



COMMISSION OF THE EUROPEAN COMMUNITIES

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96/0298 (CNS)

Proposal for a
COUNCIL REGULATION (EC)
establishing a European Monitoring Centre for Racism and Xenophobia

(presented by the Commission)

EXPLANATORY MEMORANDUM

INTRODUCTION

1. Recent years have seen increased awareness of the fundamental challenge to democracy caused by the persistence of racism, xenophobia and antisemitism throughout the European Community, and of the need for concerted action at all levels. Racism as such constitutes an unacceptable violation of the basic principles underlying the Community, and the persistence of racist phenomena is a major obstacle to the pursuit of certain of the Community's objectives.
2. The European institutions have consistently reiterated their commitment to defending human rights and fundamental freedoms, and have condemned intolerance, racism, xenophobia and antisemitism. Back in June 1986, the European Parliament, the Council, 12 December 1996 the representatives of the Member States meeting within the Council, and the Commission adopted a joint declaration against racism and xenophobia¹ which emphasised "the importance of adequate and objective information and of making all citizens aware of the dangers of racism and xenophobia".
3. Since then, a wide range of reports, resolutions and declarations at European level have condemned racism and xenophobia, analysing the causes of the current upsurge and evoking important decisions of principle. More especially, the European Council meeting in Copenhagen on 21 and 22 June 1993 reiterated its "strong resolve to fight by all available means intolerance and racism in all its forms", and recalled "its previous declarations on racism and xenophobia and decided to intensify the efforts to identify and to root out the causes".
4. The European Council, meeting in Corfu on 24 and 25 June 1994, went a step further and approved the Franco-German initiative against racism and xenophobia, which proposed formulating an overall strategy at European Union level to combat acts of racist and xenophobic violence. It also set up a Consultative Commission charged with the task of "making recommendations on cooperation between governments and the various social bodies in favour of encouraging tolerance and understanding of foreigners".
5. The European Commission, for its part, presented a communication on racism, xenophobia and antisemitism in December 1995², together with a proposal for a Council Decision proclaiming 1997 the "European Year against Racism". This communication, which took up various of the Consultative Commission's recommendations, was seen as demonstrating the European Commission's contribution to the fight against racism, xenophobia and antisemitism.
6. The Consultative Commission presented its final report to the European Council in Cannes on 26 and 27 June 1995. The Council welcomed the report and called on it 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".
7. The Consultative Commission presented a report on its feasibility study to the Florence European Council of 21 and 22 June 1996. The European Council approved the principle underlying the establishment of a European Monitoring Centre and mandated the Consultative Commission on Racism and Xenophobia to continue its work until the Centre was set up.

¹ OJ No C 158, 25.6.1986, p. 1.

² COM(95) 653, 13.12.1995.

8. In the light of the above, the Commission is now putting forward this proposal for a Council Regulation setting up a European Monitoring Centre for Racism and Xenophobia, its principle aim being to supply the European Community institutions and the Member States with objective, reliable and comparable data on racism, xenophobia and antisemitism and, by so doing, to enhance the exchange of information and experience in this field. The Centre will work in close conjunction with other international organizations and will conclude a cooperation agreement with the Council of Europe.
9. The feasibility study conducted by the Consultative Commission set out the purpose and objectives of the Centre. It goes without saying that this proposal is based on the substantial amount of work put in by the Consultative Commission. The Centre's specific objectives are set out below.

