recently introduced a process for reporting to the Executive and Management Boards on the progress achieved in implementing its work programme. They conclude however that the reporting procedure could be developed further by more formal control of individual projects. The Executive Board has recently agreed that the progress reports should be more structured, reflecting the structure of the work programme itself, which should as far as possible contain indicators of success in order to turn the process into an effective management tool.

Finance and Administration

The Monitoring Centre faced considerable challenges in dealing with the financial and administrative responsibilities of establishing a Community agency. The reports of the Court of Auditors emphasise the scale of the difficulties it faced. The most recent report of the Court, covering the 2001 budget, continues to highlight a number of problems. Although overall the Court obtained reasonable assurance that the annual accounts for 2001 were executed in a reliable manner, it raises a number of points of concern:

- Appropriations carried over to 2002 (1,2 million euro) were twice that of the previous year. The Monitoring Centre attributes this to the late approval of the work programme by the Management Board and to the delays in implementing the RAXEN network of national experts. The Commission has, through its representative on the Management Board, expressed its concern about the size of carry-overs in previous years. Moreover, the delay in the approval of the work programme concerned only a few activities out of the overall programme. The Commission welcomes the Centre's decision to bring forward the presentation of its work programmes, ensuring that its work programme for 2003 was approved by the Management Board in November 2002.
- Over 40% of the payments relating to operating appropriations were made in the last three months of 2001, pointing to "inadequate monitoring" of the projects financed during the previous year. The Commission is concerned about the past capacity of the Centre to ensure careful management of projects and the associated cash flow.
- The nature of the changes made to the various contracts between the Centre and the National Focal Points during 2001 violated the principle of the specificity of commitments made from the Centre's budget.

- Retroactive financing was granted to a project which the Centre was then unable to provide details on.

The Commission welcomes that in its reply to the Court, the Monitoring Centre indicates that it has addressed or intends to address a number of these points in order to improve the overall management and execution of its budget. However, the Commission remains concerned by the level and nature of the Court's comments, and of other issues not included in the Court's reports but highlighted by the evaluators (such as public procurement procedures and contracts), which suggests that improvements to the control of financial and budgetary aspects are necessary. Although some of the points have already been addressed by changes made to the Regulation to bring it into line with the new Financial Regulation, the Commission believes that further measures are necessary to strengthen the Centre's capacity to deal effectively with these questions.

Recruitment and setting up the Centre

The evaluators note that the Monitoring Centre found the initial recruitment procedures cumbersome, in particular for the first additional staff members after the Director. They recommend that, in setting up an agency, it may be appropriate for the Commission to second staff for a period to provide assistance in following the correct procedures. The Commission has taken note of this recommendation.

Relationship with European Commission and other European Institutions

The Commission has one representative on the Management and Executive Boards of the Centre (out of 18 members) and has attributed overall responsibility for relations with the Monitoring Centre to the Directorate General for Employment and Social Affairs.

The Monitoring Centre's relationships with other Directorates General have developed as the responsibilities of the Community have developed, particularly with the entry into force of the Treaty of Amsterdam. The Centre deals with competences under the responsibility of other parts of the Commission, such as the DG for Justice and Home Affairs, the DG for Education and Culture and the DG for Research. The Centre also liaises with Directorates General with horizontal policy responsibilities such as the DGs for Enlargement, External Relations, Administration and Personnel and the Budget.

The broadening of the range of DGs which have a policy interest in the work of the Monitoring Centre has led the Commission to conclude that the way it is represented on the Board of the Centre should be reviewed. A proposal to this effect is included in the proposal to recast the Regulation establishing the Centre which accompanies this Communication.

The Monitoring Centre has also established increasingly productive relationships with the European Parliament and the Council of Europe. The Committee of the Regions has likewise taken an interest in the Monitoring Centre's work, reflecting the importance of action by local and regional authorities in combating racism and racial discrimination. The Commission very much welcomes the Committee's interest in the work of the Centre and its involvement in specific aspects of its work (such as the study and conferences on the integration of Islamic communities in certain cities). This practical involvement could usefully be enhanced.

3.6. Overall conclusions of the external evaluation

The framework used for the evaluation of the Monitoring Centre was based on five key issues: relevance, efficiency, effectiveness, utility and sustainability. The evaluators summarise their overall conclusions under these headings as follows.

Relevance: Are the working programme activities undertaken by the Monitoring Centre appropriate given its remit, wider policy objectives and the problems associated with racism and xenophobia in Europe?

Overall, the scope of work set out in the Monitoring Centre's objectives seems appropriate. The evaluators recommend, however, that the work programme concentrates more on the primary objective of data collection and analysis and have suggested other areas where less emphasis should be placed. They note that the Monitoring Centre will only succeed in achieving its primary objective with the co-operation of a number of partners including Member State governments, NGOs and others.

Efficiency: how well does the Monitoring Centre function as an organisation and to what extent do its outputs represent good value for money from the funding provided?

The evaluators suggest that the Centre is taking steps to ensure it is well run. They conclude that the various management arrangements they examined – financial control, business planning, personnel management, etc - appeared to be appropriate or to be in the process of being revised. They note however that changes may be necessary to the Board structure to bring about more effective decision-making – particularly in the light of EU enlargement (see above).

The evaluators found the wider question of value for money difficult to assess at this stage, because the Monitoring Centre had not yet produced major outputs in respect of its primary role to achieve comparable data. On this basis, they conclude that, given the delays in establishing the Monitoring Centre and the relatively modest amounts allocated to its primary role in the first three years, the Centre cannot be said to have demonstrated value for money for the €13 million it had committed until the end of 2001. They noted, however, evidence of a change in priorities in 2001 which may mean that the Monitoring Centre will begin to deliver outputs that reflect the substantial funding it has and continues to receive.

Effectiveness: to what extent does the Monitoring Centre achieve its specific and general objectives and contribute towards the achievement of wider EU and national policy goals relating to combating of racism and xenophobia? What is the added value of the EU level approach as opposed to separate actions taken at a national level?

The evaluators conclude that it is too early to say if the Monitoring Centre is effective in achieving its general objectives. The main outputs of the Centre are still being worked on and the effectiveness of the provision of comparable information cannot be measured until it is provided. However, the evaluators note that it is important that the Centre bears in mind the need to provide added value at a Community level – it should not just carry out functions which could be carried out by a Member State. Thus, the provision of Member State data which is not comparable is not enough – the Community value added lies in providing comparability, so that conclusions can be drawn between the effectiveness of different policies and practices in combating racism. A similar point can be made for other Monitoring Centre activities. This was a point which was strongly supported by Member States authorities in the consultations carried out by the Commission.

Utility: to what extent do the Monitoring Centre's outputs meet the needs of its target groups?

The evaluators note that the Monitoring Centre's objectives are considered important by its target groups but that further attention needs to be given to how the outputs meet the needs of stakeholders.

Sustainability: to what extent are the Monitoring Centre's activities likely to be sustainable in the longer term? Are the Centre's activities having a lasting effect in terms of contributing to increased awareness and understanding of racism and xenophobia in Europe?

Again, the evaluators conclude that it is too early to say whether the Centre has yet achieved much in this area, because of the lack of a track record in producing final outputs. The Commission's own consultations with the Member States suggest that the Centre has still to establish a solid profile in the field.

4. THE COMMISSION'S CONCLUSIONS

The Commission believes that the external evaluation has produced a valuable review of the performance of the Monitoring Centre and that it has, in particular, highlighted a number of points which need to be addressed. Its conclusion that the Centre has not demonstrated value for money for the €13 million it committed up to the end of 2001 is particularly disturbing. However, as the period covered by the evaluation ended in December 2001, the Secretariat of the Centre has already had the opportunity to comment on each of the recommendations made by the evaluators and it has already addressed, or begun to address a number of the questions which fall within its own responsibilities. Where appropriate the response of the Centre has been presented under the various points covered above.

In addition, the Management Board of the Centre has transmitted its own views to the Commission as part of the consultation process following the completion of the evaluation. The Management Board concentrated on the aspects related to the structure of the Management Board itself. It concluded that the Board should remain composed of one member per Member State, that it should continue to be composed of independent experts and that, to aid the efficiency of decision-making, it could establish separate sub-groups which would be responsible for preparing decisions in particular areas (e.g. work programme, studies and publications, financial and management issues). The Commission has taken note of these proposals and has also taken account of the views of civil society organisations active in the field of fighting racism.

The Commission concludes that the overall picture of the performance of the Centre is mixed. The Centre has made considerable progress in establishing from scratch an organisation which has the facilities and human resources it needs to perform its work. It has established a network of information providers in all Member States which tries to strike a balance between independence and objectivity. It has developed links to other organisations in the field (Council of Europe, OSCE) which are beginning to bear fruit. But it is clear that, in terms of its outputs so far, improvements in quality and value are still possible and necessary, particularly as regards the objectivity and comparability of data.

