



## FUNDAMENTAL RIGHTS CONFERENCE 2012

### Access to justice in times of economic crisis

European Parliament, Brussels, 6–7 December 2012

At a time when the European Union (EU) and its citizens are deeply affected by the current economic crisis, we must be vigilant that fundamental rights do not fall victim to budget cuts and other austerity measures. The right to access justice, as guaranteed in the EU Charter of Fundamental Rights, is fundamental to ensuring that fundamental rights are enforced in practice.

What are the effects of economic crisis on judicial systems and those seeking justice? How can access to justice be maintained for everyone, including people in precarious situations, who have become even more vulnerable during the economic crisis? What are the emerging patterns in litigation, private legal services or state-funded legal aid programmes? How can we turn this time of economic crisis into an opportunity for innovation, needed harmonisation and reform? What are the solutions and who are the actors that can further access to justice at national as well as European levels?

The **Fundamental Rights Conference**, the main annual event of the European Union Agency for Fundamental Rights (FRA), will focus on these and other pressing matters at the European Parliament on 6 and 7 December 2012. This year the conference is hosted under the high patronage of the President of the European Parliament and in close cooperation with two European Parliament Committees - Civil Liberties, Justice and Home Affairs (LIBE) and Legal Affairs (JURI). The Cyprus Presidency of the Council of the European Union also supports this event.

Some 300 decision makers, practitioners and experts from across the EU will gather to discuss emerging challenges for access to justice and explore effective solutions that could serve as a European model of good practice.

### OBJECTIVES

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- Contribute to the debate on the impact of economic crisis on fundamental rights;
- Inform policy and legislative processes to ensure that people across the EU have access to efficient and independent justice in accordance with the EU Charter of Fundamental Rights;
- Promote awareness of key fundamental rights issues raised in FRA reports and by other actors;
- Provide a forum for networking and sharing promising practices among key actors of the fundamental rights landscape in Europe.

## BACKGROUND

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The economic crisis poses challenges to access to justice in the EU. In some EU Member States, cuts in public spending have reduced budgets for courts and bodies with a human rights remit as well as funding for a number of measures supporting access to justice, such as legal aid programmes and victim support services provided by the non-governmental sector. At the same time, the poor financial situation and growing unemployment has a disproportionate impact on the most vulnerable groups of society, such as people with disabilities, irregular migrants, children, limiting even further their possibilities to access justice.

But fiscal consolidation could also be an opportunity to reform less effective structures, and explore new solutions, thereby ensuring accessible justice for everyone in the EU. Well-functioning and efficient justice systems can help reinforce economic growth. A number of EU Member States have already introduced some efficiency-boosting measures, reforming courts, streamlining various judicial and non-judicial mechanisms,

ensuring better implementation of judicial decisions, improving judges' management skills and strengthening the role of non-judicial redress mechanisms. Much more could be done to improve access to justice.

The economic crisis affects all areas of economic and political life, requiring the distribution of already scarce resources among multiple and often conflicting priorities. It is therefore more important than ever to put a rights-based approach at the core of policy making, ensuring that the principles of fundamental rights guide decision making, taking into account both the rights of victims as well as those of the accused.

**The Fundamental Rights Conference** will examine existing policies, help to understand strengths and weaknesses of different judicial systems and their financing mechanisms, and seek to identify the effects of austerity-driven reforms in the field. It will also foster exchange of promising practices and promote innovative solutions that could aid policy makers.

FRA Annual Dialogue with the  
Committee of the Regions,  
Brussels, 24 September 2012

'The economic crisis – obstacle or  
incubator for innovation in access to  
justice?'

The FRA Annual Dialogue with the Committee of the Regions will discuss access to justice in times of economic crisis from the perspective of local and regional authorities. The meeting will provide an opportunity to exchange ideas and practices on how local and regional authorities can facilitate access to justice for citizens. The meeting's conclusions will feed into discussions at the Fundamental Rights Conference, thereby ensuring a multilevel perspective on fundamental rights.