CHOICE OF LEGAL BASIS

10. Respect for human rights is one of the general principles of Community law as the Court of Justice has consistently held in its case-law ever since the early 1970s. The preamble to the Single European Act, which forms part of the *acquis communautaire*, reiterates this mandate.
11. To comply with its fundamental obligation to respect human rights in its legislation and policies, the Community must be well informed of all problems associated with racism and xenophobia.
12. This is why the specific tasks of the Monitoring Centre, as set out in Article 2(2) of the proposal for a Regulation, consist in collecting, analysing and disseminating information, carrying out and encouraging research and exchanges of information among researchers, setting up information networks, organizing round-table discussions, publishing an annual report and proposing conclusions and recommendations for the Community and its Member States.
13. The fields in which the Centre would be active fall within the Community's jurisdiction: free movement of persons (Articles 6, 7a, 8a, 48, 52 and 59 of the EC Treaty), e.g. the right to move to, and to stay and work in, the territory of a Member State; employment and social exclusion (Article 118); education and vocational training (Articles 126 and 127); free movement of goods (Articles 30-36), more especially the import and distribution of products with racist connotations; and culture (Article 128). None of the provisions in the present proposal for a Regulation give grounds for thinking that the Centre might have a mandate to help the Community take measures which are not within these fields of jurisdiction.
14. Article 7 of the proposal for a Regulation provides for the Centre to work in conjunction with other international organizations, more particularly under an agreement to be concluded by the Community with the Council of Europe.
15. It is precisely because of this special feature - that the work has to be carried out for the benefit of the Member States and in cooperation with the Council of Europe in particular - that it is necessary to use Article 235. It is worth pointing out that this Article has already been used as a legal basis for a wide range of organizations, such as the European Monitoring Centre for Drugs and Drug Addiction and the European Agency for Health and Safety at Work.
16. The choice of Article 235 as the legal basis reflects the Centre's objectives. The point is not to take specific measures to combat racism and xenophobia, nor to assign the Centre any political responsibility in the field; nor is it to modify the system for protecting human rights in the Community or to make any major change to the institutional system in the Community or any of its Member States.

17. The monitoring work to be assigned to the Centre does not fall within the sphere of cooperation between the Member States in terms of justice and home affairs. In other words, arrangements for setting up the Centre could not have been made under Title VI of the TEU.

COMMENTS ON THE INDIVIDUAL ARTICLES

Article 1 - Establishment of the Centre

18. This Article sets out the principle of establishing the Centre.

Article 2 - Objective and tasks

19. This Article defines the objective and tasks of the Centre.

The first paragraph sets out the Centre's prime objective, which is to provide the Community and its Member State with objective, reliable and comparable data at European level on the phenomena of racism, xenophobia and antisemitism. The Community and its Member States require information which is as full and as objective as possible to enable them to take measures or decide on courses of action in the fields under their respective jurisdiction.

20. The second paragraph sets out what the Centre must do to comply as fully as possible with its objective. These tasks are highly varied, but the universal aim is to maximise awareness of racist phenomena, to disseminate such information and to draw up recommendations or conclusions for the institutions of the European Union and of its Member States.
21. These tasks are to collect, record and analyse information and data from the Member States, the Community institutions (e.g. under the 4th framework programme in the field of targeted socioeconomic research), non-governmental organizations and international organizations, and to set up a European Racism and Xenophobia Information Network (Raxen).

Article 3 - Working methods and priorities

22. This Article establishes the Centre's working methods and priorities.
23. The Centre will be required to carry out its tasks gradually and by reference to the objectives set out in its annual programme and having regard to the available resources. In organizing its work, it will be expected to take account of work which has already been done in the same field at national or international level so as to avoid any duplication of effort.
24. The third paragraph spells out the fields in which the Centre will focus the tasks laid down in Article 2. These are:
- free movement of persons within the EU
 - employment
 - education, vocational training and youth
 - information, television broadcasting and other media and means of communication
 - social exclusion
 - free movement of goods
 - culture.

Article 4 - European Racism and Xenophobia Information Network (Raxen)

25. This Article details the resources to be used in implementing Article 2(2)(g), i.e. a European Racism and Xenophobia Information Network (Raxen).
26. To enable the network to be set up as rapidly and efficiently as possible, the Member States are required to supply the Centre with the necessary information. It will be up to the Centre's Management Board to designate the bodies to be parties to the network; it will be up to the Centre to establish, where appropriate, the necessary contractual links with these organizations or with others, in order to accomplish any tasks which it may wish to entrust to them.

