

FUNDAMENTAL RIGHTS FORUM CHAIR'S STATEMENT

The Fundamental Rights Forum 2016, convened and facilitated by the EU Agency for Fundamental Rights¹, met in Vienna from 20-23 June 2016. Entitled *Rights, Respect, Reality: the Europe of values in today's world*, it addressed the European Union's pressing fundamental rights challenges. It also exchanged promising practices to better protect and promote human and fundamental rights in Europe. The Forum took place at a moment when Europe must respond to the refugee crisis and rising anxiety about migration, which sometimes manifests itself as discrimination against migrants, alongside widespread failure to achieve social integration, and all of this at a moment when we must engage with the challenges and opportunities of the digital age.

The Fundamental Rights Forum 2016 was not so much an event but a process, establishing a platform for discussion among leading experts, policy makers and practitioners from all walks of life. It has stimulated a frank dialogue of a variety of stakeholders, from within and beyond the EU, from duty bearers to rights holders, many of whom rarely engage with each other and whose views may differ. It has led them to identify action points that will help make human rights a reality for everyone in the EU.

This Chair's Statement captures the spirit and many of the suggestions made at the Forum, but it is not a negotiated and agreed text and in no way commits any of the participants. While the points listed below are categorised under one of the three main themes of the Forum, many of the issues discussed span all three themes. The many promising practices identified at the Forum can be found in the online summaries of the Working Groups.

This Statement constitutes a distillation of the wisdom of the Forum that can serve as an important resource to be used by law and policy makers as well as all other stakeholders and rights holders. It outlines important elements of the path towards a European Union in which fundamental rights are enjoyed by all.

¹ The information and views set out in this Statement do not necessarily reflect the official opinion of the European Union Agency for Fundamental Rights. Action by the Agency in support of the findings of the Forum can be found from p.17 of this document.

We acknowledge that the Europe of Values is more than just an idea, reflected as it is in the commitment of so many duty bearers and in the goodwill of countless citizens. Furthermore, the European Union has a strong legal infrastructure for the promotion and protection of human rights. We also acknowledge the extent to which rights are reflected in the work of the EU institutions and the work of EU Member States. Nevertheless, we are in challenging times for the promotion and protection of fundamental and human rights. We believe that in order to emerge from what can legitimately be termed a crisis of fundamental rights we need new ideas, measures and policies, as well as great commitment and concerted action. Only working together will EU Member States, EU institutions, international organisations, National Human Rights institutions, equality bodies, civil society, faith communities, the business sector, and all others involved in upholding fundamental rights, be able to succeed.

To take us forward, we must together:

1. Ensure a better understanding that all human rights are for all. Fundamental rights are not for the benefit of niche groups in society, but on the contrary for everyone residing in the EU, and as such should be mainstreamed throughout EU policy discussions and reflected across all levels of governance in EU institutions and Member States.
2. Work to increase institutional accountability for failure to honour human and fundamental rights obligations by which the EU and its Member States are bound.
3. Improve understanding, particularly among policy makers and teaching professionals, that rights and rights-based citizenship education are essential from primary school upwards, and should serve to increase awareness of rights and their corresponding responsibilities among everyone in the EU.
4. Ensure that the notion of “nothing about us without us” is mainstreamed throughout measures devised to increase rights fulfilment, which means working with and consulting the people affected before developing policy measures.

This Statement lists proposals for action categorised according to the three core topics of the Forum, followed by a section detailing commitments by the EU Agency for Fundamental Rights in support of the objectives identified at the Forum. The proposals for action are not listed in any order of priority.

REFUGEE PROTECTION

While the world has become ever more interconnected and interdependent, our understanding has not always kept pace. With 65 million displaced people globally, the world is experiencing the largest movement of people since the Second World War. This worldwide refugee crisis is a crisis of fundamental rights, and Europe will have failed if we fail on this issue, which is so close to the values on which the EU was founded. Legal ways for people in need of international protection to reach Europe are limited, forcing them to resort to smugglers and risk their lives crossing the sea in overcrowded and unsafe boats. Dependence on smugglers exposes migrants and refugees to abuse, violence and exploitation. Children are among those most affected, and their protection is a major concern. The measures in place to manage refugees and asylum seekers is not only an issue of fundamental rights, but also has a significant impact on their subsequent integration into society, and thus on the social cohesion of European societies overall.