## DRAFT PROGRAMME

**THURSDAY, 6 DECEMBER 2012**

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**12.00 – 14.00 WELCOME RECEPTION**

**14.00 – 14.30 OPENING**

**Martin Schulz**, President of the European Parliament

### **INTRODUCTION**

**Loucas Louca**, Minister of Justice and Public Order, Cyprus (tbc)

**Morten Kjaerum**, Director, FRA

**14.30 – 14.45 KEYNOTE ADDRESS**

**Viviane Reding**, Vice-President of the European Commission, responsible for Justice, Fundamental Rights and Citizenship

**14.45 – 16.00 PANEL DEBATE**

### **JUSTICE IN RECESSION? CURRENT TRENDS AND CHALLENGES FOR ACCESS TO JUSTICE**

*What are the key challenges that affect justice systems across the EU? Increasing poverty and unemployment, reduced public funding for justice institutions and legal aid programmes – how does this affect people's ability to seek redress when their rights are violated? What are the costs of the economic crisis for access to justice? What institutional and policy changes have taken place because of the economic crisis?*

Panellists:

**Paula Teixeira da Cruz**, Minister of Justice, Portugal (tbc)

**Alan Shatter**, Minister for Justice, Equality & Defence, Ireland (tbc)

**Elena Oana Antonescu**, Member of the European Parliament, Committee on Civil Liberties, Justice and Home Affairs (LIBE) (tbc)

**Luigi Berlinguer**, Member of the European Parliament, Committee on Legal Affairs (JURI) (tbc)

**George Soros**, Founder and Chairperson, Open Society Foundations (tbc)



N.N., incoming Chairperson of the CIVEX Commission, Committee of the Regions (tbc)

**Jozef De Witte**, Chair of the Board of EQUINET and Executive Director of the Centre for Equal Opportunities and Opposition to Racism, Belgium (tbc)

Civil society representative

#### 16.00 – 16.30 COFFEE BREAK

Presentation of the FRA pilot mobile web tool on the Fundamental Rights Charter

#### 16.30 – 18.00 PANEL DEBATE

##### **ACCESS TO JUSTICE IN TIMES OF ECONOMIC CRISIS: NEW OPPORTUNITIES FOR REFORM?**

*This time of economic crisis could also be an opportunity to rethink how we can ensure access to justice for all, re-shaping existing institutional structures and looking for alternative and more cost-efficient ways to guarantee effective and independent justice. It is time to articulate vigorously the key principles of justice that cannot be ignored or rescinded, even in times of recession, showing how these could guide policy responses and institutional adjustments. Alternative dispute resolution, non-judicial redress, e-justice and other mechanisms could be promising tools for the road ahead. What are their costs and benefits? How do reforms in the justice system affect the most disadvantaged groups, such as persons with disabilities, migrants and the elderly? What are the promising practice initiatives that we could learn from?*

Panellists:

**Claude Moraes**, Member of the European Parliament, Committee Civil Liberties, Justice and Home Affairs (LIBE)

**Klaus-Heiner Lehne**, Chair of the Committee on Legal Affairs (JURI), European Parliament (tbc)

**Julia Laffranque**, Judge, European Court of Human Rights, Estonia (tbc)

**Marcella Prunbauer-Glaser**, President, Council of Bars and Law Societies of Europe (CCBE)

**Joanna Goodey**, Head of Department, Freedoms and Justice, FRA

#### 20.00 – 22.00 EVENING RECEPTION

## FRIDAY, 7 DECEMBER 2012

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### 9.00 – 9.30 RE-THINKING ACCESS TO JUSTICE IN PRACTICE

Discussion with:

**Thorbjørn Jagland**, Secretary General of the Council of Europe (tbc)

**Lord Neuberger of Abbotsbury**, Master of The Rolls, United Kingdom (tbc)

### 9.30 – 11.30 WORKING GROUPS

#### INNOVATING JUSTICE – IDEAS, PATHWAYS, SOLUTIONS

*The working groups will focus on specific aspects of access to justice and how they can be improved, despite existing economic constraints. Each parallel session will be introduced by a panel of practitioners who will present promising practice examples, explore innovative models and raise key questions. Discussions will then continue in an interactive format aimed at pooling and sharing experience between participants on the strengths and weaknesses of different solutions, their practical implementation, as well as strategies to raise public awareness about fundamental rights and available pathways to justice.*

#### Working group I: RAISING LEGAL AWARENESS: NEW OPPORTUNITIES IN THE AGE OF E-TECHNOLOGIES?

Chaired by:

the European Commission (tbc)

Focus issues:

- Challenges and new ways to raise legal awareness among the general public
- Particular needs of the most vulnerable groups
- New models and tools offered by e-technologies: how effective is e-justice?