Article 5 - Protection and confidentiality of personal data

27. The point of national legislation on the treatment of personal data is to ensure respect for people's fundamental rights and freedoms, particularly the right to privacy. Parliament and Council Directive 95/46/EC 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 is concerned particularly with approximating the national laws and guaranteeing an equivalent level of protection, but leaving the Member States some room for manoeuvre in implementing the directives. To provide effective protection of any data it is sent, the Centre will adopt rules implementing Directive 95/46/EC (paragraph 1). These rules will be communicated to the Commission so that they can be published in the Official Journal (paragraph 2).
28. Where personal data are sent to the Centre by one of the Member States or *vice versa*, the transmission procedure must comply with the national provisions concerning the processing of personal data (paragraph 3). The same rule will apply *mutatis mutandis* to contacts with other national and international bodies. Provision is made for the Centre to refrain from any activity concerning specific and named cases (paragraph 4).
29. Similarly, Member States and national bodies working with the Centre may decide, in accordance with their national law, not to supply the Centre with information which is classified as confidential under their national law. (paragraph 6).

Article 6 - Legal personality and capacity

30. The Centre will have legal personality and will enjoy, in each of the Member States, the most extensive legal capacity accorded to legal persons. Clearly, the Centre needs, for the purposes of achieving its objectives, to be able to conclude contracts and enter into other acts with legal repercussions in its own name, and not just on behalf of the Commission. It follows that the Centre must have legal personality pursuant to the national law of the Member States. The terms of this Article are largely similar to those of Articles 210 and 211 of the EC Treaty. Article 7 of the proposal for a Regulation, however, establishes very clearly that the Centre has only limited capacity under international law, and certainly does not include the capacity to conclude treaties, given that the agreement with the Council of Europe has to be entered into by the Community as such.

Article 7 - Cooperation with competent organizations or bodies

31. This Article governs the Centre's relations with other organizations or bodies competent to deal with the analysis of racist and xenophobic phenomena. More particularly, it provides for the Community, on behalf of the Centre, to conclude with the Council of Europe an agreement establishing close cooperation between it and the Centre.

Articles 8, 9, 10 and 11 - Management Board, Executive Board, Director, Scientific Committee

32. These Articles lay down the rules governing the composition and functions of the Management Board and its Executive Board (Articles 8 and 9). Article 10 details the role and the functions of the Director, while Article 11 sets out the composition and role of the Scientific Committee.

Article 12 - Staff

33. The point here is to make the Centre's staff subject to all the Regulations and rules applicable to officials and other servants of the European Communities.

Article 13 - Budget

34. This Article sets out the Centre's budgetary rules (governing income, expenditure, how the budget is established and how the accounts are audited).

Article 14 - Privileges and immunities

35. The content of Article 14 is the natural consequence of setting up a Centre which reports to the Community and which applies the EC Staff Regulations to its staff. The same rule applies for other Community agencies likewise.

Article 15 - Liability

36. This Article derives largely from Articles 178 and 215 of the EC Treaty. The first paragraph reiterates the first paragraph of Article 215 and makes provision, as is the case in most of the contracts concluded by the Commission, for a clause conferring judicial competence on the Court of Justice. The second paragraph combines the provisions of Article 178 and the second paragraph of Article 215. The third paragraph is identical to paragraph 4 of Article 215. All these provisions are the logical consequence of conferring legal personality on the Centre and of giving it the capacity to enter into contracts under national law. Such powers necessarily bring with them the need to accept liability where necessary.

Article 16 - Reporting procedures

37. This provision obliges the Commission to transmit, during the third year following the entry into force of the Regulation, to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions a report on the Centre's activities. Where appropriate, this report may include a proposal for extending the Centre's range of tasks. Any such proposal will be made in the light of the Community's changing powers in the field of racism and xenophobia.

Article 17 - Entry into force

38. The proposal for a Regulation sets the date of entry into force of the Regulation as the day following the date of decision by the competent authorities on where the Centre's seat should be located.