USING HUMAN RIGHTS STANDARDS TO GUIDE EUROPEAN REFUGEE POLICIES

- [1.] The EU has a strong legal framework for refugee protection; at the same time, ongoing reform of the current European asylum system is essential in the face of an unprecedented number of displaced persons globally. **EU institutions** and **EU Member States** need to work together to ensure the system is sustainable, based on the principle of solidarity and responsibility sharing in practice between Member States, and continues to deliver on legal commitments under international refugee and human rights law.
- [2.] Forthcoming changes to the Common European Asylum System (CEAS) provide an opportunity to enhance compliance with the Charter of Fundamental Rights of the European Union (the Charter) and to build on the jurisprudence of the Court of Justice of the EU and the European Court of Human Rights. **EU institutions** and **Member States** could develop specific activities to ensure that respect for the right to be heard and the right to an effective remedy are at the heart of all asylum responses.
- [3.] Specific examples of action for EU institutions and Member States that flow from the Charter could include, for example:
 - a. Designing new and implementing existing EU asylum policies that serve to preserve family unity and uphold the principle of the best interests of the child
 - b. Making all possible efforts to identify and using all tools and measures to avoid the deprivation of liberty of people seeking asylum
 - c. Guaranteeing the protection of vulnerable people by exempting them from accelerated procedures and restrictive measures

- d. Developing adequate safeguards for the application of safe country concepts as envisaged in the proposed changes to the Common European Asylum System. In addition - independent, comprehensive and up to date information must underpin any designation of a country as 'safe'.
- [4.] The Council of Europe's Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) contains specific articles addressing the protection of refugee women. All **EU Member States** have signed the Convention and a number have ratified it. Those that have not yet ratified are encouraged to do so. Moreover they should proactively apply the relevant Convention articles in practice, which are underpinned by secondary EU law – such as the anti-Trafficking Directive.
- [5.] The arrival of large numbers of migrants and refugees can have a significant impact on the fundamental rights of local communities. **EU Member States** could take measures to compensate them – recognising the socio-economic rights of the local population; e.g. for every euro spent on refugees, one euro could be spent on the local population or infrastructure. This requires close cooperation between **local authorities, civil society** organisations and local **businesses**.
- [6.] The forthcoming United Nations Summit on Refugees and Migrants on 19 September 2016 is a prime opportunity to forge global leadership in ensuring human rights protection for all refugees. **EU institutions** and **EU Member States** could consider supporting a global compact on responsibility-sharing, in form of a globally managed system that would provide for rights-based protection to all refugees.
- [7.] The work of international and regional human rights organisations such as the **United Nations High Commissioner for Refugees (UNHCR)** can provide valuable input to the formulation of indicators and benchmarks on refugee protection. This would enable the development of objective criteria to monitor **EU Member States'** refugee protection measures and their impact.
- [8.] The European Convention on Human Rights, the Charter and the judgements of the European Court of Human Rights clearly stipulate that there must be no *refoulement*, and no collective expulsions. **EU institutions** and **EU Member States** should be guided by this legal framework, also in taking effective action against human trafficking and people smuggling.
- [9.] Cooperation between the EU and third countries in the area of migration and refugee protection must respect the principles and rights as reflected in international law. **EU institutions and EU Member States** should therefore consider the fundamental rights implications of all agreements with third countries in this context.

ACCESS TO THE EU AND PROTECTION FOR NEW ARRIVALS

- [10.] Legal ways of reaching safety must be broadened if they are to constitute a viable alternative to risky irregular entry. EU institutions and Member States could consider enlarged resettlement schemes, as well as building public support for responsible asylum policies through political leadership and creating powerful, positive narratives to anti-refugee rhetoric.
- [11.] For increased access to legal entry channels for people in need of protection, **EU institutions** and **EU Member States** could consider:
- a. Using regular mobility schemes (work, students, research) for people in need of protection by accelerating admission procedures.
 - b. Making humanitarian visas available through consular representations and Schengen (mobile) application centres, thereby opening up possibilities for asylum applications to be submitted at embassies and consulates and at mobile asylum centres.
- [12.] The burden of reception and integration should not be unduly shifted onto civil society or other non-state actors. Where available, however, private resources from **civil society organisations** or the **business sector** could be effectively used in the context of private sponsorships to enable legal entry, with the additional assistance of EU funding.
- [13.] First reception has a great impact on integration in the longer term. **EU Member States** and **local authorities** could involve local communities more in the preparation of reception centres and welcoming of refugees.
- [14.] The system of redistribution of refugees and asylum seekers in the EU is a vital element of the EU's refugee protection policy. **EU institutions** and **EU Member States** could consider developing a system whereby refugees and Member States can indicate their own preferences, and the financial burden is shared depending on the economic size and growth of the receiving country.
- [15.] It is essential that asylum seekers and refugees have access to information concerning their situation – with respect to accessing the EU and also with regard to their situation on arrival. **EU institutions** and **EU Member States** could consider how to utilise modern technologies more effectively to develop information platforms for asylum seekers as well as local communities.
- [16.] Asylum seekers are often put in a particularly difficult situation given that they frequently need to conceal their identity on leaving their country of origin, while they have to provide reliable evidence in support of their asylum claims. **EU Agencies working in this field** could provide guidance on the use of e-evidence for the assessment of asylum claims.
- [17.] Many of those arriving in the EU from areas of conflict are suffering from severe trauma. Building on promising practices from around the EU, **national health services** and **NGOs** working with refugees and asylum seekers could develop web tools to provide psychological assistance and advice.

