



COMMITTEE OFFICE  
HOUSE OF LORDS  
LONDON SW1A 0PW

Tel: 020 7219 6083

Fax: 020 7219 6715

1 December 2005

***Doc 10774/05: Proposed Regulation establishing a European Union Agency for Fundamental Rights and Decision empowering the European Union Agency for Fundamental Rights to pursue its activities in areas referred to in Title VI of the TEU***

Thank you for your letter of 8 November 2005, which was considered by Sub-Committee E (Law and Institutions) at its meeting on 30 November 2005. We are grateful for the clarifications you provide, particularly in respect of the legal base and the ability of the Agency to refer to a range of human rights instruments. However, there are a number of matters which remain unresolved.

***Common Foreign and Security Policy***

We note the Government's position and would be grateful for an explanation of why they consider that the Agency should have no CFSP remit.

***The geographical scope***

The Committee welcomes your statement that the Agency's external role should be well-defined and limited. To what extent should the Agency be competent to provide information on countries with which an association agreement containing human rights clauses has been agreed? Should candidate and potential candidate countries be able to choose to participate in the Agency?

***Pre-legislative scrutiny***

While we are reassured by your view that the Agency would have some role to play in the pre-legislative process, we consider that this role should be clearly defined and should not be merely an "informal means" of pre-legislative scrutiny. The Agency's participation at the early stages of all legislative proposals would ensure maximum consideration of and respect for human rights and we urge the Government to press for a more precise role for the Agency in this regard, in line with the views expressed in paragraphs 113-116 of our recent Report *Human Rights Proofing EU Legislation*, 16th Report of Session 2005-06, HL Paper 67.

***Overlap with the Council of Europe and other agencies***

Your response is very helpful. We support the Government's desire to prevent duplication and ensure maximum cooperation between the Agency and other bodies in the field. By focusing on the acts of Community institutions when implementing Community law, the Agency will be carrying out a function not currently exercised by other bodies. However, the Agency will have a Third Pillar remit and its scope extends to Member States' institutions and agencies. This may increase the risk of overlap. The Dutch Senate has recently urged its Government to prevent the establishment of the Agency on the grounds that it unnecessarily duplicates the work of the Council of Europe and the Organisation for Security and

Cooperation in Europe and that it makes an undesirable distinction between EU Member States and other European countries. What is the position of the other Member States on this issue and can anything more be done to reassure the Council of Europe that its role in protecting human rights will not be adversely affected by the Agency?

You say that maximising cooperation with other relevant bodies such as the European Gender Equality Institute, the OSCE and the UN “is being considered”; what suggestions have been made? You may be aware that the proposal for a Gender Equality Institute is currently under scrutiny by Sub-Committee G and evidence submitted by the Equal Opportunities Commission expresses a firm preference for “one integrated European body covering all equality strands including gender”. What is the Government’s view?

### ***Structure of the Agency***

We note that the Government are currently working with other Member States to ensure that the structures adopted guarantee the Agency’s independence and accountability. Have there been significant changes to the provisions in the proposal? In respect of the independence of Commission representatives on the Management Board, you say “The Government deems it appropriate to consider other models of agencies established by the EU to provide a firm foundation for the Agency’s management and for its accountability to the Council”. We would welcome an explanation of this statement.

We have decided to retain the proposal under scrutiny and look forward to hearing from you.

I am copying this letter to Jimmy Hood MP, Chairman of the Commons European Scrutiny Committee; and to Simon Patrick, Clerk to the Commons Committee; Michael Carpenter, Legal Adviser to the Commons Committee; Les Saunders (Cabinet Office); and Deirdre Boylan, Departmental Scrutiny Co-ordinator.

## **GRENFELL**

Baroness Ashton of Upholland  
Parliamentary Under Secretary of State  
Department for Constitutional Affairs  
Selborne House  
54 Victoria Street  
London SW1E 6QW