Proposal for a
COUNCIL REGULATION (EC)

establishing a European Monitoring Centre for Racism and Xenophobia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Whereas, in the preamble to the Single European Act, the Member States stress the need to "work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, notably freedom, equality and social justice";

Whereas Article F(2) of the Treaty on European Union states that the Union is to "respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law";

Whereas racism, xenophobia and antisemitism seriously impinge on fundamental rights;

Whereas the Community must respect fundamental rights in formulating and applying its policies; whereas, in particular, compliance with human rights constitutes a condition of the legality of Community acts;

Whereas 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 xenophobia 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"⁵;

Whereas 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; whereas to this end it set up a Consultative Commission charged with making recommendations on combating racism and xenophobia;

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5 OJ No C 158, 25.6.1986, p. 1.

Whereas 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;

Whereas the conclusions of this feasibility study were put to the European Council meeting in Florence on 21 and 22 June 1996;

Whereas 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;

Whereas the collection, recording, analysis and publication of objective, reliable and comparable information on racist and xenophobic acts and attitudes are necessary at European level to provide full information in the Community on the problem of racism and xenophobia so as to enable the Community to meet its obligation to respect fundamental rights and to take account of them in formulating and applying whatever policies and acts it adopts in its sphere of competence;

Whereas racism and xenophobia are phenomena which manifest themselves at all levels within the Community: local, regional, national and Community;

Whereas the information which is collected, recorded 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;

Whereas it is therefore appropriate to set up a European Monitoring Centre for Racism and Xenophobia which will make the results of its work available to both the Community and the Member States;

Whereas the tasks assigned to the Centre presuppose cooperation with other national and international organizations, and particularly with the Council of Europe, which has considerable experience in this field;

Whereas the protection of personal data must be assured 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 data⁶;

Whereas the Centre must enjoy maximum legal and political autonomy, while maintaining close links with the Community institutions;

Whereas this Regulation might, where appropriate, be adapted on expiry of a three-year period, 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;

Whereas the Treaty does not, for the purpose of adoption of this Regulation, provide for any powers of action other than those laid down in Article 235,

⁶ OJ No L 281, 23.11.1995, p. 31.

HAS ADOPTED THIS REGULATION:

Article 1

A European Monitoring Centre for Racism and Xenophobia (hereinafter referred to as "the Centre") is hereby established.

Article 2

Objective and tasks

1. The prime objective of the Centre shall be to provide the Community and its Member States, more especially within the fields referred to in Article 3(3), with objective, reliable and comparable data at European level on the phenomena of racism, xenophobia and antisemitism in order to help them when they take measures or formulate courses of action within their respective spheres of competence.
2. The Centre shall study the extent and development of the phenomena and manifestations of racism, xenophobia and antisemitism, analyse their causes, consequences and effects and examine examples of good practice in dealing with them. To these ends, the Centre shall:
 - (a) collect, record and analyse information and data, including data resulting from scientific research, communicated to it by the Member States, the 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 data bases in order to foster, where appropriate at the request of the European Parliament, the Council or the Commission, the wide distribution of their information;
 - (c) carry out scientific research and surveys, preparatory studies and feasibility studies, where appropriate at the request of the European Parliament, the Council or the Commission. 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 recommendations for the Community and its Member States;
 - (f) publish an annual report on the situation regarding racism and xenophobia in the Community, also highlighting examples of good practice, and on the Centre's own activities;
 - (g) 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 national or international organizations referred to in Article 7;

- (h) 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 European Community.

Article 3

Working methods and areas of activity

1. The Centre shall carry out its tasks in the light of the objectives adopted in its annual programme and with due regard to the available budgetary resources.
2. In pursuing its activities, the Centre shall, in order to avoid duplication, take account of activities already carried out by the Community institutions and by other institutions, bodies and competent international organizations, particularly the Council of Europe, and shall ensure that it provides added-value.
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:
 - (a) free movement of persons within the Community;
 - (b) employment;
 - (c) the media and other means of communication;
 - (d) education, vocational training and youth;
 - (e) social exclusion;
 - (f) free movement of goods;
 - (g) culture.