There is a strong political commitment across the European Union to combat racism and xenophobia and to improve the effectiveness of current policies and practices. To succeed, the efforts of the Union and the Member States, and the results of those efforts, need to be monitored and analysed. Monitoring racism in the European Union is an extremely complex

issue, surrounded by social, cultural and political sensitivities which make it extremely difficult for a new Agency to become immediately effective. But it is essential that the Centre meets this challenge and the Commission is committed to supporting the Centre in its efforts. After nearly five years of operation, the Centre needs to improve its effectiveness. It is taking steps to tighten its management and strengthen its strategic direction in co-operation with the Management Board. The Commission believes that the Centre needs to concentrate on its role as the data collection body foreseen by the Regulation, and that it should give less weight to establishing a profile as a campaigning organisation, which has caused some confusion as to its objectives. In this context, the Management Board has requested, in its consultations with the Commission, that the objectives and task of the Centre should be clarified and presented in a more logical fashion. The Commission has accepted this request and has made proposals accordingly.

The success of the Centre in working towards comparability depends on strong co-operation with the authorities of the Member States. This is a point recognised by all stakeholders in the Commission's consultations. The Commission proposes, therefore, to use this opportunity to sharpen the focus of the Regulation on co-operation between the Centre and national authorities to ensure that maximum value is obtained from the Union's investment. Fighting racism is a shared responsibility and it is right that the Regulation should reflect that fact.

To ensure added value at a European level, the Centre needs to align its priorities with those of the Member States and the EU institutions. The Commission very much welcomes the emphasis given by the Centre in its Annual Report for 2001 (published in December 2002) to problems of racial discrimination in employment, which fits well with ongoing work in the context of the Employment Strategy. The Commission calls on the Centre to continue and deepen this work and to broaden it to other areas, in particular those dealt with by the Social Inclusion Strategy. In both these areas, overall EU objectives are agreed between the Commission and the Council, reflecting a common understanding of the priority areas for action. The Commission proposes that the Regulation should better reflect the need for the Monitoring Centre to focus on these priorities.

Finally, parts of the original Regulation are no longer relevant to the day to day work of the Centre as they apply solely to the setting up phase. The Commission therefore proposes that the Regulation should be recast to remove those parts which are irrelevant and to amend others in the light of the experience of how the Centre has operated so far. The Explanatory Memorandum accompanying the proposal to recast the Regulation provides details of the Commission's thinking on each of the changes proposed.

EXPLANATORY MEMORANDUM

1. INTRODUCTION

The European Monitoring Centre on Racism and Xenophobia has been in existence since 1998. Article 16 of Council Regulation EC No 1035/97 establishing the Centre instructs the Commission to forward to the European Parliament, the Council, the EUROPEAN ECONOMIC AND SOCIAL Committee and the Committee of the Regions a progress report on the Centre's activities, together with proposals, if appropriate, to modify or extend its tasks, taking into account, in particular, the development of Community powers in the field of racism and xenophobia. The Commission's Communication on the Centre's progress accompanying these proposals serves the first purpose. The following proposals for recasting Regulation No 1035/97 take up the Council's invitation to amend or modify the tasks of the Centre.

2. JUSTIFICATION OF THE COMMISSION'S PROPOSALS

As noted in the Communication accompanying these proposals, the Commission has consulted a range of stakeholders, notably the existing Management Board and staff of the Centre, the Member States, members of the European Parliament and civil society organisations. The consultation focused in particular on the findings and recommendations made in the report of the external evaluators (see the Commission's Communication for further details) and on a range of ideas concerning the options for improving the governance of the Centre, a point to which the evaluators drew particular attention.

The Commission's proposals are intended to sharpen the focus of the Centre's work and means of operation, without amounting to radical reform or introducing change for its own sake. It is important that the changes should take account of the experience of the Centre so far, building as far as possible on what has been shown to work effectively and correcting deficiencies where necessary. The proposals are therefore limited to those which are necessary to ensure the Centre's sustainability and, in particular, its proper functioning. For that reason, the Commission has not put forward any of the more radical proposals supported by some stakeholders during its consultation exercise, such as transforming the Centre into a wider human rights agency or making it responsible for all forms of discrimination covered by Article 13 of the Treaty establishing the European Community (or the longer list of grounds found in Article 21 of the European Charter of Fundamental Rights). Nor has it followed the proposal put forward by some stakeholders to bring the data-collection function back into the Commission and to discontinue the Community subsidy to the Monitoring Centre.

The amendments proposed fall into the following categories:

- Those intended to support the Centre's objective of helping the Community and the Member States when they take measures against the various aspects of racism and xenophobia, in particular by promoting closer co-operation;
- Those intended to strengthen the Centre's focus on the collection of data and in particular to underline the importance of working towards comparability between the Member States, where the greatest added value of the Centre lies;

- Those intended to adapt the governance of the Centre to the demands placed on it, including in the light of the enlargement of the Union;
- Those intended to provide greater clarity over the Centre's objectives, with a more logical presentation of the tasks designed to meet them, while leaving the Centre greater flexibility in how it organises its activities;
- Those intended to adapt the fields within which the Centre operates to the developments in competence of the Community following the entry into force of the Amsterdam Treaty, including action taken in the field of racism under Article 13 TEC;
- Those which codify the amendments to the Regulation already adopted by the Council in the light of the entry into force of the new Financial Regulation⁸;
- Those intended to resolve a limited number of legal and other uncertainties which have arisen during the application of the original Regulation.

The changes proposed will have no impact on the overall budget of the Centre, though they may require a review of the allocation of financial and human resources between different activities, with a greater emphasis, for example, on data collection activities and on co-operation with the Member States and the Community Institutions. This coincides entirely with the findings and recommendations of the external evaluators.

To meet the objectives of the changes highlighted above, the Commission is proposing a large number of small but important amendments. A relatively large proportion of the articles is therefore affected. In the light of this, the Commission proposes that the Regulation should be recast rather than simply modified, thus making it possible for the users of the Regulation to have access to a consolidated text, bringing together the original version with the modifications already adopted by the Council Regulation of 18 June 2003 and those proposed specifically in this context. The presentation of the text therefore follows the guidelines set out in the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts⁹.

3. SUBSIDIARITY AND PROPORTIONALITY

The objective of the Monitoring Centre is to support the Community and the Member States when they take measures or formulate courses of action within their respective spheres of competence. The role of the Centre is to collect and analyse data and to present its findings in a way which is most helpful to the EU Institutions and to the Member States in achieving their objectives. It is independent in providing its advice, but it is not designed to act in the place of the responsible actors to combat racism and xenophobia. By acting at European level, it is designed to provide information and analysis which enable an assessment of the effectiveness of policies within and between Member States and so to add value in terms of the design and targeting of policies.

In this way, the Monitoring Centre conforms to the principles of subsidiarity and proportionality. The proposals for modification to the Regulation reinforce these elements by

⁸ Council Regulation (EC) No XXXX/03, (not yet published in OJ)

⁹ OJ C 77, 28. 03. 2002 p.1

highlighting the need to work closely with the Member States and the Commission and to take account of the priorities fixed at EU level in the definition of the Centre's work programmes.

4. LEGAL BASE

Articles 284 and 308 of the Treaty establishing the European Community (in their former numbering of 213 and 235) provided the legal base for the existing Regulation.

The Commission believes that Article 13 TEC, which provides powers to take appropriate action to combat discrimination based on, among other things, racial and ethnic origin, now gives the legal basis for covering important aspects of the phenomenon of racism and xenophobia. However it is not sufficient on its own to deal with all aspects of racism, xenophobia and related intolerance, notably those which go beyond. Therefore, the Commission believes that, in order to ensure a comprehensive approach by the Centre, Article 308 TEC should be used in conjunction with Article 13 TEC as the legal base for the proposal. The reference to Article 13 has no impact on the decision-making procedure as the proposal cannot be regarded as an "incentive measure" under Article 13 paragraph 2.

Article 284 TEC was not proposed by the Commission as part of the legal base for its original proposal, but was added by the Council during negotiations. Article 284 provides that the Commission may, within the limits and the under conditions laid down by the Council in accordance with the provisions of the Treaty, collect any information and carry out any checks required for the performance of the tasks entrusted to it. The Commission accepted this addition by the Council. The Commission can therefore accept that this article should also be used for the recast Regulation, in conjunction with Articles 13 and 308.

5. EXPLANATION OF THE DIFFERENT ARTICLES OF THE PROPOSED RECAST REGULATION

This proposal maintains the overall structure of the existing Regulation. The following commentary presents those articles which the Commission proposes should be modified. The recitals have been modified where necessary in accordance with the changes proposed to the body of the Regulation. The recitals have also been reviewed to bring them closer to the purpose of setting out concise reasons for the chief provisions of the enacting terms. This has led to the deletion of a number of purely declaratory recitals found in the original Regulation.