#### Working group II: RIGHTS OF VICTIMS OF CRIME IN CROSS-BORDER SITUATIONS

Chaired by:

**Teresa Jiménez-Becerril Barrio**, Member of the European Parliament, Committee on Civil Liberties, Justice and Home Affairs (LIBE) (tbc)

Focus issues:

- Compensation levels for victims in cross-border cases

- Information, translation, interpretation, reimbursement of expenses and referrals
- Challenges and promising practices in victim support services in cross-border cases

### **Working group III: ENSURING ACCESS TO LEGAL AID**

Chaired by:

**Tadeusz Zwiefka**, Member of the European Parliament, Committee on Legal Affairs (JURI)  
(tbc)

Focus issues:

- Legal aid in cross-border cases
- Promising practices and innovative solutions in EU Member States
- Role of non-governmental actors – how can governments best support non-governmental legal aid schemes?
- Role of the private sector, including legal expenses insurances, and pro-bono work

### **Working group IV: STRENGTHENING NON-JUDICIAL REDRESS MECHANISMS**

Chaired by:

**Nils Muižnieks**, Commissioner for Human Rights, Council of Europe

Focus issues:

- Impact of the economic crisis on the most vulnerable groups and accessibility of low threshold complaints bodies
- Role of NHRIs, Equality bodies, Ombudspersons and Data Protection Authorities

### **Working group V: ALTERNATIVE DISPUTE RESOLUTION: TOWARDS EFFECTIVE MEDIATION POLICY MAKING**

Chaired by:

(tbc)

Focus issues:

- Lessons learned from the implementation of the Mediation Directive (2008/52/EC)



- Practical costs and benefits of mediation for cases involving fundamental rights violations
- Balance between mediation and litigation – what is the potential scope for a common European approach?
- Enforceability of agreements resulting from mediation

**11.30 – 12.00 COFFEE BREAK**

Presentation of the FRA pilot mobile web tool on the Fundamental Rights Charter

**12.00 – 13.00 PANEL DEBATE**

**THE ROAD TO JUSTICE: NEXT STEPS AND COMMITMENTS**

Discussion with working group chairs

**13.00 – 13.30 CLOSING REMARKS**

**Juan Fernando López Aguilar**, Chair of the Committee on Civil Liberties, Justice and Home Affairs, European Parliament

... , Chairperson of the Management Board, FRA

**14.00 – 15.00 LUNCH**

## FRA WORK ON ACCESS TO JUSTICE

The conference discussions will draw on the findings of the Agency's on-going work in the field and will inform future projects:

### Redress mechanisms and the effectiveness of institutional architecture

The FRA has done extensive work on the non-judicial redress mechanisms available for victims of fundamental rights violations. The most recent study, *Access to Justice in cases of discrimination in the EU*, will be launched at the conference, presenting findings from over 350 qualitative interviews on access to justice across various **discrimination** grounds. The 2011 report *Access to justice in Europe: an overview of challenges and opportunities* provides an EU-wide comparative analysis of the **legal aspects of access to justice in the EU and their effectiveness**, revealing problems that deter victims from taking cases to court to enforce their rights. The FRA is also carrying out research in the area of **data protection** and will provide evidence from actors' experiences and views on the application and use of redress mechanisms in the field. The FRA will present the preliminary results from the fieldwork at the conference.

Mandates and powers of key **fundamental rights institutions**, such as Equality Bodies, NHRIs and Data Protection Authorities – are thoroughly assessed in a series of reports on *Strengthening the fundamental rights architecture in the EU*.

Access to justice is a cross-cutting issue for a number of thematic areas of FRA work. Several studies reveal specific challenges faced by particularly vulnerable groups. For example:

- **asylum seekers** (*Access to effective remedies: the asylum-seeker perspective*, 2009);
- **persons with disabilities** (*Choice and control: the right to independent living*, June 2012)
- **children** (social study on practices and procedures regarding child participation in criminal and civil justice proceedings, due in 2013).

### Awareness of rights and redress mechanisms

Insufficient awareness of rights and available redress mechanisms, as well as low levels of trust in justice institutions, are frequent obstacles when accessing justice in practice. The Agency's *EU Minorities and Discrimination Survey (EU-MIDIS)* reveals that the majority of people who are most vulnerable to discrimination are not aware of organisations that could offer support or advice to victims of discrimination.

In response, in 2013 the FRA will launch its project 'Complaints, Legal Assistance and Rights Information Tools for You' or CLARITY – an online information platform that will provides a one-stop shop on how and where to make a complaint about fundamental rights violations.

The FRA is also developing an online application for mobile devices on the Charter of Fundamental Rights of the European Union, which aims to improve access to the Charter and related information.







Every year the **Fundamental Rights Conference** brings together the key fundamental rights actors in the EU to examine a specific fundamental rights issue, stimulating the debate on challenges that exist and exploring solutions on how these could be overcome. Previous Fundamental Rights Conferences focused on dignity and rights of irregular migrants (2011), child-friendly justice (2010), rights of the most marginalised groups, particularly those vulnerable to discrimination and exclusion (2009) and freedom of expression (2008).

For more information, see: <http://fra.europa.eu/fraWebsite/frc2011/>