Article 4

European Racism and Xenophobia Information Network (Raxen)

1. To enable the network provided for in Article 2(2)(g) to be established as rapidly and efficiently as possible, the Member States shall forward to the Centre a list of the centres and organizations referred to in that Article.
2. The Centre's Management Board shall designate the bodies which are to be parties to Raxen. The decision of the Management Board shall be subject to a favourable opinion from the Scientific Committee referred to in Article 11.
3. The Centre may enter into contractual relations, in particular subcontracting arrangements, with the bodies 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 shall apply to its processing of personal data under this Regulation the provisions laid down in Directive 95/46/EC. To this effect, the Management Board shall adopt rules implementing these provisions, in particular concerning 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 Centre shall transmit the implementing rules referred to in paragraph 1 to the Commission for publication in the Official Journal of the European Communities. The Centre may not process personal data before the entry into force of those rules.
3. 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 in accordance with the provisions of Directive 95/46/EC.
4. Where personal data are forwarded to the Centre pursuant to this Regulation and in accordance with national law, such data may be used only for the purposes stated and under the conditions prescribed by the forwarding authority. This provision shall apply *mutatis mutandis* where personal data are communicated by the Centre to the competent authorities of the Member States or to international organizations and other Community bodies. The Centre shall refrain from any activity which concerns specific and named cases.
5. Data on racist, xenophobic and antisemitic violence supplied to and communicated by the Centre may be published subject to compliance with the Community and national rules on information dissemination and confidentiality.
6. Member States and national bodies cooperating with the Centre shall be under no obligation to provide information classified as confidential under their national law.

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 may cooperate with national or international, governmental or non-governmental organizations competent in the field of racist and xenophobic phenomena.
2. The arrangements for the cooperation referred to in paragraph 1 shall be subject to the approval of the Management Board.

3. The Centre shall coordinate its activities with those of the Council of Europe, particularly with regard to its programme of work. To this end, the Community shall 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 of a person nominated by the Council of Europe to sit on the Centre's Management Board.

Article 8

Management Board

1. The Centre's Management Board shall be composed of one independent person appointed by each Member State, one independent person appointed by the European Parliament, one independent person appointed by the Council of Europe pursuant to Article 7(3), and a representative of the Commission.

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

2. The names of the members and deputy members of the Management Board shall be notified to the European Commission for publication in the Official Journal of the European Communities. Their term of office shall be three years, which shall be renewable once. 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 absence, his deputy, shall have one vote. Decisions shall be taken by a two-thirds majority of the votes cast. The Chairman shall vote.

3. 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 in accordance with the budget and the available resources and after consulting the Scientific Committee; this programme may be reviewed when necessary during the year;
 - (b) adopt the Centre's annual report and its conclusions and recommendations and forward them to the European Parliament, the Council, the Commission, the Economic and Social Committee and the Committee of the Regions; it shall have the annual report published;
 - (c) appoint the Centre's Director;
 - (d) adopt the Centre's annual draft and final budgets;
 - (e) approve the accounts and give the Director discharge.

4. The Management Board shall adopt its rules of procedure. The Board shall meet, as convened by its Chairman, at least twice a year.

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 other members of the Management Board, including the person appointed by the Council of Europe and the Commission representative.

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. 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.
2. The Director shall be responsible for:
 - (a) performance of the tasks referred to in Article 2(2);
 - (b) preparing and implementing the Centre's annual work programme;
 - (c) preparing reports, conclusions and recommendations as referred to in this Regulation;
 - (d) all staff matters and matters of day-to-day administration.
3. The Director shall be accountable for these activities to the Management Board and shall attend its meetings and the meetings of the Executive Board.
4. The Director shall be the Centre's legal representative.

Article 11

Scientific Committee

1. The Management Board and the Director shall be assisted by a Scientific Committee charged with giving its opinion on any scientific question relating to the Centre's activities which the Management Board or the Director put to it.

The Scientific Committee shall adopt its opinions by a simple majority of the votes cast, each member having one vote. Divergent views shall be notified to the Management Board.

2. The Scientific Committee shall be composed of up to nine experts, preferably from different States, who are particularly qualified or experienced in analysing racist and xenophobic phenomena.