Article 2

Article 2 has been split to separate the tasks of the Centre (now in Article 3) from the objectives, in order to provide a clearer presentation. Small textual changes are also proposed, which are intended to clarify that:

- The primary recipients of the information collected by the Centre should be the relevant institutions and authorities of the Community and the Member States responsible for combating racism and xenophobia; and that
- The scope of the phenomena of racism and xenophobia should be interpreted broadly to encompass related intolerance. This change of terminology recognises the increasing importance of phenomena such as Islamophobia, particularly since 11 September 2001 and the current political situation in the

Middle East, and mirrors the responsibilities of the Council of Europe (and notably its European Commission on Racism and Intolerance), thus promoting greater synergies.

Article 3

This Article now contains the principal tasks of the Centre. It makes clear that the tasks are intended to serve the objective defined in Article 2 and that the Centre's main activity is the collection of information. In addition, the Article changes the order of the original lists and now separates the tasks into three distinct groups of activities:

- collecting and studying data (paragraphs (a) to (d));
- securing the contribution of civil society in all its forms (paragraph (e));
- using the information to support the Community and the Member States (paragraphs (f) and (g)) and the wider public (paragraph (h)).

The following changes are proposed:

- Paragraph (a): the external evaluators and the Member States recognise that while the comparability of data remains the most important factor for the added value of the Centre, it has not so far proved possible to provide truly comparable data. To do so will require strong co-operation between the Centre and the authorities of the Member States, in particular the National Statistical Offices. The proposed change underlines the importance of efforts to achieve comparability and of co-operation with the Commission and the Member States.
- Paragraphs (b) and (i): the proposed amendments underline the importance of Raxen as the primary data collection instrument of the Centre, anchoring the network in the Member States. The amendments also take over elements from the previous Article 4, most of which is now redundant and which is therefore proposed for deletion.
- Paragraph (d): the changes to this paragraph recognise that the Centre cannot and should not carry out all the necessary studies on its own, but should rather co-operate with other bodies and organisations to encourage the carrying out of research studies which will be of a general European interest in the field of racism and xenophobia. The amendment also takes account of the fact that the Centre has in the past accepted requests for work from EU institutions and others which have not fitted well with its overall work programme and which have therefore deflected it from its primary objective. The amendment requires the Centre to accept such requests only where they are compatible with the work programme agreed by the Executive and Management Boards.
- Paragraph (e): the existing Regulation requires the Centre to “facilitate and encourage the organization of regular round tables” within the Member States. The external evaluators question the added value of this activity, noting that it requires considerable investment by the Centre in terms of human (and occasionally financial) resources and remarking that the organization of such events might fall better to the responsibility of the national, rather than European, authorities. The evaluators conclude that the Centre should focus

rather on the organisation of European Round Tables (which Centre has also held in the past). The Consultation with the Member States suggested that they agree with this conclusion. The proposed amendment therefore takes this conclusion, while leaving flexibility to the Centre in how it should promote co-operation with civil society at European level, while continuing to allow the possibility of participation in national events by the Centre's staff.

- Paragraph (f): this amendment simply codifies the change introduced by Council Regulation (EC) No XXX/03 following the decision that all agencies should be required to produce a report on their activities by the same date (15 June) each year. In the case of the Monitoring Centre, which also has to produce a report on the situation of racism and xenophobia in the Union and where the data often take a considerable time to be collated within the Member States, the simplest approach is to separate the two reports.
- Paragraph (h): this amendment overcomes an ambiguity in the original text (“open”), thus clarifying that the documentation resources may be virtual rather than physical and recognises that other such documentation centres already exist (notably at the level of the Council of Europe and other international organisations).

Article 4

The amendments to this article underline the need to add value by focusing on the EU priorities agreed by Member States (such as in the fields of employment and social inclusion) and to avoid duplication with other sources of information and to take account of information provided from national sources. The changes to paragraph 3 adapt the field of operation of the Centre to the modified competence of the Community in the area of racism and xenophobia, particularly following the entry into force of the Treaty of Amsterdam and Council Directive 2000/43/EC implementing the principle of equal treatment irrespective of racial or ethnic origin, adopted under Article 13 TEC and the inclusion of Title IV on asylum, immigration and other policies related to the free movement of persons. Sub-paragraphs (a) and (b) therefore update the previous reference to free movement of persons to take account of the broadened competence in the field of immigration and asylum; sub-paragraph (c) is merely a simplified text; sub-paragraphs (e) and (f) take account of the material scope of Council Directive 2000/43/EC. As stated in the accompanying Communication, the Commission, in common with other stakeholders, believes that the existing wording of the article allows the Centre to focus on aspects of racial violence and incitement to racial hatred (and where legislative action has already been taken under the Treaty on European Union).

Finally, a new paragraph clarifies that the Centre may enter into contracts for the performance of studies and research, in addition to the contracts for data collection with the Raxen network. In addition, it clarifies a legal uncertainty which had arisen in the application of the existing Regulation over the possibility for the Centre to award grants, in particular to international organisations, for activities of common interest.

Former Article 4

The former Article 4, requiring the Member States to provide information to the Centre about relevant bodies in their territories to enable the Centre to establish the Raxen network is now redundant and so has been deleted. Where appropriate, minor provisions have been incorporated into Article 3 above.

Former Article 5

Regulation (EC) No 45/2001¹⁰ of the European Parliament and of the Council of 18 December 2000 concerns the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. As the Monitoring Centre is a Community body, Regulation (EC) No 45/2001 applies to the data held and processed by the Monitoring Centre. Former Article 5 is therefore no longer necessary and can be deleted. The recital which accompanied it has been adapted accordingly.

New Article 5

This article is a codification of the amendment proposed introduced by the Council Regulation of 18 June 2003.

Article 6

Unchanged

Article 7

A small change to this article clarifies the potential for ad hoc co-operation outside the framework of formal agreements negotiated by the Community

Article 8

The amendments to this article flow from the findings of the evaluators and the views of stakeholders consulted by the Commission in preparation for this proposal.

Size of the Management Board

The evaluators noted that the Management Board already consisted of 18 members and that, with enlargement, this was set to rise to 28. They noted that the size of the Board already made decision-making difficult and that the threshold for decisions – a two-thirds majority – was an unnecessarily high hurdle for many decisions. However, they also concluded that the sensitivity of the issue of racism and xenophobia was such that all Member States should feel that they were represented on the Management Board.

The Commission agrees with these points. It concludes, therefore, that all Member States should be represented on the Management Board, but that decision-making should be eased by reducing the majority required for decisions and by devolving as many as possible of the decisions to a strengthened Executive Board (see below). So the majority required is reduced from two-thirds to an absolute majority of the total number of members of the Board, with the chairman holding the casting vote. The Commission believes that an absolute majority, rather than a simple majority (that is a simple majority of those members present), is sufficient to protect minority interests in the Board. The most important decisions to be taken by the Centre – that is the long-term strategic direction, the medium-term, three year work programme, the annual report on the situation regarding racism and xenophobia, the Centre's conclusions and opinions and the appointment of and exercise of disciplinary authority over the Director (this text brings the Regulation into line with the approach adopted for the newer Agencies) – should be reserved for decision by the Management Board, while the remaining

¹⁰ OJ L 8, 12. 1. 2001, p. 1

decisions should be taken by the strengthened Executive Board to facilitate the decision-making process.

Finally, the Commission proposes that the Management Board in its new form should meet at least once per year, rather than the twice foreseen by the current Regulation. This reflects that fact that more decisions will in future be taken by the strengthened Executive Board.

Membership

The evaluators concluded that the existing Management Board, consisting of independent experts in the field of racism and xenophobia from all the Member States, brought considerable added value to the Centre in terms of the substance of the Centre's work. However, they concluded also that the criteria for the appointment of members of the Board (that is, that they should be persons with appropriate experience in the field of human rights and analysis of racist, xenophobic and anti-Semitic phenomena) did not necessarily qualify them for many of the responsibilities given to the Board by the Regulation, especially in the field of management. The evaluators concluded that a better solution would be for the Board to consist of representatives of Member State Governments, supported by a scientific committee made up of the independent experts now on the Board.

As noted in the accompanying communication, the Commission accepts the evaluators' analysis but does not reach the same conclusion regarding the proposed solution to the difficulty. A large majority of the stakeholders consulted by the Commission, from the existing Board through to some Member State Governments, believed that the Management Board played a vital role in ensuring the independence of the Monitoring Centre. At the same time, many felt that the evaluators' associated finding, that the Centre's links with the authorities of the Member States should be strengthened, was also correct. The Commission therefore sought possible solutions which would meet these two conditions.

The Commission recalls that Council Directive 2000/43/EC implementing the principle of equal treatment irrespective of racial or ethnic origin must be transposed into national law by 19 July 2003. Article 13 of the Directive¹¹ requires each Member State to designate a body or bodies for the promotion of racial equality by that date. The Directive also requires that these bodies should be able to act independently of Government and to produce reports and recommendations.

