



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 4 March 2013**

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**Interinstitutional File:  
2011/0431 (APP)**

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**7007/13**

**FREMP 23  
JAI 170  
COSCE 3  
COHOM 31**

**"I/A" ITEM NOTE**

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from:	General Secretariat of the Council
to:	Coreper/Council
No. prev. doc.:	17348/12 FREMP 151 JAI 882 COSCE 31 COHOM 267
No. Cion prop.:	18645/11 FREMP 115 JAI 954 COSCE 23 COHOM 299
Subject:	Proposal for a Council Decision establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2013-2017 <b>(special legislative procedure)</b> - Adoption of the legislative act <b>(LA)</b>

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**I. INTRODUCTION**

1. On 15 December 2011 the Commission presented to the Council the proposal for a Council Decision establishing a Multiannual Framework (further referred to as "MAF") for the European Union Agency for Fundamental Rights (further referred to as "Agency") for 2013-2017. After examination by the preparatory bodies of the Council, the text was submitted to the JHA Council on 7-8 June 2012.<sup>1</sup> The Council endorsed the text and decided to transmit it to the European Parliament for consent.

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<sup>1</sup> See doc. 10615/12 FREMP 83 JAI 375 COSCE 18 COHOM 123.

2. The text as revised by the jurists-linguists of the Council is set out in 10449/12 FREMP 81 JAI 366 COSCE 17 COHOM 122 OC 292.
3. The European Parliament gave its consent on 13 December 2012.<sup>2</sup>
4. By the end of 2012 one outstanding parliamentary reservation was still pending. Due to that reservation it was not possible for the Council to proceed to the final adoption at that stage.
5. In order to allow the Agency to carry on its work while waiting for the adoption of the new MAF, the Council addressed a request to the Agency under Article 4 (1), lett. c) and d), of Regulation (EC) No 168/2007 establishing the Agency . This request made a cross-reference to the annual work programme of 2013 adopted by the Agency on the basis of the existing MAF. The Council conclusions were adopted on 20-21 December 2013.<sup>3</sup>

## **II. STATE OF PLAY**

6. The parliamentary reservation has now been lifted. Therefore the Council Decision, as revised by the jurists-linguists and as set out in 10449/12, can formally be adopted. In addition, it is appropriate to recall the declarations to be made upon adoption the text of which was agreed on by the Council in June 2012 set out in Annexes I and II.
7. The Commission, in Coreper on 30 May 2012 announced that it would make a declaration upon formal adoption. The text of that declaration is set out in Annex III.

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<sup>2</sup> European Parliament legislative resolution of 13 December 2012 on the draft Council decision establishing a Multiannual Framework for 2013-2017 for the European Union Agency for Fundamental Rights (10449/2012 – C7-0169/2012 – 2011/0431(APP)).

<sup>3</sup> 17348/13 FREMP 151 JAI 882 COSCE 31 COHOM 267.

### III. CONCLUSION

8. In the light of the above, Coreper is invited to confirm agreement and to suggest that the Council at one of its forthcoming sessions:
    - a) adopts the Decision as set out in 10449/12;
    - b) makes the declarations as set out in Annexes I and II to be entered in the Council minutes; and
    - c) takes note of the declaration of the Commission as set out in Annex III and to be entered in the Council minutes.
  
  9. After adoption the legislative act will be published in the Official Journal of the European Union.
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**Declaration of the Council concerning national minorities to be made at the time of adoption and entered into the Council minutes**

The Council Decision does not intend to define the notion of "national minority" and therefore the activities of the Fundamental Rights Agency under Article 2(h) affect neither the definition nor the existence of the term "national minority" as provided for by national law, nor the distribution of competences between the Union and the Member States in this respect.

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**Declaration of the Council concerning the review of the Multiannual Framework to be made at the time of adoption and entered into the Council minutes**

In the light of the ongoing review of the achievements of the European Union Agency for Fundamental Rights during its first five years of operations in accordance with Article 30(3) of Regulation No 168/2007, the Council agrees to examine any proposals for amendments to the Regulation that the Commission might submit to it pursuant to Article 31(2) of the mentioned Regulation, and to consider in that context the amendment of this Decision as regards the inclusion of police cooperation and judicial cooperation in criminal matters in the list of thematic areas. The Council also recalls the Council Declaration No 3 that was made when adopting the Regulation No 168/2007 of 15 February 2007.

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**Declaration of the Commission to be made at the time of adoption and entered into the Council minutes**

The Commission regrets the lack of agreement in the Council as regards the inclusion of the proposed new thematic areas of police cooperation and judicial cooperation in criminal matters in the new Multiannual Framework of the Fundamental Rights Agency (2013-2017).

The Commission recalls that following the entry into force of the Treaty of Lisbon, police cooperation and judicial cooperation in criminal matters have become part of the law of the Union and are therefore covered by the scope of the tasks of the Agency, as all areas falling within the competences of the Union, in accordance with Article 3(1) of Council Regulation (EC) n°168/2007.

However, in the absence of the inclusion of these thematic areas in the new Multiannual Framework, the Agency will be able to carry out its tasks in these areas only upon request of the European Parliament, the Council or the Commission, in accordance with Article 5(3) of Council Regulation (EC) n°168/2007.