These experts shall be appointed by the Management Board on the basis of proposals from the Member States, the Commission, and the national and international organizations associated with the Centre's work as referred to in Article 7.

The Management Board shall ensure that the Scientific Committee is multidisciplinary in its composition.

3. The term of office of the members of the Scientific Committee shall be three years. It shall be renewable once.
4. The Scientific Committee shall elect its Chairman and Vice-Chairman.
5. The Scientific Committee shall be convened by its Chairman at least twice a year.

Article 12

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.

Article 13

Budget

1. Estimates shall be drawn up of all the Centre's revenue and expenditure for each financial year, which shall correspond to the calendar year, and shall be entered in the Centre's budget.
2. By 15 February each year at the latest, the Director shall draw up the preliminary draft budget for the following financial year. The preliminary draft budget shall cover the operating expenditure and programme of work scheduled for the following financial year. The Director shall submit the preliminary draft, together with an establishment plan, to the Management Board.
3. The revenue and expenditure shown in the budget shall be in balance.
4. The revenue of the Centre shall, without prejudice to other resources, comprise:
 - (a) a subsidy from the Community, entered under a specific heading in the general budget of the European Communities ("Commission" section);
 - (b) payments received for services rendered;
 - (c) any financial contributions from the organizations referred to in Article 7.
5. The Centre's expenditure shall include staff remuneration, administrative and infrastructure expenses, operating costs and expenditure relating to contracts concluded with institutions or bodies party to Raxen and with third parties.
6. The Management Board shall adopt the draft budget and forward it to the Commission. On this basis, the Commission shall determine the corresponding subsidy estimates to be entered in the preliminary draft general budget of the European Communities, which it places before the Council pursuant to Article 203 of the Treaty.
7. The Management Board shall adopt the Centre's final budget before the beginning of the financial year, adjusting it where necessary to the Community subsidy and the Centre's other resources.
8. The Director shall implement the Centre's budget.
9. Monitoring of the commitment and payment of all the Centre's expenditure and of the establishment and recovery of all the Centre's revenue shall be carried out by the Commission's Financial Controller.

10. By 31 March each year at the latest, the Director shall send the Commission, the Management Board and the Court of Auditors the accounts for all the Centre's revenue and expenditure in respect of the preceding financial year.

The Court of Auditors shall examine these accounts in accordance with Article 188c of the Treaty.

11. The Management Board shall give a discharge to the Director in respect of the implementation of the budget.
12. The Management Board shall, after consulting the Commission and the Court of Auditors, adopt the internal financial provisions specifying in particular the arrangements for establishing and implementing the Centre's budget.

Article 14

Privileges and immunities

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

Article 15

Liability

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.

Article 16

Reporting arrangements

During the third year following the entry into force of this Regulation, the Commission shall forward to the European Parliament, the Council, the 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.

Article 17

Entry into force

This Regulation shall enter into force on the day following the date of the decision by the competent authorities on where the seat of the Centre should be located.

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

Done at Brussels,

For the Council
The President

FINANCIAL STATEMENT

1. TITLE OF OPERATION

Draft Council Regulation establishing a European Monitoring Centre for Racism and Xenophobia

2. BUDGET HEADING INVOLVED

Heading to be included in the Commission's 1998 preliminary draft budget: European Monitoring Centre for Racism and Xenophobia (new B3-4115).

3. LEGAL BASIS

- Article 235 of the Treaty
- Proposal for a Council Regulation

4. DESCRIPTION OF OPERATION

4.1 General objective

To set up a European Monitoring Centre for Racism and Xenophobia responsible for taking stock of and evaluating racist and xenophobic phenomena in the European Union, analysing the causes of racism and xenophobia, and drawing up proposals to be put to the Community institutions and the Member States.

The Centre must be independent (so as to guarantee its credibility), and must have a team of persons qualified in the scientific and administrative fields (to guarantee its legitimacy).

4.2 Period covered and arrangements for renewal or extension

The operation will be open-ended (annual subsidy).

Article 16 of the proposal for a Regulation provides for the Commission to report, during the third year following the entry into force of the Regulation, on the Centre's activities, together with proposals, if appropriate, to modify or extend its tasks.