PROTECTION FOR MIGRANTS AND REFUGEES IN THE EU

- [18.] Migrants and refugees bring skills, experience and talent with them that can contribute to economic growth in host countries. Working with the **business sector, EU institutions** and **Member States** could highlight and encourage the business case for utilising these skills and capacities.
- [19.] Welfare systems need to integrate the protection of victims of trafficking from the outset. Building on the wealth of good practices collected and shared to date, for example through the office of the EU Anti-Trafficking Coordinator, **EU Member States** and **local authorities** could consider developing guidelines and practical methods to assist and train relevant staff and practitioners in developing minimum standards for local services - such as access to social services, housing and medical care.
- [20.] Strong political will is needed to reduce and eventually eliminate the labour exploitation of foreign workers, who are particularly vulnerable to abuse. **EU Member States** could make greater use of existing laws to increase prosecution rates of perpetrators.

PROTECTING CHILDREN ON THE MOVE

- [21.] Effective guardianship systems are needed that go beyond mere legal representation to deliver meaningful guardianship of children in practice. It is essential that **EU Member States** consider developing and putting in place systems that ensure the prompt appointment of guardians for all unaccompanied children.
- [22.] Protection systems must truly promote the 'best interests' of the child. **EU institutions** and **EU Member States** therefore need to:
- a. Consult children and families in policy making and related research, for example by carrying out a child rights 'impact assessment' when developing and implementing migration law and policies;
 - b. Ensure access to health and education when developing reception and housing policies that focus on removing practical barriers, e.g. by engaging cultural mediators and teacher support services and training.
- [23.] The identification and registration practises for all unaccompanied children could be improved by promoting the use of various training tools by practitioners on the ground. **EU institutions**, building on existing initiatives, could work with **EU Member States** in this regard to ensure that systematic training on child rights and child protection is provided to frontline professionals, including representatives of **civil society**.
- [24.] The provision of adequate reception conditions is vital to prevent the trafficking and exploitation of children. **EU Member States** could facilitate cross-border cooperation between national child protection authorities and strengthen collaboration between the various parties involved in child protection at national,

regional and local level, for example through formalised protocols of cooperation. At the same time, **law enforcement agencies** need to raise awareness of the link between missing children and trafficking.

- [25.] Improved data collection and statistics concerning child refugees and migrants will allow for better policy planning, targeted budget allocation and more effective responses. **Eurostat**, together with other **EU institutions and Agencies** and in partnership with international organisations including the **UN**, could develop an enhanced platform towards the provision of such data.
- [26.] The capacity of immigrant and refugee families to take care of the needs of their children needs to be strengthened. **Community and family support services** should be accessible to refugee and immigrant families. **EU Member States** need to ensure they have developed targeted measures for promoting integration by providing access to early childhood education, schooling and healthcare services.

DATA PROTECTION IN ASYLUM CASES

- [27.] Modern technologies, including the use of biometrics, offer both new opportunities and risks for producing evidence in asylum procedures, including information on countries of origin. Their potential for optimising refugee protection could be maximised further by **EU institutions** and **EU Member States**.
- [28.] WIFI and mobile devices to facilitate communication in family tracing and reunification are essential for refugees. The **private sector** could be encouraged to work closely with government services to provide such services free of charge or at greatly reduced cost.

