



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 31 May 2012

10615/12

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

**FREMP 83
JAI 375
COSCE 18
COHOM 123**

NOTE

from:	Coreper
to:	Council
No Cion. proposal:	18645/11 FREMP 115 JAI 954 COSCE 23 COHOM 299
No. prev. doc.	10164/2/12 REV 2 FREMP 77 JAI 343 COSCE 15 COHOM 106
Subject:	Proposal for a Council Decision establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2013-2017 - Requesting the consent of the European Parliament

I. INTRODUCTION

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. The proposal is based on Article 352 of the Treaty on the Functioning of the European Union (TFEU), requiring unanimity in the Council and the consent of the European Parliament.

II. DISCUSSIONS IN THE COUNCIL PREPARATORY BODIES

4. The Working Party on Fundamental Rights, Citizens Rights and Free Movement of Persons (FREMP) examined the proposal at its meetings on 20 January, 15 February, 20 March and 11 April 2012.
5. Coreper discussed the proposal at its meetings on 3 May 2012 and 30 May 2012. In between the two Coreper meetings JHA Counsellors met on 25 May 2012 to resolve outstanding issues.
6. The text as it results from Coreper discussions is set out in Annex I. For ease of reference all changes compared to the original Commission proposal are marked in **bold** for newly added text and (...) for deletions.
7. Three delegations (CZ/DE/UK) have entered parliamentary scrutiny reservations on the proposal.
8. CZ has confirmed that its reservation is not of the nature to prevent the Council from sending the text to the European Parliament for its consent, having in mind that the final adoption can only take place after the European Parliament has given its consent.
9. DE has domestic parliamentary procedures ongoing, but subject to those, can accept that the text is sent to the European Parliament for its consent, having in mind that the final adoption can only take place after the European Parliament has given its consent.
10. While the proposal remains under parliamentary scrutiny in the UK, neither this reservation, nor the ongoing domestic parliamentary procedures prevent the Council from sending the text to the European Parliament for its consent, bearing in mind that the final adoption can only take place after the European Parliament has given its consent.

III. CONCLUSIONS

11. In the light of the above, Council is invited to:

- a) endorse the text as set out in Annex I, subject to pending national parliamentary procedures and subject to legal-linguistic revision;
- b) decide to transmit the text, once legal-linguistic revision is finalised, to the European Parliament for its consent;
- c) endorse the text of the declarations as set out in Annexes II and III to be made at a later stage upon the formal adoption of the Decision.

2011/0431 (APP)

COUNCIL 2012/.../EU DECISION

of

**establishing a Multiannual Framework
for the European Union Agency for Fundamental Rights for 2013-2017**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 352 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the consent of the European Parliament,²

Acting in accordance with a special legislative procedure,

² OJ C , , p. .

Whereas:

- (1) Bearing in mind the objectives of the foundation of the European Union Agency for Fundamental Rights (hereinafter the "Agency") and in order for the Agency to carry out its tasks properly, the precise thematic areas of its activity are to be determined by a Multiannual Framework covering five years as **provided for** in Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights.³
- (2) The first Multiannual Framework was adopted by the Council in its Decision 2008/203/EC of 28 February 2008 implementing Regulation (EC) No 168/2007 as regards the adoption of a Multiannual Framework for the European Union Agency for Fundamental Rights for 2007-2012.⁴
- (3) The Multiannual Framework should be conducted only within the scope of Union law.
- (4) The Multiannual Framework should be in line with the Union's priorities, taking due account of the orientations resulting from the European Parliament resolutions and Council conclusions in the field of fundamental rights.
- (5) The Multiannual Framework should have due regard to the Agency's financial and human resources.

³ OJ L 53, 22.2.2007, p. 1.

⁴ OJ L 63, 7.3.2008, p. 14.

- (6) The Multiannual Framework should include provisions with a view **to** ensuring complementarity with the remit of other Union bodies, offices and agencies, as well as with the Council of Europe and other international organisations active in the field of fundamental rights. The most relevant Union agencies and bodies in relation to this Multiannual Framework are the European Asylum Support Office (EASO) established by Regulation (EU) No 439/2010 **of the European Parliament and of the Council**,⁵ the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) established by **Council** Regulation (EC) No 2007/2004,⁶ the European Migration Network established by Council Decision 2008/381/EC,⁷ the European Institute for Gender Equality (EIGE) established by Regulation (EC) No 1922/2006 **of the European Parliament and of the Council**,⁸ the European Data Protection Supervisor (EDPS) established by Regulation (EC) No 45/2001 **of the European Parliament and of the Council**,⁹ **Eurojust**, the Union's judicial cooperation unit established by Council Decision 2002/187/JHA,¹⁰ the European Police Office (**Europol**) established by Council Decision 2009/371/JHA,¹¹ the European Police College (CEPOL) established by Council Decision 2005/681/JHA,¹² the Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (IT Agency) established by Regulation (EU) No 1077/2011 **of the European Parliament and of the Council**¹³ and the European Foundation for the improvement of living and working conditions (EUROFOUND) established by Council Regulation (EEC) No 1365/75.¹⁴

⁵ OJ L 132, 29.5.2010, p. 11.