5. CLASSIFICATION OF EXPENDITURE OR REVENUE

5.1 Compulsory/Non-compulsory expenditure

5.2 Differentiated/Non-differentiated appropriations

5.3 Type of revenue involved

Revenue may be generated by the Centre's services and the participation of certain organizations.

6. TYPE OF EXPENDITURE OR REVENUE

6.1 100% subsidy to cover the Centre's ordinary budget in accordance with Article 13 of the proposal for a Regulation

6.2 N/A

6.3 N/A

6.4 N/A

6.5 As the Centre has no economic objective, the question of economic success is not pertinent.

7. FINANCIAL IMPACT

7.1 Method of calculating total cost of operation (definition of unit costs)

(1) The establishment phase during the first year (1998) will require a subsidy to the Centre of approximately ECU 3 million, viz.

- staff	ECU 1 million
- operating costs	ECU 1 million
- operational expenditure	ECU 1 million
Total	ECU 3 million

(2) Three categories of expenditure will arise for its budget when the Centre is up and running:

- (a) staff
- (b) operating costs (e.g. computer operations, rent, etc)
- (c) operational expenditure (e.g. meetings, networking arrangements, etc).

These costs will require a subsidy from the Community of between ECU 6 and 7 million per year.

These types of expenditure can be broken down as follows.

(a) Staff

The proposed budget corresponds to an estimated staffing strength of 25 people for the Centre in the medium term, comprising of necessity

10 A
8 B
6 C
1 D

1. The current average cost of a basic salary (all grades) is:

A	BEF 313 934, i.e. equivalent to an	A4-5
B	BEF 173 652, "	B2-3
C	BEF 119 190, "	C1-1
D	BEF 102 630, "	D1-4

2. Add the various ancillary costs directly associated with the basic salary (30.8% of the basic salary).

3. An estimate for the proposed 25 posts gives, for a full year (12 months), a total of ECU 2.2 million (1 ECU = BEF 39.1092).

(b) Operating costs

The projected expenditure is of the order of ECU 1.5 to 2 million per year. This might be reduced on completion of the establishment phase. It covers the following items:

- rent and associated costs
- computer operations
- furniture
- electronic and documentation resources
- business travel
- administrative expenditure

(c) Operational expenditure

This item is estimated at approximately ECU 2 million per year, broken down as follows:

(c) 1. Cost of meetings and of the Raxen network:

2 meetings of the Management Board (2 x 2 days x 18 people);
2 meetings of the Scientific Committee (2 x 2 days x 9 people);
6 meetings of the Executive Board (6 x 2 days x 6 people);
2 meetings of the Raxen network (2 x 2 days x 30 people);
making ECU 250 000 (based on ECU 1 500 per person per two-day meeting), plus the various logistical expenses, interpretation and translation for the meetings.

(c) 2. Studies, information processing and dissemination, establishment and publication of reports, organization of round-table discussions, etc.

8. FRAUD PREVENTION MEASURES; RESULTS OF MEASURES TAKEN

Article 13 of the proposal for a Regulation makes provision for the Commission's Financial Controller to monitor the commitment and payment of all the Centre's expenditure and to vet the establishment and recovery of all its revenue.

The same Article stipulates that the Court of Auditors should examine the accounts in accordance with Article 188c of the Treaty.

9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

9.1 Specific and quantified objectives; target population

Specific objectives: links with general objective:

- to provide the institutions of the Community and its Member States with objective, reliable and comparable data at European level on the phenomena of racism and xenophobia in order to assist them in taking measures or formulating courses of action in their respective areas of competence;
- to study the extent and development of the phenomena and manifestations of racism and xenophobia, to analyse their causes, consequences and effects, and to look into examples of good practice in dealing with them;
- to build up cooperation between suppliers of information and develop a policy for concerted use of their data bases in order to foster wide distribution of information;
- to carry out scientific research and surveys, preparatory studies and feasibility studies;

- to publish an annual report on the situation regarding racism and xenophobia in the Community, highlighting examples of good practice, and on the activities of the Centre;
- to set up and coordinate a "European Racism and Xenophobia Information Network" (Raxen) making use of an autonomous computer system linking all the parties involved;
- to 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 will take the findings of 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.

