



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 December 2012

17255/12

**FREMP 147
JAI 870
COSCE 30
COHOM 263**

NOTE

from:	Presidency
to:	Working Party on fundamental rights, citizens' rights and free movement of persons (FREMP)
Subject:	Draft Council conclusions on a request to the European Union Agency for Fundamental Rights in accordance with Article 4 (1) c) and d) of the Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights

1. On 15 December 2011 the Commission presented to the Council the proposal for a Council Decision establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2013-2017.
2. The objective of this proposal is to establish a Multiannual Framework (further referred to as “MAF”) containing thematic areas of activity of the European Union Agency for Fundamental Rights (further referred to as “the Agency”) for the period 2013-2017, as required by Article 5 of Regulation (EC) No 168/2007 (further referred to as “the Regulation”)¹ establishing the Agency. The current Multiannual Framework (2007-2012) expires at the end of 2012.

¹ OJ L 53, 22.2.2007, p.1.

3. After examination by the preparatory bodies of the Council, the text was submitted to the JHA Council on 7-8 June 2012.² The Council endorsed the text and decided to transmit it to the European Parliament for consent.
4. Three delegations (CZ/DE/UK) have entered parliamentary scrutiny reservations on the proposal. In the meantime the Czech delegation has lifted its parliamentary reservation and the German delegation has indicated that it would be in a position to lift it by the end of 2012. However, UK will not be able to lift the reservation until April 2013.
5. Meanwhile, the LIBE Committee of the European Parliament has examined the proposal and, on 8 November 2012, has adopted a recommendation for the plenary to give its consent to the Decision. The Plenary is scheduled to vote on 13 December.
6. However, in view of the outstanding parliamentary scrutiny reservation it will not be possible for the Council to proceed to the final adoption of the act before the end of the year. Thus, the Agency will provisionally not have a MAF which, in accordance with Article 5 of the Regulation, must define the areas of activity of the Agency.
7. Given the importance of ensuring continuity in the Agency's work, the Presidency considers that the Council should take steps to allow the Agency to continue its work while the procedure for the adoption of the new MAF is completed in the European Parliament and the Council.
8. In order to do so, the Presidency proposes the adoption by the Council of conclusions authorising the Presidency to address a request to the Agency under Article 4 (1), lett. c) and d), of the Regulation. This request would make a cross-reference to the current Annual Work Programme 2013 adopted by the Agency in reference to the existing MAF, thus allowing it to carry on work on this basis while waiting for the adoption of the new MAF.

² See doc. 10615/12 FREMP 83 JAI 375 COSCE 18 COHOM 123.

9. A draft of the Council conclusions is set out in the Annex to this note and is submitted to the attention of delegations. The draft will be examined at the meeting of the Working Party on fundamental rights, citizens' rights and free movement of persons on 10 December 2012. Subsequently the Presidency has the intention of bringing the conclusions to Coreper and to the Council as I/A-item so that the request can be sent by the Presidency by the end of the year.
 10. The request to the Agency is necessary for this to be able to carry out its tasks as of 1 January 2013. Therefore, the Presidency invites delegations to consider the text and to endorse it, allowing the adoption of the conclusions in good time before the end of 2012.
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DRAFT COUNCIL CONCLUSIONS

of...

**on a request to the European Union Agency for Fundamental Rights in accordance with
Article 4 (1) c) and d) of Council Regulation (EC) No 168/2007 of 15 February 2007
establishing a European Union Agency for Fundamental Rights**

The Council has examined a proposal by the Commission for a Decision establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2013-2017.

The Council notes that, in consideration of outstanding parliamentary reservations of Member States, it will not be in a position to adopt the draft Decision on the new multiannual framework (MAF) by the end of 2012. As a consequence, as of 1 January 2013 and until the conclusion of the procedure for the adoption of the 2013-2017 MAF there will be no act defining the areas of activity of the European Union Fundamental Rights Agency ("the Agency").

The Council considers that one of the fundamental aspects of the work of the Agency is to provide advice relating to the respect of fundamental rights in the domain of Union law, and that this requires that the activities of the Agency should not suffer interruption.

The Council takes note of the adoption by the Agency of an annual work programme for 2013 ("the work programme")³, based on the 2008-2012 MAF. The Council recognizes the importance of the priorities and projects set out in the work programme and their coherence with the current mandate of the Agency on the basis of the 2008-2012 MAF.

In order to ensure the seamless continuation of the activities of the Agency in the year 2013 and until the adoption of the new MAF, the Council considers it essential that the Agency be requested to implement the work programme.

³ http://fra.europa.eu/sites/default/files/fra_uploads/2234-FRA_AWP2013_EN.pdf

Article 4 (1), letters c) and d), of Regulation (EC) No 168/2007 (“the Regulation”) provide that the Agency shall, at the request of of the European Parliament, the Council or the Commission, carry out, cooperate with or encourage scientific research and surveys, preparatory studies and feasibility studies; or formulate and publish conclusions and opinions on specific thematic topics, for the Union institutions and the Member States when implementing Community law.

In consideration of the above, the Council mandates the Presidency to submit a request to the Agency, in accordance with Article 4 (1), letters c) and d), of the Regulation, to carry out the research and study activities and projects set out in the work programme, until such time when the adoption of the 2013-2017 MAF may require a revision of the work programme.