INCLUSION

Across Europe and beyond, trust in our democratic institutions and respect for human rights is increasingly at risk. Many voices at the Fundamental Rights Forum spoke of the need in the EU for a holistic approach to the integration of minority ethnic groups, many of whom are migrants or the descendants of migrants. They spoke of the need to mainstream the fight against racism and xenophobia, while finding ways to improve equality of opportunity for all regardless of their sex, age, racial or ethnic origin, religion or belief, disability, sexual orientation or gender identity. However, the social and political climate is growing ever more tolerant of extremist, racist and xenophobic agendas that exploit fears over youth unemployment and security. Fostering social inclusion requires determined and effective action to increase employment, provide adequate and sustainable social protection and tackle all forms of discrimination. An inability to deal effectively with the everyday reality of exclusion and discrimination would reinforce a hateful discourse of scapegoating, which targets minorities, as well as the legal instruments and institutions that protect their rights.

FOSTERING INCLUSION THROUGH RESPECT FOR DIVERSITY

- [29.] Everyone living in the EU must be aware of the legal protection against discrimination afforded by EU and national laws. **EU Member States** in close cooperation with civil society could take concrete steps to raise awareness of this legislation and the available redress mechanisms.
- [30.] In parallel, **EU Member States** could strengthen equality bodies and review the range of sanctions for incidents of discrimination to ensure that they are effective, proportionate and dissuasive.
- [31.] Racism, xenophobia, antisemitism, anti-Muslim hatred, anti-Gypsyism, homophobia and other forms of intolerance have no place in the EU. **Civil society**, in particular **faith communities**, can play a decisive role in cultivating respect for diversity also among their constituencies and **EU Member States**, in particular their **local authorities**, could support such efforts.
- [32.] Political commitment to equality and non-discrimination needs to be implemented in practice. **EU Member States** could adopt the proposed Equal Treatment Directive in the Council of the European Union.
- [33.] Inclusive and open societies are more successful socially and economically, and equality and non-discrimination are therefore not minority issues. **EU Member States** working closely with **National Human Rights Institutions, equality bodies, civil society organisations**, and **trade unions** could shift attention from the victims of discrimination to those who discriminate, and address structural barriers such as lack of effective sanctions and redress mechanisms.

- [34.] The positive aspects of migrant integration and social inclusion to local and national economies, particularly those in demographic decline, need to be communicated in order to gain public and political support. **Policy makers at EU, national and especially local level** could promote these positive aspects as well as communicating and making use of promising practices from other regional and national contexts.
- [35.] The UN Convention on the Rights of Persons with Disabilities (CRPD) is an integral part of the EU legal order and EU legislation and practices must be consistent with its requirements. **EU institutions and EU Member States** should consider following the example of many EU Member States, as well as the CRPD Committee's own recommendation, to provide the EU framework with adequate resources for its work.
- [36.] There are promising practices of integration measures around the EU that remain virtually unknown. **EU Member States** and their **local authorities** could better engage with each other to identify good, promising and failing practices.
- [37.] Current national policy measures and criminal law provisions implementing EU law are not always sufficient to combat hatred. **EU Member States** could consider additional bias motivations, such as sexual orientation, gender identity or disability.
- [38.] *Promoting social inclusion, combating poverty and any discrimination* is one of the core investment priorities of the European Structural and Investment Funds (ESIF).
- a. Working together, **national, regional and local authorities**, the **business sector, professional groups** and **civil society** have a unique opportunity to use the potential of the funds to stimulate socially responsible and inclusive growth that fosters fundamental rights and respect for diversity.
 - b. **EU institutions and Member States** could ensure that calls for proposal under the ESIF foster the coordination and active participation of relevant actors, such as **civil society** organisations and **professional groups**, including teachers, police officers, judges, lawyers, prosecutors, health professionals, psychologists, youth workers and social workers.
- [39.] Communities in the vicinity of 'migrant hotspots' or otherwise affected by the influx of people into the EU are often lacking in resources to integrate the new arrivals. The relevant **EU Member States** could engage in capacity building to help **local authorities** improve their access to EU funding for inclusion measures at local level.

- [40.] Culture, film and the arts as well as sport can be a catalyst for social inclusion processes, especially among young people, bringing together people from different ethnic, religious and cultural backgrounds. **EU institutions** and **Member States** could provide more support to public and non-governmental cultural and sporting organisations and promote cooperation between them.
- [41.] Political participation is vital to encourage active citizenship. **EU Member States** could promote political participation, especially at local level, to foster the functioning of democracy in a diverse and inclusive society by involving all residents.