The persons responsible for the operation of these bodies in the Member States will be both experts in racism and xenophobia and, necessarily, have experience of managing publicly funded bodies. The Commission proposes therefore that the Centre should draw on the skills and experience of these individuals and that the Member States should appoint these persons to the Management Board of the Centre. Not only will these persons bring the appropriate mix

¹¹ Article 13 of Council Directive 2000/43/EC reads:

1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights.
2. Member States shall ensure that the competences of these bodies include:
 - without prejudice to the right of victims and of associations, organisations or other legal entities referred to in Article 7(2), providing independent assistance to victims of discrimination in pursuing their complaints about discrimination,
 - conducting independent surveys concerning discrimination,
 - publishing independent reports and making recommendations on any issue relating to such discrimination.

of skills and experience to the task, but their independence of action is guaranteed at national level and they have the necessary links to national Governments to be able to take account of national policy priorities and to influence Government policy in the fight against racism and xenophobia. Moreover, there are considerable benefits to be gained by the bodies themselves through their membership of a European network in terms of mutual support and the direct exchange of experience and good practice. The Commission notes that some Member States already appoint the heads or senior members of their bodies to promote racial equality to the Management Board of the Centre.

However, the Commission recognises the variety of approaches taken in the Member States and accepts that there may be equivalent bodies or organisations in the Member States, in addition to those formally designated by the Member States under the terms of Council Directive 2000/43/EC. It proposes therefore that Member States should also be able to appoint the heads of these other bodies if they so wish.

This proposal also has implications for the term of office of the members of the Board. If it was reasonable to limit the mandate of the independent experts under the current system to two terms of three years, that no longer makes sense for members who are appointed on the basis of the positions they hold at national level. The Commission proposes, therefore, that the members so appointed should have no fixed term of office, but that they should hold the position until such time as their responsibilities change at national level, in which case the Member State concerned would be required to inform the Commission and the Director of the Centre and to appoint a new member.

Finally, the Commission proposes that, to maintain its relative importance in an enlarged Management Board and to ensure that its separate responsibilities in the fields of racial discrimination and in the criminal aspects of racism and xenophobia are effectively represented, it should have two seats on the Board. It proposes also that the Management Board should be able to invite to its meetings as observers persons appointed by the candidate countries (that is, currently, Bulgaria, Romania and Turkey). The Commission believes that this will be of assistance to those countries in their path towards membership of the Union.

Article 9

In the light of the findings of the external evaluators and the changes proposed to the Management Board, the Commission proposes to strengthen the Executive Board both in terms of its numbers and of its responsibilities. The Executive Board should be composed of a maximum of 10 persons, including the Chairman, Vice-Chairman of the Management Board and the two representatives of the Commission. This number secures a large enough membership to ensure a spread of views, while maintaining a group small enough to promote effective decision-making. Decisions of the Executive Board should be taken in the same way as on the Management Board, that is by an absolute majority with the Chairman holding the casting vote. The Commission proposes to leave the decision as to whether to include the person appointed by the Council of Europe in the Executive Board to the Management Board itself, and not to impose this in all cases.

The Executive Board should in particular be responsible for determining the annual work programme in the framework of the medium-term programme agreed by the Management Board, being responsible for the process of selecting the Director, adopting the draft and final budgets and approving the accounts. Following the adoption of the Council Regulation of 18 June 2003, responsibility for giving discharge for the budget to the Director has passed to the European Parliament.

The Commission proposes to remove from the Regulation the provision preventing the member appointed by the Council of Europe from voting on issues related to the annual draft and final budgets and the approval of the accounts. In practice, as an independent member, the member appointed by the Council of Europe has the same status as all other members and there is no reason why he or she should not be involved in these aspects. Moreover, this is an entirely artificial distinction, as the decisions on the work programme, in which the Council of Europe member is involved, have a direct impact on the budgetary issues.

Article 10

The amendments to this article clarify the relationship between the Director and the Executive and Management Boards and add a responsibility to ensure that the performance of the Centre is effectively monitored and evaluated, with a consequent duty to report to the Management Board on the results of the evaluation.

The Commission recalls that it made proposals, in the context of its proposals to adapt the Regulations establishing the agencies to the new Financial Regulation, to harmonise the procedures for the appointment of the Directors of the agencies. In the event, the Council decided not to pursue these amendments in that context. The Commission intends, therefore, to bring forward separate proposals in the near future to deal with this question.

Article 11

Unchanged.

Articles 12 and 13

These articles are a codification of the amendment already introduced by the Council Regulation of 18 June 2003.

Articles 14 to 16

These articles have simply been renumbered.

Article 17

This amendment brings the reporting arrangements up to date by requiring the Commission to report on the performance of the Centre three years after the entry into force of the Regulation and every five years thereafter, taking into account the evaluations carried out under Article 10(e).

Article 18

This new article is a standard text in any recast instrument. It repeals the Regulation which is being recast (in this case Council Regulation (EC) No 1035/97) and provides that any references to the repealed Regulation should be read as being to the recast version. It also makes the link to the correlation table in the annex.

Article 19

Now that the seat of the Centre has been agreed upon, the current article on the entry into force of the Regulation is no longer appropriate. This article therefore provides that the Regulation will enter into force on the twentieth day following its publication in the Official Journal.

Proposal for a

COUNCIL REGULATION**establishing a ~~on the~~ European Monitoring Centre on Racism and Xenophobia
(Recast version)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular
⇒ Article 13, paragraph 1, ⇐ Article ~~212~~ 284 and Article ~~225~~ 308 thereof,Having regard to the proposal from the Commission¹²,Having regard to the opinion of the European Parliament¹³,Having regard to the opinion of the European Economic and Social Committee¹⁴,

Having regard to the opinion of the Committee of the Regions,

Whereas:

- (1) Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia¹⁵ has been substantially amended¹⁶. Since further amendments are to be made, it should be recast in the interests of clarity.
- (2) The Commission has produced a report on the activities of the European Monitoring Centre on Racism and Xenophobia, taking into account the findings of an external evaluation¹⁷, which underline the desirability of making certain amendments to Council Regulation (EC) No 1035/97.

¹² OJ C [...].

¹³ OJ C [...].

¹⁴ OJ C [...].

¹⁵ OJ L 151, 10.6.1997, p. 1.

¹⁶ [COM(2002) 406 final].

¹⁷ See http://europa.eu.int/comm/employment_social/fundamental_rights/pdf/origin/Monitoring_Centre_eval2002_en.pdf.

↓ 1035/97 (adapted)

- ~~(1) The Community must respect fundamental rights in formulating and applying its policies and the legal acts which it adopts. In particular, compliance with human rights constitutes a condition of the legality of Community acts.~~
-

↓ 1035/97 Recital 2 (adapted)
⇒ new

- (3) The collection and analysis of objective, reliable and comparable information on the phenomena of racism, xenophobia, ~~and anti-Semitism~~ ⇒ and related intolerance, such as Islamophobia and other forms of religious intolerance, ⇐ are therefore necessary at Community level to provide full information to the Community on those phenomena so as to enable the Community to meet its obligation to respect fundamental rights and to enable it to take account of them in formulating and applying whatever policies and acts it adopts in its sphere of competence.
-

↓ 1035/97 (adapted)

- ~~(3) The importance of respect for human rights has been stressed on many occasions by the Community institutions and the Member States.~~
- ~~(4) In a Joint Declaration of 5 April 1977¹⁸ the European Parliament, the Council and the Commission stressed «the prime importance they attach to the protection of fundamental rights» and declared that «in the exercise of their powers and in pursuance of the aims of the European Communities they respect and will continue to respect those rights».~~
- ~~(5) On 11 June 1986, the European Parliament, the Council, the representatives of the Member States meeting within the Council and the Commission adopted a Joint Declaration on racism and xenophobia¹⁹ stressing the «importance of adequate and objective information and of making all citizens aware of the dangers of racism and xenophobia, and the need to ensure that all acts or forms of discrimination are prevented or curbed».~~
- ~~(6) On 29 May 1990 the Council and the representative of the governments of the Member States, meeting within the Council, adopted a Resolution on the fight against racism and xenophobia²⁰.~~
- ~~(7) On 5 October 1995 the Council and the representatives of the governments of the Member States, meeting within the Council, adopted a Resolution on the fight against racism and xenophobia in the fields of employment and social affairs²¹ and on 23~~

¹⁸ ~~OJ C 103, 27. 4. 1977, p. 1.~~

¹⁹ ~~OJ C 158, 25. 6. 1986, p. 1.~~

²⁰ ~~OJ C 157, 27. 6. 1990, p. 1.~~

²¹ ~~OJ C 296, 10. 11. 1995, p. 13.~~

~~October 1995 they adopted a Resolution on the response of educational systems to the problems of racism and xenophobia²².~~

↓ 1035/97 Recital 8

⇒ new

- (4) On 15 July 1996 the Council, acting on the basis of Article K.3 of the Treaty on European Union, adopted a Joint Action concerning action to combat racism and xenophobia²³. ⇒ The Treaty of Amsterdam strengthened the ability of the Union to promote police and judicial co-operation to prevent and combat racism and xenophobia. ⇐
-

↓ 1035/97 (adapted)

- ~~(9) On 23 July 1996 the Council and the representatives of the governments of the Member States, meeting within the Council, adopted a Resolution concerning the European Year against Racism (1997)²⁴.~~
-

↓ 1035/97 Recital 10

- (5) The European Council meeting in Corfu on 24 and 25 June 1994 determined to step up efforts to define, at European Union level, a global strategy aimed at combating acts of racist and xenophobic violence. To this end it set up a Consultative Commission charged with making recommendations on combating racism and xenophobia.
-

↓ 1035/97 Recital 11

- (6) The European Council meeting in Cannes on 26 and 27 June 1995 called on the Consultative Commission to extend its work in order to study, in close cooperation with the Council of Europe, the feasibility of a European Monitoring Centre on Racism and Xenophobia.
-

↓ 1035/97 Recital 12

- (7) The conclusions of this feasibility study were submitted to the European Council meeting in Florence on 21 and 22 June 1996.