⁶ OJ L 349, 25.11.2004, p. 1.

⁷ OJ L 131, 21.5.2008, p. 7.

⁸ OJ L 403, 30.12.2006, p. 9.

⁹ OJ L 8, 12.1.2001, p. 1.

¹⁰ OJ L 63, 6.3.2002, p. 1.

¹¹ OJ L 121, 15.5.2009, p. 37.

¹² OJ L 256, 1.10.2005, p. 63.

¹³ OJ L 286, 1.11.2011, p. 1.

¹⁴ OJ L 139, 30.5.1975, p. 1.

- (7) The Multiannual Framework should include the fight against racism, xenophobia and related intolerance amongst the thematic areas of the Agency's activity.
- (8) In view of the importance of the fight against poverty and social exclusion for the **Union** – which has made it one of the five targets of its Europe 2020 growth strategy -, the Agency should **take into consideration** the economic and social pre-conditions enabling an effective enjoyment of fundamental rights when collecting and disseminating data within the thematic areas established by this Decision.
- (9) The Commission, when preparing its proposal, (...) consulted the Management Board of the (...) Agency and received written comments on 18 October 2011.
- (10) The Agency, upon a request from the European Parliament, the Council or the Commission, **provided** its financial and human resources so permit, **may** work outside the thematic areas determined in the Multiannual Framework, in accordance with Article 5(3) of the Regulation (EC) No 168/2007. **In accordance with the Stockholm Programme – an open and secure Europe serving and protecting citizens, adopted by the European Council,¹⁵ the institutions should make full use of the expertise of the Agency, and where appropriate, consult the Agency, in line with its mandate, on the development of policies and legislation with implications for fundamental rights,**

HAS ADOPTED THIS DECISION:

¹⁵ OJ C 115, 4.5.2010, p. 1.

Article 1

Multiannual Framework

1. A Multiannual Framework for the European Union Agency for Fundamental Rights (hereinafter "the Agency") for the period 2013-2017 is hereby established.
2. The Agency shall, in accordance with Article 3 of Regulation (EC) No 168/2007, carry out the tasks defined in Article 4(1) of Regulation (EC) No 168/2007 within the thematic areas laid down in Article 2 of this Decision.

Article 2

Thematic areas

The thematic areas shall be the following:

- (a) access to justice;
- (b) victims of crime, **including compensation to crime victims**;
- (c) information society and, in particular, respect for private life and protection of personal data;
- (d) Roma integration;
- (e) (...)
- (f) **judicial cooperation, except in criminal matters**;
- (g) rights of the child;
- (h) discrimination based on **sex**, 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;

- (i) immigration and integration of migrants, visa **and** border control and asylum;
- (j) racism, xenophobia and related intolerance.

Article 3

Complementarity and cooperation with other bodies

1. The Agency shall ensure appropriate cooperation and coordination with relevant Union bodies, offices and agencies, Member States, international organisations and civil society, **pursuant to** Articles 7, 8 and 10 of Regulation (EC) No 168/2007, for the implementation of the Multiannual Framework.
2. The Agency shall deal with issues relating to discrimination based on sex only as part of, and to the extent relevant to its work (...) **in the context of point (h) of Article 2** taking into account that it is for the European Institute for Gender Equality (EIGE) to collect data on gender equality and sex discrimination. **The Agency and EIGE shall cooperate in accordance with** the cooperation agreement of 22 November 2010.
3. The Agency shall cooperate with the European Foundation for the improvement of living and working conditions (EUROFOUND) **in accordance with** the cooperation agreement of 8 October 2009; **and** with the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) **in accordance with** the cooperation agreement of 26 May 2010. It shall moreover cooperate with the European Asylum Support Office (EASO), the European Migration Network, **Eurojust**, the Union's judicial cooperation unit, the European Police Office (Europol), the European Police College (CEPOL) and the Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (IT Agency) **in accordance with** the future respective cooperation agreements. **Cooperation with these bodies shall be limited to activities falling within the scope of the thematic areas laid down in Article 2 of this Decision.**

4. The Agency shall carry out its tasks in the area of information society and, in particular, of respect for private life and protection of personal data, without prejudice to the responsibilities of the European Data Protection Supervisor to ensure that the fundamental rights and freedoms of natural persons, and in particular their right to privacy, are respected by Union institutions and bodies in accordance with his or her duties and powers as **provided for** in Article 46 and 47 of Regulation (EC) No 45/2001.
5. The Agency shall coordinate its activities with those of the Council of Europe in accordance with Article 9 of Regulation (EC) No 168/2007 and the Agreement between the European Union and the Council of Europe on cooperation between the **European Union** Agency for Fundamental Rights and the Council of Europe¹⁶, referred to in that Article.

Article 4

Entry into force

This Decision shall enter into force on

Done at Brussels,

For the Council

The President

¹⁶ OJ L 186, 15.7.2008, p. 7.

Possible declaration of the Council concerning national minorities to be made at the time of adoption

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.

Possible declaration of the Council concerning the review of the Multiannual Framework to be made at the time of adoption

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.