FOSTERING MORE INCLUSIVE SOCIETIES THROUGH EDUCATION

- [42.] Education is vital to foster citizenship and the common values of freedom, tolerance and non-discrimination through education. **EU institutions** and **EU Member States** could encourage the learning of social competence and human rights principles, enhance critical thinking and media literacy, and increase intercultural understanding through education. The Erasmus+ programme is a promising practice in this regard.
- [43.] **EU Member States** and local educational authorities could support **educational establishments** and **professionals** by promoting educational programmes that foster critical thinking and mutual respect: this could include providing assistance to newly arrived migrant children to settle in, or teaching about the history of immigration and its positive influence.
- [44.] **EU Member States** and local educational authorities could encourage schools and other educational establishments to develop democratic processes in schools that enable participation and open discussion. For this, teaching staff need to be provided with training to foster debate and develop curricula that mainstream inclusion and diversity.
- [45.] **Universities** and **professional accreditation bodies** could offer human rights training as a necessary module for obtaining a professional qualification.
- [46.] Examples of successful integration need to be highlighted and clearly communicated. The **media** and **regulators** could achieve this through more positive narratives reflecting inclusive and diverse societies, while **EU Member States** and **local authorities** could engage traditional and social media platforms as a potential ally in communicating complex issues to the general public.

PROMOTING SOCIAL RIGHTS FOR MORE INCLUSIVE SOCIETIES

- [47.] The European Commission's initiative to establish a European Pillar of Social Rights represents an important opportunity to improve social cohesion by fostering social inclusion. Investment in employment and prosperity could be matched by a firm commitment by **EU Member States** to respect and protect people's fundamental social rights by addressing growing public concern about job security and cuts in public spending.
- [48.] The European Union has stated its determination to fully implement the UN's 2030 Agenda for Sustainable Development, which can be taken as a framework to reduce inequality and address the consequences of existent inequality. **EU institutions** and **EU Member States**, as well as **business** and **civil society**, could engage a dialogue to work out how the SDGs can be implemented and their implementation measured in the EU.
- [49.] The Council of Europe's European Social Charter (ESC) guarantees fundamental social and economic rights and is therefore a key tool to further inclusion. **EU institutions** and **EU Member States** could work together with the **Council of Europe** to strengthen the role of the ESC in European and national social policy in accordance with Member States' obligations.
- [50.] Social inclusion is a key component of the Europe 2020 Strategy. To meet the strategy's objectives, **EU institutions** could develop more precise and targeted benchmarks in the areas of growth and quality employment, adequate income support, and universal access to quality services.
- [51.] To achieve an inclusive society, the labour rights of all workers must be respected. As well as trying to increase employment rates, **EU institutions** and **Member States**, in cooperation with **business** and **civil society**, could also seek effective ways to combat phenomena of severe labour exploitation.
- [52.] The respect, protection and promotion of the rights of the child must be at the heart of all social inclusion policies and actions. **Member States, in particular their local authorities, civil society**, as well as **professional groups** such as teachers and youth workers, could better foster the active and meaningful participation of children and young people in all activities in which they are involved.

YOU CAN'T MANAGE WHAT YOU DON'T MEASURE

- [53.] Policy measures to increase social inclusion need to be effectively monitored. **EU institutions** and **Member States** could monitor their implementation and impact in line with the principles of public accountability and transparency, including the related investment of public funds.
- [54.] Social inclusion indicators currently lack information on areas such as access to and satisfaction with public services or experiences of discrimination. Also, the data populating these indicators are not disaggregated by ethnic origin or disability and therefore do not inform on these forms of inequalities. **EU**

institutions and **EU Agencies**, as well as **Member States**, should consider including such components in their surveys and censuses to provide relevant comparative data across the EU.