²² ~~OJ C 312, 23. 11. 1995, p. 1.~~

²³ OJ L 185, 24. 7. 1996, p. 5.

²⁴ ~~OJ C 237, 15. 8. 1996, p. 1.~~

↓ 1035/97 Recital 13

- (8) The European Council meeting in Florence reaffirmed the Union's determination to combat racism and xenophobia with the utmost resolve and approved the principle underlying the establishment of a European Monitoring Centre.
-

↓ 1035/97 Recital 14 (adapted)
⇒ new

- (9) In order to carry out this task of collecting and analysing information on racism, xenophobia, ~~and~~ anti-Semitism, ⇒ and related intolerance ⇐ as well and as independently as possible and in order to maintain close links with the Council of Europe, it is necessary to establish an autonomous body, the European Centre on Racism and Xenophobia (Centre), at Community level with its own legal personality.
-

↓ 1035/97 Recital 15 (adapted)
⇒ new

- (10) The phenomena of racism, xenophobia, ~~and~~ anti-Semitism ⇒ and related intolerance ⇐ involve many complex, closely interwoven aspects which are difficult to separate. As a result, the Centre must be given the overall task of collecting and analysing information concerning several of the Community's spheres of activity. The Centre's task will concentrate on areas in which sound knowledge of those problems is particularly necessary for the Community in its activities.
-

↓ new

- (11) The Community has also to contribute to the progressive establishment of an area of freedom, security and justice

- (12) The Council has adopted Directive (EC) 2000/43 implementing the principle of equal treatment irrespective of racial or ethnic origin, which requires the Member States to take measures to prohibit discrimination on the grounds of racial and ethnic origin in the fields of employment and occupation, education, social protection, social advantages and access to and the supply of goods and services.
-

↓ 1035/97 Recital 16

- (13) Racism and xenophobia are phenomena which manifest themselves at all levels within the Community: local, regional, national and Community, and therefore the information which is collected and analysed at Community level can also be useful to the Member States' authorities in formulating and applying measures at local, regional and national level in their own spheres of competence.

↓ 1035/97 Recital 17

- (14) Therefore the Centre will make the results of its work available to both the Community and the Member States.

↓ 1035/97 Recital 18

- (15) In the Member States, there are numerous outstanding organizations which study racism and xenophobia.

↓ 1035/97 Recital 19

- (16) The coordination of research and the creation of a network of organizations will enhance the usefulness and effectiveness of such work.

↓ new

- (17) The Management Board of the Centre should consist of independent persons with the necessary expertise in the fight against racism and experience of running relevant public bodies; to promote effective decision-making, certain responsibilities should be exercised by a strengthened Executive Board.

↓ 1035/97 Recital 20

⇒ new

- (18) In order to enhance cooperation and avoid overlap or duplication of work, the tasks assigned to the Centre pre-suppose close links with the Council of Europe, which has considerable experience in this field, as well as cooperation with other organizations in the Member States and international organizations which are competent in the fields related to the phenomena of racism and xenophobia. ⇒ The Management Board should also be able to invite observers from the Candidate Countries to its meetings. ⇐

↓ 1035/97 Recital 21

- (19) The Centre will itself be able to decide on the administrative arrangements for cooperating with those organizations. On the other hand, it is for the Community to conclude, on behalf of the Centre, an agreement with the Council of Europe for the purpose of establishing close cooperation between the latter and the Centre. The same will apply to the conclusion of any agreements with other international organizations or with third countries which may prove necessary for the Centre to carry out its tasks.

↓ 1035/97 Recital 22 (adapted)

~~Whereas the protection of personal data which are processed and exchanged by the Centre must be ensured in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;~~

↓ new

(20) The European Parliament and the Council have adopted Regulation (EC) No 45/2001²⁵ of 18 December 2000 concerning the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. This Regulation applies directly to the Centre, making the previous provisions on the processing of personal data redundant.

↓ 1035/97 Recital 23

(21) The Centre must enjoy maximum autonomy in the performance of its tasks.

↓ new

(22) To have maximum impact on the policies and practices of the Union and the Member States, the Centre should, without prejudice to its autonomy, take account in its work programmes of the priorities of the Community.

(23) Co-operation with the relevant authorities of the Member States is essential to promote the collection of comparable data with maximum added value at European level.

↓ 1035/97 (adapted)

(24) The Court of Justice must have jurisdiction to hear and determine, pursuant to an arbitration clause, disputes regarding the contractual liability of the Centre as well as disputes on the non-contractual liability of the Centre. The Court must also have jurisdiction to rule on actions brought against the Centre under the conditions laid down in Article 173 ~~230~~ 230 of the Treaty.

²⁵ OJ L 8, 12. 1. 2001, p.1.

↓ 1035/97 (adapted)
⇒ new

- (25) This Regulation ~~might~~ ⇒ should ⇐, where appropriate, be ~~adapted~~ ⇒ reviewed ⇐ on expiry of a three-year period ⇒ and every five years thereafter ⇐, with a view to deciding whether or not to modify or extend the Centre's tasks, more especially depending on any changes in Community powers.

↓ 1035/97 (adapted)

- ~~(26) The powers provided for in Article 213 of the Treaty to collect and analyse information on several of the Community's areas of activity do not permit such information to be collected through a specialized, autonomous body with its own legal personality. Article 235 must therefore also be used as the legal basis for the establishment of such a body and to enable the information to be transmitted to Community institutions and bodies and to the Member States.~~

↓ new

- (26) Article 13, paragraph 1 of the Treaty empowers the Council to take appropriate action to combat discrimination on a number of grounds, including racial and ethnic origin and religion and belief. However, the phenomena of racism and xenophobia are wider than racial and ethnic discrimination alone, which makes it necessary to refer also to Article 308 of the Treaty in order to ensure a comprehensive approach of the Centre. These Articles provide, in conjunction with Article 284 of the Treaty, the competence to collect and analyse information on the phenomena of racism and xenophobia through a specialized, autonomous body with its own legal personality.

↓ new

- (27) This Regulation respects the fundamental rights and observes the principles recognised in particular by the European Convention on Human Rights, in particular Articles 10, 11 and 14 thereof, and by the Charter of Fundamental Rights of the European Union, and notably Chapters II and III thereof,

↓ 1035/97

HAS ADOPTED THIS REGULATION:

Article 1

A European Monitoring Centre on Racism and Xenophobia (hereinafter referred to as «the Centre») is hereby established.

↓ 1035/97 (adapted)

⇒ new

Objective ~~and tasks~~

~~1.~~ The prime objective of the Centre shall be to provide ⇒ the relevant institutions and authorities of ⇐ the Community and its Member States, more especially within the fields referred to in Article ~~4~~ ~~3~~ (3), with objective, reliable and comparable data at European level on the phenomena of racism, xenophobia, ~~and~~ anti-Semitism ⇒ and related intolerance ⇐ in order to help them when they take measures or formulate courses of action within their respective spheres of competence. ⇒ In so doing, the Centre shall contribute to the development of the Union as an area of freedom, security and justice. ⇐

Article 3

Tasks

~~2.~~ ~~1.~~ ⇐ To meet the objective set in Article 2 ⇐, ~~the~~ ~~Centre~~ shall ~~study~~ ⇒ gather information on ⇐ the extent and development of the phenomena and manifestations of racism, xenophobia, ~~and~~ anti-Semitism ⇒ and related intolerance ⇐, analyse their causes, consequences and effects and examine examples of good practice in dealing with them.

