



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 21 February 2012**

**6741/12**

**FREMP 17  
JAI 103  
COSCE 3  
COHOM 41**

**OUTCOME OF PROCEEDINGS**

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from : Working Party on Fundamental Rights, Citizens' Rights and Free Movement  
(FREMP)  
on : 15 February 2012  
Subject : - Summary of discussions

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**1. Introduction**

**1. Adoption of the agenda**

The agenda as set out in CM 1517/1/12 was adopted.

The Danish Presidency distributed information about the Presidency fundamental rights seminar in Copenhagen on 15-16 March 2012.

The Chair informed delegations about the state of play on the proposal for a European Year of Citizens 2013, indicating that the draft report of EP was sent to delegations to know their informal views on the proposed amendments. The delegations were reminded that their replies were expected by 21 February 2012. The Presidency would subsequently be in contact with the rapporteur in view of the upcoming orientation vote in the LIBE Committee on 12 April 2012.

## **2. Proposal for a Council Decision establishing a Multi-annual Framework for the European Union Agency for Fundamental Rights for 2013-2017**

18645/11 FREMP 115 JAI 954 COSCE 23 COHOM 299

### **a) Legal aspects**

The Working Party took note of the opinion of the Legal Service as set out in 6318/12 and had a discussion on the scope and legal basis of the proposal establishing a Multi-annual Framework (further referred to as “MAF”) for the European Union Agency for Fundamental Rights (further referred to as “FRA”) for 2013-2017.

The Commission representative informed the Working Party of their intentions to prepare a non-paper for the next meeting of the Working Party in order to further clarify the legal reasoning of the original Commission proposal. The importance of separating the discussion of MAF from the review of FRA was emphasized.

Whereas most delegations could on the substance agree to the inclusion of police and judicial cooperation in criminal matters (ex-third pillar) within the scope of activities of FRA, the positions of delegations diverged on how to achieve that objective.

A number of delegations could agree with the approach of the Commission to add ex-third pillar questions via the new proposal on MAF, based on Article 352 TFEU, and following the assumption that after the entry into force of the Lisbon Treaty the reference to “European Community” and “Community law” in the founding Regulation of FRA<sup>1</sup> (further referred to as “FRA Regulation”) should be interpreted dynamically.

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<sup>1</sup> Council Regulation (EC) No 168/2007 of 15 February 2007 establishing the European Union Agency for Fundamental Rights.

Other delegations were more hesitant and considered that the FRA Regulation would need to be explicitly amended before these topics could be included within the scope of MAF. These delegations disagreed with the presumption that the Lisbon Treaty extended the scope of activities of FRA. Certain delegations considered that the possibilities of amending the founding Regulation should be further explored. Others deemed that this was not the appropriate moment to review the FRA Regulation in view of the upcoming plans of evaluating FRA activities. For a few delegations it was important that MAF should stay an implementing act and since Article 5 of the FRA Regulation could no longer be used, the relevant provisions of the FRA Regulation should be amended.

Some delegations were flexible on the legal aspects while sharing the objective of including police and judicial cooperation in criminal matters within the scope of thematic priorities of FRA.

Time constraints were raised as an important consideration. The fact that the proposal was based on Article 352 TFEU triggered lengthy national procedures in certain Member States. All delegations shared the objective that FRA should have a MAF in place by 1 January 2013.

## **b) First reading**

The Working Party proceeded to examine the text and recitals of the proposal.

### **Article 1**

Delegations could accept Article 1 as it stands in the Commission proposal.

### **Article 2**

#### **(a) Access to justice**

It was explained that this objective – albeit in a different formulation – was already included in the previous MAF. The wording had been changed in order to give the emerging justice policy post-Lisbon more visibility. One delegation proposed to add “and the efficient standards of rule of law.” Other delegations requested more clarifications from the delegation concerned and reserved their positions until that moment. It was agreed to revert to the matter at the next meeting.

**(b) Victims of crime**

One delegation entered a scrutiny reservation on this item.

**(c) Information society and, in particular, respect for private life and protection of personal data;**

Delegations could accept this priority as in the Commission proposal.

**(d) Roma integration**

It was confirmed that this item covered indigenous traveller population as raised by one delegation. The new objective of Roma integration should be seen in the context of the emerging EU Roma policy and it was essential that FRA continued to work on it.

**(e) Police cooperation, taking into account the specific nature of this field**

The delegations agreed that the inclusion of this objective in the text depended on the outcome of discussions on the legal basis.

The importance of avoiding overlaps with activities and information collection carried out in other organisations such as the OSCE, was emphasised.

**(f) Judicial cooperation, taking into account the specific nature of this cooperation when it relates to criminal matters**

In the delegations' view, the question of including the criminal law cooperation in the text would depend on the results of discussions pertaining to the legal basis.

**(g) Rights of the child**

Delegations could accept this priority as in the Commission proposal.

**(h) Discrimination based on race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation**

A number of delegations proposed to insert “gender discrimination” in order to enable FRA to work on these issues together with EIGE. The German delegation presented its drafting proposals in writing (see DS 1106/12).

The Commission representative explained that now that EIGE was up and running, it was important to avoid any possible overlaps and that this did not prevent FRA from working on gender aspects of other forms of discrimination.

The Presidency agreed to reflect on a compromise solution on this aspect, considering that all agreed on the need to avoid duplication as well as on the need to retain the possibility for FRA to address gender aspects of other forms of discrimination.

**(i) Immigration and integration of migrants; visa and border control; asylum**

Delegations could accept this priority as it stands in the Commission proposal.

**(j) Racism, xenophobia and related intolerance**

Delegations could accept this priority as in the Commission proposal.

One delegation suggested adding letter (k) to the list of priorities - social fundamental rights. However, it was pointed out that recital 8 addressed this question and that social rights were already covered by other thematic areas and by other initiatives such as EUROFOUND and the 7<sup>th</sup> Framework Programme in the field of research.

**Article 3(1)**

Delegations could accept the provision as it appears in the Commission proposal.

**Article 3(2)**

The Working Party took note of a German drafting proposal on this paragraph. The Commission representative entered a scrutiny reservation on this proposal. It was agreed to revert to the matter at the next meeting.

**Article 3(3)**

Delegations could accept this provision as it appears in the Commission proposal.

**Article 3(4)**

Delegations could accept this provision as it appears in the Commission proposal.

**Article 3(5)**

Delegations could accept this provision as in the Commission proposal.

**Recitals**

The Working Party proceeded to the examination of the recitals. As regards recital (2), the question of possible consequences, if MAF was not adopted by 1 January 2013, was raised.

The Working Party noted the drafting proposal of the German delegation on recital (11). Several delegations could support that proposal. Others were more hesitant and suggested to align the wording with recital (13) of the FRA Regulation.

The Commission representative expressed their concerns that the proposed recital related more to the tasks of FRA, which in their view was not appropriate to address in the context of the MAF proposal.

The question of the role of FRA as regards the UN Convention on the rights of persons with disabilities was raised. It was agreed to examine this question further.

The UK delegation entered general scrutiny and parliamentary reservations on the entire proposal.

The Presidency invited delegations to submit to the General Secretariat of the Council written comments on the proposal by 29 February 2012. Thereafter the Presidency would prepare a new text to be discussed at the next meeting on 19-20 March 2012.

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