BUSINESS AND SOCIAL INCLUSION

- [55.] Diversity helps businesses to grow. Building on the EU *Directive on non-financial information and diversity* of 2014, the **business sector** could take the initiative in developing gender equality and diversity plans to help firms make use of the innovative power of a diverse workforce.
- [56.] A human rights based approach to business is developed in a small proportion of the EU's larger corporations. **EU institutions** and **Member States**, as well as **business**, could consider ways of promoting such practices, especially among small and medium-sized enterprises.
- [57.] **EU Member States** could consider following the example of such countries as Denmark, Finland, Italy, Sweden, UK, the Netherlands, Lithuania and others that have developed national action plans on business and human rights.
- [58.] Taking account of the EU's accession to the UN CRPD, **EU institutions** could consider complementing the European Commission's Communication on Corporate Social Responsibility to address issues affecting people with disabilities more specifically.
- [59.] Combating discrimination in the workplace and promoting equality must be a priority in order to increase inclusion. **European institutions** and **EU Member States** could promote sustainable and responsible business behaviour that can act as a role model, for example through the adoption of diversity charters.
- [60.] Integrating refugees into domestic labour markets is crucial for long-term social and political integration. To this end, **EU Member States** and **local authorities** could create platforms that connect job seeking refugees with employers in need of particular skills.
- [61.] Migrants and refugees are not only employees, but also employers, consumers and tax payers, and there is a largely untapped contribution to economic growth and establishment that business links between countries, cultures and languages could make. This would follow the logic of the freedom to conduct a business anchored in the Charter of Fundamental Rights. Together with the **business sector**, **EU Member States** could seek to remove current barriers to migrant entrepreneurship, such as uncertainties over legal status.

DIGITAL AGE

Individuals are becoming increasingly interconnected in their professional and private lives. At the same time, public authorities have turned to digital technologies to offer citizens a wide range of efficient and reliable services, from healthcare through to social benefits. Such services can empower people, granting them access to previously hard-to-reach services. However, technological developments can also have negative consequences. Terrorists and other criminals are increasingly using technology to further their own aims. Moreover, while online technologies bring unique opportunities for children, they are also at greater risk of being exposed to harmful content, misuse of personal data and cyberbullying. In order to rise to these challenges, it is important to recognise that fundamental rights apply equally offline and online. This principle underpins the rights and freedoms of internet users, and must be upheld by both the public and private sectors to ensure that fundamental rights are safeguarded in the digital age.

THE PROMOTION OF RIGHTS IN THE DIGITAL AGE

- [62.] The European Parliament and Council agreed on a data protection reform package that entered into force in May 2016 and will apply from May 2018. To make the right to privacy a reality for all, close cooperation is needed among **Data Protection Authorities**, the **business sector**, **national governments**, **civil society**, and **EU institutions**.
- [63.] Both the business sector and government must respect our right to data protection as well as the fact that we remain the owners of our data. **EU institutions** and **EU Member States** could create clear rules, working with the **private sector**, to ensure that the rights of individuals as data 'subjects' are acknowledged and protected.
- [64.] The protection of fundamental rights online is only possible through partnerships between different organisations and industries. The **business sector**, which is in the lead in developing and rolling out new technologies, could consider closer cooperation with relevant organisations such as **National Human Rights Institutions** to better understand the place of rights in the workplace.
- [65.] Online hate speech is becoming an increasing challenge to the enjoyment of fundamental rights online. In May 2016, a Code of Conduct on countering illegal online hate speech was announced by the European Commission and **IT companies** such as Facebook, Twitter, YouTube and Microsoft. In this field, consideration could also be given to initiatives such as permanently 'marking' websites with an announcement that laws on hate speech and incitement are applicable online as well as offline.

- [66.] Collaborative initiatives could help promote a fundamental rights-based response to the digital age. **Businesses** working in the digital field could proactively engage with **NGOs** working in the area of data protection to better understand and respond to fundamental rights concerns raised by civil society.
- [67.] An internet 'bill of rights' could be produced and promoted at national level by organisations including **National Human Rights Institutions** and thereafter applied by relevant **IT companies**.
- [68.] The potential limits to freedom of expression when incitement to violence and hatred are involved need to be clear to the public. **EU Member States** could take the lead in promoting legal clarity in this area.
- [69.] The EU's Digital Agenda could be an effective tool for empowering those at risk of social exclusion. In their efforts to foster inclusive societies, **EU institutions** and **EU Member States** could consider making greater use of the Digital Agenda.