To these ends, ~~in order to accomplish its tasks~~, the Centre shall:

(a) ⇐ ⇒ in co-operation with the Commission and the Member States, ⇐ develop methods to improve the comparability, objectivity and reliability of data at Community level ⇐;

(b) set up and coordinate a European Racism and Xenophobia Information Network (Raxen) ⇐;

~~(c) collect, record and analyse information and data, including data resulting from scientific research communicated to it by research centres, Member States, Community institutions, international organizations particularly those referred to in Article 4 (1) and non-governmental organizations;~~

~~(b) build up cooperation between the suppliers of information and develop a policy for concerted use of their databases in order to foster, where appropriate at the request of the European Parliament, the Council or the Commission, the wide distribution of their information;~~

~~(d) carry out~~ ⇒, cooperate with or encourage ⇐ scientific research and surveys, preparatory studies and feasibility studies, ⇐ including, ⇐ where appropriate ⇒ and compatible with its annual work programme ⇐, at the request of the European Parliament, the Council or the Commission. ~~In doing so, the Centre shall take account of already existing studies and other activities (conferences, seminars, ongoing research, publications) especially of those centres and organizations with~~

~~which it is linked in the European Racism and Xenophobia Information Network (Raxen), in order to avoid duplication and guarantee the best possible use of resources. It shall also organize meetings of experts and, whenever necessary, set up ad hoc working parties;~~

~~(d) set up documentation resources open to the public, encourage the promotion of information activities and stimulate scientific research;~~

~~(e) formulate conclusions and opinions for the Community and its Member States;~~

⊗ (e) ⊗ ⇒ co-operate with civil society, including non-governmental organisations, ⊗
⊗ the social partners, research centres and representatives of competent public
authorities and other persons or bodies involved in dealing with racism and
xenophobia, ⊗ ⇒ in particular by promoting dialogue at European level and
participating where appropriate in discussions or meetings at national level ⇐;

~~(f) develop methods to improve the comparability, objectivity and reliability of data at Community level by establishing indicators and criteria that will improve the consistency of information;~~

↓ Regulation XX/03 of 18 June
2003, Article 1(1) (adapted)

⊗ ⊗ (f) ⊗ publish an annual report on the situation regarding racism and xenophobia in
the Community, also highlighting examples of good practice, and an annual report on
the Centre's own activities;

↓ 1035/97 (adapted)
⇒ new

⊗ (g) formulate conclusions and opinions for the Community and its Member States; ⊗

~~(h) set up and coordinate a European Racism and Xenophobia Information Network (Raxen) consisting of the Centre's own central unit, which shall cooperate with national university research centres, non-governmental organizations and specialist centres set up by organizations in the Member States or international organizations referred to in Article 7;~~

⊗ (h) set up documentation resources accessible to the public, ⊗ ⇒ promoting co-
operation and avoiding duplication with other sources of information ⇐;

~~(i) facilitate and encourage the organization of regular round-table discussions or meetings of other existing, standing advisory bodies within the Member States, with the participation of the social partners, research centres and representatives of competent public authorities and other persons or bodies involved in dealing with racism and xenophobia. The Centre shall take the findings of the national round-table discussions or of other existing, standing advisory bodies into account in its annual report on the situation regarding racism and xenophobia in the Community.~~

↓ new

2. The Network referred to in point (b) shall constitute the prime source of information for the Centre. It shall be designed so as to ensure the provision of objective, reliable and comparable information, drawing on the expertise of a variety of organizations in each Member State and taking account of the need to involve national authorities in the collection of data

↓ 1035/97 Article 3 (adapted)

Article 4

Working methods and areas of activity

1. The Centre shall carry out its tasks within the competencies of the ~~Communities~~ ☒ Community ☒ and in the light of the objectives adopted in its annual programme and with due regard to the available budgetary resources.

↓ 1035/97
⇒ new

2. In pursuing its activities, the Centre shall, in order to avoid duplication ⇒ and to guarantee the best possible use of resources ⇐, take account of ⇒ existing information from whatever source and in particular of ⇐ activities already carried out by the Community institutions and by other institutions, bodies and competent ⇒ national and ⇐ international organizations, particularly the Council of Europe, and shall ensure through close cooperation with the Council of Europe that it provides added value. ⇒ In this context, it shall take particular account of the priorities of the Community. ⇐

3. The information and data to be collected and processed, the scientific research, surveys and studies to be conducted or encouraged shall be concerned with the extent, development, causes and effects of the phenomena of racism and xenophobia, particularly in the following fields:

↓ 1035/97 (adapted)
⇒ new

(a) ⇒ entry, residence and ⇐ free movement of persons ~~with~~ within the Community;

↓ new

(b) immigration and asylum

↓ 1035/97 (adapted)
⇒ new

- (~~b~~ ☒ c ☒) ~~information and television broadcasts and the other media and means of communication ☒ media ☒~~;
- (~~e~~ ☒ d ☒) education, vocational training and youth;
- (~~d~~ ☒ e ☒) social policy including employment ⇒ , social security and healthcare ⇐ ;
- (~~e~~ ☒ f ☒) ~~free movement of goods~~ ⇒ access to and supply of goods and services ⇐ ;
- (~~f~~ ☒ g ☒) culture.
-

⇐ new

4. The Centre may enter into contractual relations, in particular subcontracting arrangements, with other organizations, in order to accomplish any tasks which it may entrust to them. The Centre may also award grants to promote appropriate cooperation and joint ventures, in particular to the international organizations referred to in Article 7.

↓ 1035/97 (adapted)

~~Article 4~~

~~European Racism and Xenophobia Information Network (Raxen)~~

~~1. To enable the network provided for in Article 2 (2) (h) to be established as rapidly and efficiently as possible, the Member States shall forward to the Centre a list of the centres and organizations of which they are aware referred to in that Article.~~

~~2. Taking into account the list referred to in paragraph 1, the Centre's Management Board shall invite the competent organizations in the fields related to the phenomena of racism and xenophobia or those organizations the principal aim of which is the analysis of those phenomena, to be parties to Raxen.~~

~~3. The Centre may enter into contractual relations, in particular subcontracting arrangements, with the organizations referred to in paragraph 2, in order to accomplish any tasks which it may entrust to them.~~

~~The Centre may also enter into contractual relations, on an ad hoc basis and for specific tasks, with bodies which are not part of Raxen.~~

~~The allocation of such tasks shall appear in the Centre's annual programme.~~

~~Article 5~~

~~Protection and confidentiality of personal data~~

~~1. The Centre may collect personal data only for the purposes of carrying out its tasks as provided for under this Regulation. The Centre shall apply to its processing and exchange of personal data under this Regulation the provisions laid down in Directive 95/46/EC. To this effect, rules implementing these provisions shall be adopted, in particular with regard to the rights of the individuals concerned, the confidentiality and security of processing, suitable safeguards for rendering data anonymous before disclosure, and the internal supervision of processing.~~

~~2. The implementing rules referred to in paragraph 1 shall be published in the *Official Journal of the European Communities*. The Centre may not process personal data before the entry into force of those rules and unless a supervisory authority within the meaning of Article 28 of Directive 95/46/EC has been set up and is operative.~~

~~Pending the appointment of any such authority or authorities set up for the Community institutions and bodies, the Centre's activities as regards data protection rules shall be supervised by the Ombudsman provided for in Article 138e of the Treaty, in the context of the tasks allotted to him by that Treaty.~~

~~3. Until the date of implementation of Directive 95/46/EC, where, under the provisions of this Regulation, the Member States transmit or receive personal data, they shall apply their respective national data protection laws to the processing of such data.~~

~~Until the abovementioned date, a Member State which has transmitted data to the Centre, can object to the transmission of these data to another Member State or submit that transmission to the fulfilment of conditions, if no data protection standard equivalent to that of Directive 95/46/EC is guaranteed by the receiver for the processing of the transmitted data.~~

~~In any event, personal data collected by the Centre and transferred by it to the Community or the Member States shall not be filed and subsequently used by the latter in a way incompatible with the purposes for which they were collected by the Centre.~~

~~4. Member States and national bodies cooperating with the Centre shall be under no obligation to provide information classified as confidential under their national law.~~

↓ XX/03, Article 1(2) (adapted)

Article 5

☒ Access to Documents ☒

↓ XX/03, Article 1(2)

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council shall apply to documents held by the Centre.

2. The Management Board shall adopt the practical arrangements for implementing Regulation (EC) No 1049/2001 within six months of entry into force of Council Regulation (EC) No XX/2003 of 18 June 2003 amending Regulation (EC) No 1035/97 establishing a European Monitoring Centre on Racism and Xenophobia.

3. Decisions taken by the Centre pursuant to Article 8 of Regulation (EC) No 1049/2001 may give rise to the lodging of a complaint to the Ombudsman or form the subject of an action before the Court of Justice of the European Communities, under the conditions laid down in Articles 195 and 230 of the Treaty respectively.

↓ 1035/97

Article 6

Legal personality and capacity

The Centre shall have legal personality. It shall enjoy, in each of the Member States, the most extensive legal capacity accorded to legal persons under their laws. In particular, it may acquire or dispose of movable and immovable property and may be a party to legal proceedings.

Article 7

Cooperation with national and international organizations

1. To help it carry out its tasks, the Centre shall cooperate with organizations in the Member States or international, governmental or non-governmental organizations competent in the field of racist and xenophobic phenomena.

↓ 1035/97 (adapted)
⇒ new

2. The administrative arrangements for the cooperation referred to in paragraph 1 shall be subject to the approval of the **Management** ⇒ Executive ⇐ Board.

