



**COUNCIL OF
THE EUROPEAN UNION**

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JAI 1040
COHOM 260**

NOTE

from:	Coreper
to:	Council
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Subject:	Council conclusions on the evaluation of the European Union Agency for Fundamental Rights - Adoption

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. On that basis the Presidency prepared draft 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. These conclusions as set out in 12775/13 were examined at the meeting of FREMP on 13 September 2013. After the meeting delegations were invited to provide written comments. A compilation of the answers received by 10 October 2013 is set out in 14061/1/13 REV 1.
9. The revised version of the conclusions as set out in 15055/13 was examined at the FREMP meeting on 6 November 2013. At that meeting agreement in principle was reached on the text of the conclusions. Coreper examined the conclusions at its meeting on 20 November 2013, confirmed agreement on the substance and agreed that these would be submitted to the Council.

III. CONCLUSION

10. In the light of the above, the Council is invited to adopt the conclusions as set out in the Annex.

COUNCIL CONCLUSIONS

on the evaluation of the European Union Agency for Fundamental Rights

a) Report and recommendations

1. The Council welcomes the external evaluation report of the EU Agency of Fundamental Rights, notes 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 notes that the Agency to a high extent fulfils its mandate to collect, record and 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 notes that the limits of the mandate of the Agency should be carefully examined, taking into account the broader institutional framework of the European Union. The Council will examine any proposals that the Commission might put to it to that effect. 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 notes the idea of mandating the Agency to prepare own initiative opinions in the legislative process but considers that further discussions on this are necessary.
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 relating to fundamental rights when implementing EU law.
8. The Council emphasises that better interaction, in full mutual respect, between the Agency and the Member States is to be welcomed and that existing cooperation channels and methods can be improved, in particular in order to ensure continuity of expertise and institutional knowledge and to improve the quality and relevance of the Agency's data and advice for use at Member States' level. The Council invites the Agency to seek close cooperation with the Member States, as primary focal points for the Agency.
9. 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.

10. The Council notes the idea of providing a group of Member States with the possibility to request the Agency to make available its expertise and assistance relating to fundamental rights but considers that further discussions are necessary, in particular, in the light of the Agency's broad mandate and limited resources.
11. 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 a greater knowledge base regarding fundamental rights issues amongst policymakers and stakeholders. National Liaison Officers are key information channels for promoting, using and disseminating the Agency's work. The Council invites Member States to draw inspiration from practices that have proven successful as identified in the Agency's Guide for National Liaison Officers. At the same time the Council calls upon the Agency to distinguish more clearly between advice addressed to the European Union institutions and advice addressed to the Member States.

d) Rule of law

12. As regards the possible role of the Agency in proceedings foreseen under TEU Article 7, the Council notes that within the current legal framework this is not possible.
13. 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 further views on this at this stage.
14. In this context the Council recalls its declaration of 15 February 2007 on proceedings under Article 7 of the Treaty on European Union and its conclusions of 6 June 2013 on fundamental rights and rule of law and on the Commission 2012 Report on the Application of the Charter of Fundamental Rights of the European Union.

e) Coherence between internal and external human rights policies

15. The Council notes the recommendation relating to the possible contribution of the Agency to the human rights dialogues with third countries. The Council considers the coherence 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

16. 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) Internal management of the Agency

17. With a view to increasing the administrative practicability and facilitating the work of the Agency's Management Board and following the recommendations of the Agency's Management Board on the working practices, the Council invites the Commission to consider options as regards Article 12 of the founding Regulation of the Agency in line with the Roadmap referred to in paragraph 6 above.

h) Next steps

18. After the Commission has finalised its assessment of the evaluation report and recommendations, the Council will examine carefully and in detail any proposals for amendments, if any, which the Commission considers necessary having regard to these Council conclusions and the Paris Principles as recognised and defined in the context of the United Nations.⁴
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⁴ Principles relating to the status and functioning of national institutions for the protection and promotion of human rights (The Paris Principles). Adopted by UN General Assembly resolution 48/134 of 20 December 1993.