



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 2 August 2013

12775/13

**FREMP 114
JAI 672
COHOM 167**

NOTE

from:	Presidency
to:	Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons (FREMP)
No. prev. doc.	11263/1/13 REV 1 FREMP 86 JAI 507 COHOM 127
Subject:	Draft Council conclusions on the evaluation of the European Union Agency for Fundamental Rights

I. INTRODUCTION

1. Article 30(3) of Regulation 168/2007¹ (further referred to as "FRA Regulation") establishing a European Union Agency for Fundamental Rights (further referred to as "FRA") foresees that not later than 31 December 2011 FRA should commission an independent external evaluation of its achievements during the first five years of operations on the basis of terms of reference issued by the Management Board in agreement with the Commission.

¹ Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, OJ L 53, 22.2.2007.

2. In accordance with the FRA Regulation this evaluation should:
 - (a) take into account the tasks of FRA, the working practices and impact of FRA on the protection and promotion of fundamental rights;
 - (b) assess the possible need to modify FRA's tasks, scope, areas of activity or structure;
 - (c) include an analysis of the synergy effects and the financial implications of any modification of the tasks; and
 - (d) take into account the views of the stakeholders at both Union and national levels.

3. Article 31 of the FRA Regulation further specifies that the Management Board shall examine the conclusions of the external evaluation and issue to the Commission such recommendations as may be necessary regarding changes in FRA, its working practices and the scope of its mission.

4. Subsequently the Commission shall transmit the evaluation reports and recommendations to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and make them public. After having assessed the evaluation report and recommendations, the Commission may submit any proposals for amendments to the FRA Regulation which it considers necessary.

II. FRA EVALUATION

5. On 18 June 2013 the Commission transmitted to the Presidency the final report of the external evaluation (further referred to as "Report") together with the recommendations of the FRA Management Board on FRA's working practices and the scope of its mandate (further referred to as "Recommendations").² Both documents are publicly available on the FRA website.³

² 11263/1/13 REV 1 FREMP 86 JAI 507 COHOM 127

³ http://fra.europa.eu/sites/default/files/fra-external_evaluation-final-report.pdf
http://fra.europa.eu/sites/default/files/fra-management-board-recommendations-external-evaluation_0.pdf

6. At the meeting of the Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons (further referred to as "FREMP") on 9 July 2013 FRA Director and the Chair of the Management Board presented the Report and the Recommendations and responded to questions from delegations. FREMP held an initial exchange of views on the two documents.
7. The Presidency announced its intention to prepare Council conclusions on the Report and the Recommendations in order to provide input to the Commission's on-going reflection process prior to submitting, if any, proposals for the amendment of the FRA Regulation.
8. The first draft of these conclusions is set out in the Annex to this note.

III. CONCLUSION

9. In the light of the above, FREMP is invited to examine the draft conclusions as set out in the Annex to this note at its meeting on 13 September 2013.

DRAFT COUNCIL CONCLUSIONS

on the evaluation of the European Union Agency for Fundamental Rights

a) Report and recommendations

1. The Council welcomes and notes with interest the external evaluation report of the EU Agency of Fundamental Rights and the recommendations of the Management Board of the Agency and shares the overall positive assessment of the Agency's operation so far. In this context the Council recalls its conclusions of 6 June 2013 that welcomed the important role of the Fundamental Rights Agency of the European Union in providing expert and independent analysis relating to fundamental rights within the remit of its mandate in this area.
2. The Council agrees that the Agency to a large extent fulfils its mandate to collect, record, analyse relevant, objective, reliable and comparable information and data relating to fundamental rights issues in the European Union and its Member States when implementing EU law.

b) Mandate of the Agency

3. The Council agrees that the limits of the mandate of the Agency should be examined and the Council looks forward to discussing any proposals that the Commission might put to it. As regards police and judicial cooperation in criminal matters the Council bears in mind its declaration made upon the adoption of the proposal for a Council Decision establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2013-2017 on 11 March 2013 relating to the inclusion of police cooperation and judicial cooperation in criminal matters in the list of thematic areas of the Agency.

4. The Council looks favourably at the idea of mandating the Agency to prepare own initiative opinions in the legislative process but considers that further discussions on this are necessary, in particular, in the light of limited resources and on the basis of any proposal that the Commission might submit to it. The available resources should be used in the most effective and efficient way. For this reason the projects and activities of the Agency should be as focussed as possible.
5. As regards the procedure for the adoption of the Multiannual Framework setting out thematic priorities of the Agency, the Council considers that this issue should be examined in the context of any future changes to the founding Regulation.
6. The Council recalls that any examination of the founding Regulation should take into account the Joint Statement of the European Parliament, the Council and the Commission on EU decentralised agencies, endorsed on 19 July 2012 and the Commission's Roadmap on the follow-up to the common approach on EU decentralised agencies, adopted on 19 December 2012.

c) Cooperation between the Agency and the Member States

7. The Council notes that cooperation between the Agency and the Member States already functions rather well, as shown by the existing cooperation channels and working methods, for example cooperation with the National Liaison Officers and the possibilities for Member States to avail themselves of the Agency's assistance and expertise when implementing EU law related to the Charter of Fundamental Rights. In this context and within the limits of the Agency's current mandate the Council invites the Member States to make full use of the Agency's expertise, subject to available resources and the compatibility of such requests with the Agency's work programme.

8. The Council emphasizes that better interaction between the Agency and the Member States is to be welcomed and supports the idea that Member States nominate a National Liaison Authority which would appoint a National Liaison Officer from its staff. The Council asks the Commission to examine whether any changes would be needed in the founding Regulation to achieve this. More effective ways of cooperating with Member States with a federal structure should be found.
9. Increased awareness-raising of the Agency's work and the dissemination of the Agency's findings and opinions are to be pursued with a view to contributing to greater knowledge base regarding fundamental rights issues amongst policymakers and stakeholders.

d) Rule of law

10. As regards the possible role of the Agency in proceedings foreseen under TEU Article 7, the Council agrees that within the current mandate this is not possible. At the same time the Council notes that the Agency's data and findings on the fundamental rights may be relevant for measuring certain parameters of the rule of law. Since this raises a number of issues the Council considers that this should not be seen in isolation from the ongoing and evolving discussions with all relevant stakeholders and EU institutions, including in the JHA Council as well as the General Affairs Council on a possible future initiative on the rule of law in the European Union. For this reason, it would be premature to express any views on this at this stage.

e) Consistency between internal and external human rights policies

11. The Council notes with interest the recommendation relating to the possible contribution of the Agency to the human rights dialogues with third countries. The Council considers the consistency between internal and external dimension of the European Union human rights policy a priority and agrees to examine how the findings and work of the Agency could contribute to the human rights dialogues with third countries, taking into account its limited resources.

f) Cooperation with civil society

12. Recognising the important role of civil society in the protection of fundamental rights the Council invites the Agency to continue promoting dialogue and working closely with the civil society organisations in the framework of the Fundamental Rights Platform and in the context of specific projects.

g) Cooperation with organisations at Member State and international level

13. The Council notes with interest the recommendation to include expressly the European Economic Area (EEA) in the enumeration of organisations with which FRA can cooperate under Article 8 of the founding Regulation, while noting that the current reference to international organisations covers also the EEA that already applies a large part of European Union law.

h) Next steps

14. After the Commission has finalised its assessment of the evaluation report and recommendations, the Council looks forward to receiving any proposals for amendments, if any, which the Commission considers necessary.