Target population: the entire resident population of the Community. Racism and xenophobia are scourges which negate the principles underlying the European Union itself. Special target groups are those elements of the population which are most exposed to racism: immigrants, gypsies, Jews, coloured people, etc.

9.2 Grounds for the operation

Need for Community financial aid, having regard to the principle of subsidiarity

The European Council meeting in Cannes on 26 and 27 June 1995 called on the Consultative Committee on Racism and Xenophobia (which was set up and attached to the Council in 1994) to study the feasibility of setting up a European Monitoring Centre for Racism and Xenophobia.

Considering the conclusions of this feasibility study, the European Council meeting in Florence on 21 and 22 June 1996 approved the principle of setting up the Centre and called on the Council to examine the legal basis, the budget and the links which the Centre might have with the Council of Europe.

The Council meeting on 28 and 29 October took note of the outcome of this examination and noted that the majority of Member States felt that the legal basis should be Article 235 of the EC Treaty. This is the reason why the Commission is now making this proposal for a Regulation.

Only a European centre is in a position to monitor closely the development of racism and xenophobia within the EU, to alert the European institutions, the Member States' governments and politicians in general, and to incite them to take concrete political measures.

The resurgence of racist propaganda and the incitement to racial hatred channelled by electronic media shows the need to tackle these phenomenon beyond mere national borders, something which individual Member States cannot do on their own.

Choice of ways and means

The Centre must be conceived as a durable and independent body within the framework of the European Union, and run by people of high moral standing with the appropriate skills and experience in the field of human rights. This will help to guarantee the Centre's scientific objectivity and to give it the necessary moral authority.

Main factors of uncertainty affecting the specific results of the operation

The main factor of uncertainty arises from the work of the IGC, which might decide to include in the Treaty a provision banning all forms of discrimination based on race, colour, religion, etc. Should such a decision be forthcoming, it could strengthen the role and importance of the Centre.

9.3 Monitoring and evaluation of the operation

Evaluation will take the following forms:

- annual report by the Management Board to the Council, the Commission and the European Parliament (Article 8(2)(b));
- during the third year following the entry into force of the Regulation, the Commission will forward a progress report on the Centre's activities, together with proposals, if appropriate, to modify or extend its tasks (Article 16).

The performance indicators to be applied in this operation can be of a qualitative nature only. They will make it possible to judge the Centre's input to the political decision-making process at the level of the Member States and of the Community in terms of the fight against racism.

10. ADMINISTRATIVE EXPENDITURE (PART A OF SECTION III OF THE GENERAL BUDGET)

The effective mobilisation of the requisite administrative resources will depend on the Commission's annual decision on how to allocate resources, bearing in mind the staffing levels and additional amounts of money authorised by the budget authority. The allocation of additional resources must be seen in the context of the Commission's priorities within the constraints of the available budget resources in the annual budget.

For the preparatory and establishment phases, the following resources will be temporarily required.

10.1 Effect on the number of jobs

Type of job		Staff to be assigned to the operation		of whom		duration
		permanent jobs	temporary jobs	by using existing resources in the DG or department concerned	by using supplementary resources	
officials or temporary agents	A		1	1		2 years (Commission preparatory phase)
	B		1	1		
	C		1	1		
Other resources						
TOTAL			3	3		

10.2. Overall financial effect of the additional human resources

Budget heading	Amount	Calculation method

Expenditure on staff assigned to the operation (internal redeployment of existing resources) is estimated at

Temporary agents 1 A
1 B
1 C

Titles A-1, A-2, A-4 and A-5

Total ECU 600 000 for the duration of the preparatory phase

10.3. Increase in other expenditure as a result of the operation

Budget heading	Amount	Calculation method
	
Total		

Expenditure on business travel (A130), by allocation of internal resources, is put at ECU 10 000 (A 130).