3. The Centre shall coordinate its activities with those of the Council of Europe, particularly with regard to its programme of activities pursuant to Article ~~9~~ 9 (2) ~~8~~ ~~(3)~~ (a). To this end, the Community shall, in accordance with the procedure provided for in Article ~~300~~ ~~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.

↓ 1035/97

⇒ new

Should agreements with other international organizations or with third countries prove necessary for the Centre to carry out its tasks efficiently, the Community shall, following the same procedure as mentioned above, enter into such agreements, on behalf of the Centre.
⇒ This provision shall not prevent ad hoc co-operation with such organizations or third countries. ⇐

Article 8

Management Board

↓ 1035/97 (adapted)

⇒ new

1. The Centre's Management Board shall be composed of ~~one independent person appointed by each Member State~~ ⇐ persons with appropriate experience in the analysis of the phenomena of racism, xenophobia, anti-Semitism ⇐ and related intolerance and in the management of public sector organisations, as follows ⇐ :

⇐ (a) ⇐ one independent person appointed by each Member State;

⇐ (b) ⇐ one independent person appointed by the European Parliament;

⇐ (c) ⇐ one independent person appointed by the Council of Europe pursuant to Article 7 (3), and

⇐ (d) ⇐ ~~a~~ ⇐ two ⇐ representative ⇐ s ⇐ of the Commission. ~~The members of the Management Board shall be persons with appropriate experience in the field of human rights and analysis of racist, xenophobic and anti-Semitic phenomena.~~

↓ new (adapted)

The persons referred to in point (a) shall be the persons responsible for the running of the body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin provided for by Article 13 of Council Directive 2000/43/EC or of an equivalent independent public body.

↓ 1035/97

Each member shall have a deputy appointed on a similar basis.

↓ 1035/97 (adapted)

2. The names of the members and deputy members of the Management Board shall be notified to the Commission for publication in the *Official Journal of the European* ~~Union. Communities. Their term of office shall be three years, which shall be renewable once.~~

↓ new

3. Where a member appointed by a Member State no longer holds the responsibilities at national level by reason of which he or she was appointed, the Member State concerned shall forthwith inform the Commission and the Director of the Centre and shall appoint a new member in accordance with paragraph 1.

↓ 1035/97 (adapted)

⇒ new

The Management Board shall elect its Chairman and Vice-Chairman and the other members of the Executive Board referred to in Article 9.

Each member of the Management Board, or in his ~~or her~~ absence, his ~~or her~~ deputy, shall have one vote. Decisions shall be taken by ~~a two-thirds~~ ⇒ an absolute ⇐ majority of the votes cast. The Chairman shall ⇒ have the casting ⇐ vote. ~~The person appointed by the Council of Europe may not vote on decisions referred to in points (d) and (e) of paragraph 3.~~

~~3.~~ ~~or~~ 4. ~~The~~ Management Board shall take the decisions necessary for the operation of the Centre. In particular, it shall:

(a) determine the Centre's ~~annual programme of activities~~ ⇒ long-term strategy and medium-term work programme, covering a three-year period ⇐ in accordance with the budget and the available resources; this programme may be reviewed when necessary during the year;

↓ XX/03, Article 1(3) (adapted)

(b) adopt the two annual reports referred to in Article ~~3(f)~~ ~~2(2)(g)~~ and its conclusions and opinions and forward them to the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Committee of the Regions; it shall ensure publication of the annual reports referred to in Article ~~3(f)~~ ~~2(2)(g)~~; the annual report on the Centre's activities shall be transmitted by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors, the ~~European~~ Economic and Social Committee and the Committee of the Regions;

↓ 1035/97 (adapted)
⇒ new

- (c) appoint the Centre's Director⇒ , on the basis of the selection, delegated to and carried out by the Executive Board. ⇐

↓ new

- ⇒ (d) exercise disciplinary authority over the Centre's director. ⇐

↓ 1035/97 (adapted)
⇒ new

~~(d) adopt the Centre's annual draft and final budgets;~~

~~(e) approve the accounts and give the Director discharge.~~

4. ☒ 5. ☒ The Management Board shall adopt its rules of procedure. The Board shall meet, as convened by its Chairman, at least ~~twice~~ ⇒ once ⇐ a year. ⇒ It may delegate any of its responsibilities to the Executive Board. ⇐

↓ XX/03, Article 1(3)

6. The Centre shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures.

↓ new

7. The Management Board may, after consulting the Commission, invite to its meetings persons appointed by the countries which are candidates for accession to the Union. Such persons shall be appointed by the countries concerned by analogy with the criteria and procedures foreseen in paragraphs 1 and 2. They shall have the status of observers.

↓ 1035/97 (adapted)
⇒ new

Article 9

Executive Board

1. The Executive Board shall be composed of the Chairman of the Management Board, the Vice-Chairman and a maximum of ~~three~~ ⇒ eight ⇐ other members of the Management

Board, including ~~the person appointed by the Council of Europe and~~ the Commission representative⇒ s ⇐.

↓ new

Each member of the Executive Board, or in his or her absence, his or her deputy, shall have one vote. Decisions shall be taken by an absolute majority of the votes cast. The Chairman shall have the casting vote.

↓ 1035/97

⇒ new

2. The Executive Board shall supervise the work of the Centre, monitor the preparation and execution of programmes and prepare the meetings of the Management Board with the assistance of the Centre's Director. ⇒ It shall in particular: ⇐

↓ new

- (a) determine the Centre's annual programme of activities, in accordance with the long-term strategy and medium term work programme determined by the Management Board and with the budget and available resources; this programme may be reviewed when necessary during the year;
 - (b) on the basis of proposals from the Commission, carry out the selection of the Centre's Director;
 - (c) adopt the Centre's annual draft and final budgets;
 - (d) approve the accounts.
-

↓ 1035/97

The Executive Board shall also perform any task entrusted to it by the Management Board, in accordance with the latter's rules of procedure.

Article 10

Director

1. The Centre shall be headed by a Director appointed by the Management Board on a proposal from the Commission for a period of four years, which shall be renewable.

↓ 1035/97 (adapted)

⇒ new

2. The Director shall be responsible ⇒, under the supervision of the Management and Executive Boards, ⇐ for:

- (a) performance of the tasks referred to in Article ☒ 3 ☒ ~~2~~(2);
- (b) preparing and implementing the Centre's ⇒ medium-term and⇐ annual programme☒ s ☒ of activities;
- (c) preparing the annual report☒ s ☒, conclusions and opinions as referred to in this Regulation;

↓ 1035/97

- (d) all staff matters and matters of day-to-day administration.

↓ new

- (e) the implementation of effective monitoring and evaluation procedures relating to the performance of the Centre against its objectives according to professionally recognised standards. The Director shall report annually to the Management Board on the results of the evaluation.

↓ 1035/97 (adapted)

⇒ new

3. The Director shall be accountable for the management of his ☒ or her ☒ activities to the Management Board ⇒ and the Executive Board under their respective responsibilities ⇐ and shall attend ~~its~~ ☒ their ☒ meetings ~~and the meetings of the Executive Board.~~

4. The Director shall be the Centre's legal representative.

↓ 1035/97

Article 11

Staff

1. The staff of the Centre shall be subject to the Regulations and Rules applicable to officials and other servants of the European Communities.

2. The Centre shall exercise in respect of its staff the powers devolved to the appointing authority.
 3. The Management Board shall, in agreement with the Commission, adopt the appropriate implementing rules.
-

↓ XX/03, Article 1(4)

Article 12

Drawing up of the budget

1. Estimates of all the revenue and expenditure of the Centre shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in the budget of the Centre.
2. The revenue and expenditure shown in the budget of the Centre shall be in balance.
3. The revenue of the Centre shall, without prejudice to other resources, comprise:
 - (a) a subsidy from the Community, entered in the general budget of the European Union (Commission section);
 - (b) payments received for services rendered;
 - (c) any financial contributions from the organisations referred to in Article 7;
 - (d) any voluntary contribution from the Member States.
4. The expenditure of the Centre shall include staff remuneration, administrative and infrastructure costs, operating expenses and expenses resulting from contracts entered into with the institutions and bodies belonging to the Raxen network or with third parties.
5. Each year the Management Board, on the basis of a draft drawn up by the director, shall produce an estimate of revenue and expenditure for the Centre for the following financial year. This estimate, which shall include a draft establishment plan, shall be forwarded by the Management Board to the Commission by 31 March at the latest.
6. The estimate shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the "budgetary authority") together with the preliminary draft budget of European Union.
7. On the basis of the estimate, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 272 of the Treaty.
8. The budgetary authority shall authorise the appropriations for the subsidy to the Centre. The budgetary authority shall adopt the establishment plan for the Centre.

9. The budget of the Centre shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.

10. The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of its budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Management Board within a period of six weeks from the date of notification of the project.