THE DIGITAL AGE AS BOTH THREAT TO & PROTECTOR OF RIGHTS

- [70.] Restrictions to rights must conform to the principle of proportionality and necessity. **EU institutions** and **EU Member States** could emphasise that the security of citizens via digital technology should not unduly restrict key fundamental rights such as data protection and freedom of expression.
- [71.] Effective remedies and robust oversight are needed to ensure access to justice in the digital age. **Legislators** and **regulators** can preserve security while safeguarding key fundamental rights by ensuring legislative clarity, transparency and accountability. **EU Member States** could consider enhancing and securing the independence of oversight bodies tasked with monitoring intelligence services, at the same time ensuring effective and timely remedies for people whose rights have been violated.
- [72.] Research indicates that repetitive online abuse can have a devastating impact on individuals. In recognition of this, and building on the work of the Commission and other actors to respond to online hate, **EU Member States** could ensure that criminal law in this area is not only in place but is fully implemented and enforced in practice.
- [73.] The EU has made significant strides towards a new data protection framework in law, which Member States will implement in practice. However, making the right to privacy a reality for all needs a multi-stakeholder approach by a number of key stakeholders, including the **business sector**, **Data Protection Authorities**, and **civil society**, as well as the **EU institutions** and **EU Member State governments**.
- [74.] New technology can be an effective means for both promoting fundamental rights and monitoring fundamental rights compliance by different bodies at Member State level. **National Human Rights Institutions** and Member States' governments could make greater use of new technologies, while **civil society**

could use these technologies to report fundamental rights abuses to National Human Rights institutions, equality bodies and ombudsmen.

- [75.] Emergent online phenomena such as ‘slut-shaming’ and ‘revenge-porn’, which particularly affect girls and women, needs to be recognised as an extreme form of gender inequality that manifests itself as online hate in the form of both images and text. **EU institutions**, working with relevant **digital providers**, could proactively work towards acknowledging, preventing and combating these forms of abuse.
- [76.] The collection and use of personal data through new applications such as e-health demand that robust fundamental rights safeguards are in place. As services for data management and processing are increasingly outsourced to the **private sector**, robust monitoring mechanisms are needed. **National health authorities** also could perform systematic evaluations of e-health strategies to improve patient health, with specific attention to groups at risk of exclusion.
- [77.] Data Protection Officers (DPOs) have a vital role to play in ensuring fundamental rights fulfilment in the digital age. **EU Member States** and **Data Protection Authorities** could enhance DPOs’ work through training and making their position more strategic – alongside their role as compliance officers. These tasks could be supported by data protection teams with differing skill sets and backgrounds that are able to capture fundamental rights compliance at various levels.

EDUCATION FOR RIGHTS IN THE DIGITAL AGE

- [78.] To combat online hate speech, a focus on education and awareness raising is needed. This must be the responsibility of everyone, including **teachers, parents, civil society** and the **private sector**, as well as every online user.
- [79.] Joint courses at universities and other educational establishments that bring together computer scientists with human rights lawyers could help ensure fundamental rights compliance for the internet and digital design applications of the future. **EU Member States** and **Data Protection Authorities**, in partnership with the **business** and **education** sectors, could actively promote such initiatives. The **data protection officers** of the future will need to have the skill sets necessary to meet these new demands.
- [80.] Targeted education measures are needed to raise awareness of the fundamental rights issues associated with the digital age. **Universities** and other **educational establishments** could consider mainstreaming privacy and fundamental rights into curricula for IT engineers and other professional groups.
- [81.] Parental awareness of privacy and security concerns in the online world is vital for children’s safety. **EU Member States** could work to increase parents’ data literacy, while the **business sector** could ensure parental consent is necessary for agreement with the terms of use of personal data online.

ENSURING THE RIGHTS OF ALL GROUPS IN THE DIGITAL AGE

- [82.] New technologies can be a positive tool to aid fundamental rights implementation. One proposal, from different organisations, is for a 'traffic light' warning system for users of digital technology, which could be set up by **IT companies** in cooperation with **regulators** - with red indicating that any transaction online, which includes personal data, could be potentially sold, reused and abused by others.
- [83.] People with disabilities can benefit significantly from developments in the digital field. **EU institutions** and **EU Member States**, working with **businesses** and **civil society** representatives of people with disabilities, could consider how best to ensure that the rights set out in the UN Convention on the Rights of Persons with Disabilities can be enhanced through the use of digital technology.
- [84.] Children and young people are the biggest users of digital technology. Older people can, on the other hand, face challenges accessing services provided only online. Equal access to new technologies, irrespective of background, needs to be explored as a key priority at **EU** and **Member State level**.
- [85.] Researchers and government offices, at the global level, are reporting on the potential uses and abuses of so-called 'big data'. An approach that places fundamental rights such as equality of access and non-discrimination at the heart of developments in the area of big data would be welcome at the level of **EU institutions**.
- [86.] Open access to data is an important development in the use of new technologies. **Local authorities** could take the lead in promoting the responsible use of big data, such as administrative data, for the benefit and inclusion of many groups in society.
- [87.] The collection and use of data across a range of everyday activities requires compliance with the principle of informed consent and the understanding that the processing of data is not only a profit-driven asset but must also be based on a system of values. The **business sector** can be at the forefront of developments to communicate and apply this principle, including information on access to redress when data is incorrect or misused.
- [88.] e-Health strategies can help empower patients. **EU Member States** can assist in this by ensuring equal access to e-health for everyone, as well as involving patients more at all stages - from design, through to implementation and monitoring, while ensuring data protection safeguards.
- [89.] The business sector is key to ensuring respect for data privacy. **Regulators** and the **European Data Protection Board**, under the EU's General Data Protection Regulation, together with **EU Member States**, could consider setting up a system of certification and privacy seals to create incentives for business to turn privacy issues into a competitive advantage.