↓ XX/03, Article 1(5)

Article 13

Implementation of the budget

1. The Director shall implement the budget of the Centre.

2. By 1 March at the latest following each financial year, the Centre's accounting officer shall communicate the provisional accounts to the Commission's accounting officer together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of the general Financial Regulation.

3. By 31 March at the latest following each financial year, the Commission's accounting officer shall forward the Centre's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for that financial year shall also be forwarded to the European Parliament and the Council.

↓ XX/03, Article 1(5) (adapted)

4. On receipt of the Court of Auditors' observations on the Centre's provisional accounts, pursuant to Article 129 of the general Financial Regulation, the Director shall draw up the Centre's final accounts under his ☒ or her ☒ own responsibility and forward them to the Management Board for an opinion.

↓ XX/03, Article 1(5)

5. The Management Board shall deliver an opinion on the Centre's final accounts.

6. The Director shall, by 1 July at the latest following each financial year, forward the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.

7. The final accounts shall be published.

↓ XX/03, Article 1(5) (adapted)

8. The Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He ☒ or she ☒ shall also send this reply to the Management Board.

↓ XX/03, Article 1(5)

9. The Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 146(3) of the general Financial Regulation.

10. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 30 April of year N + 2, give a discharge to the Director in respect of the implementation of the budget for year N.

11. The financial rules applicable to the Centre shall be adopted by the Management Board after the Commission has been consulted. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities²⁶ unless specifically required for the Centre's operation and with the Commission's prior consent.

↓ 1035/97, Article 13 (adapted)

Article 14

☒ Translation ☒

The translation service required by the operation of the Centre shall, in principle, be provided by the Translation Centre for bodies of the European Union established by Regulation (EC) No 2965/94²⁷.

↓ 1035/97, Article 14

Article 15

Privileges and immunities

²⁶ OJ L 357, 21.12.2002, p.72 with corrigendum in OJ L 2, 7.1.2003, p.39

²⁷ OJ L 314, 7. 12. 1994, p. 1.

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Centre.

↓ 1035/97, Article 15

Article 16

Jurisdiction of the Court of Justice

1. The contractual liability of the Centre shall be governed by the law applicable to the contract in question.

The Court of Justice shall have jurisdiction pursuant to an arbitration clause contained in a contract concluded by the Centre.

2. In the case of non-contractual liability, the Centre shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by the Centre or its servants in the performance of their duties.

The Court of Justice shall have jurisdiction in disputes relating to compensation for any such damage.

↓ 1035/97, Article 15 (adapted)

3. The Court of Justice shall have jurisdiction in actions brought against the Centre under the conditions provided for in Article ~~230~~ ~~230~~ ~~173~~ of the Treaty.

↓ 1035/97, Article 16 (adapted)
⇒ new

Article 17

Reporting arrangements

During the third year following the entry into force of this Regulation, ~~⇒~~ and every five years thereafter, ~~⇒~~ the Commission shall forward to the European Parliament, the Council, the ~~⇒~~ European ~~⇒~~ Economic and Social Committee and the Committee of the Regions a progress report on the Centre's ~~activities~~ ~~⇒~~ performance, taking into account the evaluations carried out in accordance with Article 11(e) ~~⇒~~, together with proposals, if appropriate, to modify or extend its tasks, taking into account, in particular, the development of Community powers in the field of racism and xenophobia.



Article 18

Repeal

1. Regulation (EC) No 1035/97 is hereby repealed from the date of entry into force of this Regulation.
 2. References to the repealed Regulation shall be construed as references to this Regulation and are to be read in accordance with the correlation table in the Annex hereto.
-

↓ 1035/97 Article 17 (adapted)

Article 19

Entry into force

This Regulation shall enter into force on the ☒ twentieth ☒ day following ~~the date of the decision by the competent authorities on where the seat of the Centre should be located~~ ☒ that of its publication in the *Official Journal of the European Union* ☒.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

For the Council
The President



ANNEX

Correlation Table

Council Regulation (EC) No 1035/97	This Regulation
Article 1	Article 1
Article 2(1)	Article 2
Article 2(2), introductory words	Article 3 (1), first subparagraph and second subparagraph, introductory words
Article 2(2)(a)	Article 3 (1) (c)
Article 2(2)(b)	-
Article 2(2)(c)	Article 3 (1) (d)
Article 2(2)(d)	Article 3 (1) (h)
Article 2(2)(e)	Article 3 (1) (g)
Article 2(2)(f)	Article 3 (1) (a)
Article 2(2)(g)	Article 3 (1) (f)
Article 2(2)(h)	Article 3 (1) (b)
Article 2(2)(i)	Article 3 (1) (e)
-	Article 3(2)
Article 3(1) and (2)	Article 4(1) and (2)
Article 3(3)(a)	Article 4(3)(a)
-	Article 4(3)(b)
Article 3(3)(b)	Article 4(3)(c)
Article 3(3)(c)	Article 4(3)(d)
Article 3(3)(d)	Article 4(3)(e)
Article 3(3)(e)	Article 4(3)(f)
Article 3(3)(f)	Article 4(3)(g)

-	Article 4(4)
Article 4	-
Article 5	-
Article 5a	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8(1), first subparagraph	Article 8(1), first subparagraph
-	Article 8(1), second subparagraph
Article 8(1), second subparagraph	Article 8(1), third subparagraph
Article 8(2), first subparagraph, first sentence	Article 8(2)
Article 8(2), first subparagraph, second sentence	-
-	Article 8(3), first subparagraph
Article 8(2), first subparagraph, third sentence	Article 8(3), second subparagraph
Article 8(2), second subparagraph	Article 8(3), third subparagraph
Article 8(3), introductory words	Article 8(4), introductory words
Article 8(3) (a), (b) and (c)	Article 8(4) (a), (b) and (c)
Article 8(3) (d) and (e)	-
-	Article 8(4)(d)
Article 8(4)	Article 8(5)
Article 8(5)	Article 8(6)
-	Article 8(7)
Article 9(1)	Article 9(1), first subparagraph
-	Article 9(1), second subparagraph
Article 9(2), first sentence	Article 9(2), first subparagraph, first sentence
-	Article 9(2), first subparagraph, second sentence

Article 9(2), second sentence	Article 9(2), second subparagraph
Article 10(1)	Article 10(1)
Article 10(2), introductory words	Article 10(2), introductory words
Article 10(2)(a), (b), (c) and (d)	Article 10(2)(a), (b), (c) and (d)
-	Article 10(2)(e)
Article 10(3) and (4)	Article 10(3) and (4)
Article 11	Article 11
Article 12	Article 12
Article 12a	Article 13
Article 13	Article 14
Article 14	Article 15
Article 15	Article 16
Article 16	Article 17
-	Article 18
Article 17	Article 19
-	Annex I

FINANCIAL STATEMENT			[...]	
			DATE: May 2003	
1. BUDGET HEADING: B5-8090 and B5-8091 European Monitoring Centre on Racism and Xenophobia (Subsidy under Titles 1 and 2 and Subsidy under Title 3)			APPROPRIATIONS: [...]	
2. TITLE: European Monitoring Centre on Racism and Xenophobia				
3. LEGAL BASIS: Council Regulation (EC) No 1035/97 (to be recast)				
4. AIMS: Modification of the legal basis of the European Monitoring Centre, whose purpose is to provide the Community and its Member States with objective, reliable and comparable data relating to racism and xenophobia with the objective of supporting them when they take measures and formulate course of action.				
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR [n] (EUR million)	FOLLOWING FINANCIAL YEAR [n+1] (EUR million)
5.0	EXPENDITURE - CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER	6.5	6.5	7.8 (Increase related to enlargement)
5.1	REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL	None	None	None
5.0.1	ESTIMATED EXPENDITURE	[n+2]	[n+3]	[n+4]
5.1.1	ESTIMATED REVENUE	[...] None	[...] None	[...] None
5.2 METHOD OF CALCULATION: The Commission's original proposal for the Centre, made in 1996, foresaw a recurrent budget of between €6 m and €7 m (1996 prices) and a staff size of around 25 posts. In the light of the forthcoming enlargement of the Union and the attention which will need to be paid to the situation in the new Member States, and in the light of the experience of collecting data in the existing Member States, the Commission considers that this was a slightly conservative estimate. It is therefore proposing a total figure for commitments of €7.8 m for 2004, with gradual increases to take account of indexation and further small developments in capacity, in particular related to the need to strengthen the analytical resources of the Centre. The Budget for 2004 is based on a staff complement of 12 staff in grade A, 13 in grade B and 9 in grade C. The budget for operational expenditure is € 3.8 m.				
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			YES
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			Not applicable
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			NO
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			YES
OBSERVATIONS: The modifications to the Council Regulation contained in this proposal are cost neutral and can be contained within the existing budget, modified to take account of the enlargement of the Union. Some savings will accrue from the proposed restructuring of the role of the Management Board, but the savings will need to be devoted to the functioning of the strengthened Executive Board. The additional costs to the Commission budget implied by the appointment of a second representative to the Management and Executive Boards will be met from within the existing staffing establishment.				