In support of the objectives identified at the Forum,

THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS WILL:

- [90.] Ensure that this Chair's Statement is effectively disseminated and brought to the attention of policy makers at every opportunity.
- [91.] Undertake a periodic review of the Statement's dissemination, outreach and impact.
- [92.] Implement the mandate of the Agency so that it is best calibrated to support fundamental rights-compliant policies and the strengthening of the roles of all fundamental and human rights stakeholders at national and EU levels.
- [93.] Make every effort to ensure that the evidence and analysis provided by the Agency on the situation of fundamental rights is taken on board and used by those who have a duty to enforce rights at different levels of governance from Union through to national, regional and, as far as possible, local level.
- [94.] Reconvene the Fundamental Rights Forum on a periodic basis.

Refugee Protection

- [95.] Continue to provide assistance and expertise to EU institutions and Member States in areas related to refugee protection, ranging from legal opinions on new or revised legislation through to practical input concerning the application of rights in practice.
- [96.] Undertake research in areas where comparable data concerning the situation on the ground for refugees and migrants is lacking, in order to provide an essential tool to duty bearers when seeking to increase respect for fundamental rights.
- [97.] Where resources permit, provide assistance and expertise to EU institutions, Member States and other Agencies in locations in which fundamental rights compliance is under strain and needs support, such as the 'migrant hotspots'.
- [98.] Provide expert input and guidance to other Agencies and national authorities with respect to the inclusion and development of fundamental rights training and promotion in the field of refugee protection.
- [99.] Highlight the range of rights that can be impacted by current and proposed legislative and policy responses to refugee protection; ranging from equality through to data protection.

Social Inclusion

- [100.] Continue to provide assistance and expertise to EU institutions and Member States in areas related to social inclusion and social rights, ranging from legal opinions on new or revised legislation through to practical input concerning the application of rights in practice, especially at local level.

- [101.] Undertake research in areas where comparable data concerning the situation on the ground is lacking or not disaggregated by, for example, ethnic origin, religion or belief, sexual orientation or gender identity, and disability, in order to provide duty bearers with the evidence necessary to develop legal and policy responses to fundamental rights abuses.
- [102.] Support the development of indicators and monitoring tools, as for Roma integration, if requested.
- [103.] Develop more tools, manuals and instruments that set common standards and help to provide training on inclusion for professional groups at national level
- [104.] Promote good practices in the integration and mainstreaming of human rights approaches across inclusion measures in both the public and private sectors
- [105.] Provide specific expertise to EU institutions, in particular the European Court of Auditors and the European Ombudsman, as well as Member States, to support monitoring and evaluation of the use of EU funds, such as ESIF.
- [106.] Provide expert input and guidance to EU institutions, other Agencies and national authorities on fundamental rights training and promotion in the field of anti-discrimination, freedom of religion, combating hate crime, Roma and migrant integration, the empowerment of people with disabilities and older people to live independently, and in regard to the rights of the child.

Digital Age

- [107.] Ensure that the concept of the digital age is mainstreamed throughout the Agency's work and understood as a field that can both benefit and hinder people's enjoyment of their rights.
- [108.] Foster cooperation in the field of the digital age and fundamental rights between FRA and other relevant EU agencies, such as ENISA and EU-Lisa, with the support of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs.
- [109.] Be aware of, engage with and contribute to the development of new digital applications and tools that can be used to promote fundamental rights to the benefit of diverse groups in European societies.
- [110.] Provide opportunities for human rights experts at FRA to come together with experts in the digital arena so that fundamental rights can be discussed, understood and embedded in the work of these diverse fields.
- [111.] Building on the Agency's extensive work on hate crime, further explore possibilities of supporting engagement with and responses to issues of freedom of expression and online hate as they impact on diverse groups in society.

Michael O'Flaherty
Chair, Fundamental Rights Forum