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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 2)/Council

No. prev. doc.: 12631/16, 15672/16

Subject: Proposal for a COUNCIL DECISION establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2018-2022
- Adoption

1. On 5 July 2016, the Commission submitted a proposal for a Council decision establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2018-2022.
2. The proposal is based on Article 352 TFEU (unanimity) and is subject to the European Parliament's consent prior to its adoption by the Council.
3. The draft Council decision was discussed by the Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons (FREMP) on 11 July 2016, 12 September 2016, 6 October 2016 and 10 November 2016.

4. On 19 December 2016, the agreement on the text of the proposal reached by FREMP was confirmed by the Council, and the draft decision was forwarded to the European Parliament for its consent (doc. 14647/16).

5. On 1 June 2017, the European Parliament gave its consent to the draft Council decision¹.

6. Given that all parliamentary reservations have been lifted, the file can be submitted to the Council for adoption.

7. As a consequence, COREPER is requested to:

- suggest that the Council adopt the Council decision establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2018-2022, as set out in doc. ST 14423/16; and

- invite the Council to take note of the declarations as set out in Annex I-IV, and include them in its minutes.

¹ European Parliament legislative resolution of 1 June 2017 on the draft Council decision establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2018–2022 (14423/2016 – C8-0528/2016 – 2016/0204(APP)).

Declaration by Austria, Belgium, Finland, Germany, Portugal, Slovenia, Sweden, Lithuania, Czech Republic, Italy, Luxembourg and Ireland.

Austria, Belgium, Finland, Germany, Portugal, Slovenia, Sweden, Lithuania, Czech Republic, Italy and Ireland regret that the areas of police cooperation and judicial cooperation in criminal matters could not be included in the Multiannual Framework of the Fundamental Rights Agency, despite the fact that these areas are particularly fundamental rights-sensitive and should, therefore, be part of the regular activities of the Agency. Furthermore, it should be recalled that the Agency is already active in these areas upon request in accordance with Article 5 (3) of Council Regulation (EC) No 168/2007.

Austria, Belgium, Finland, Germany, Portugal, Slovenia, Sweden, Lithuania, Czech Republic, Italy, Luxembourg and Ireland reiterate their support for the inclusion of police cooperation and judicial cooperation in criminal matters in the Agency's areas of activities and will revert to this issue in the context of proposals for amendment of Council Regulation (EC) No 168/2007. We invite the Commission to submit a proposal to this effect following the independent external evaluation to be carried out in 2017.

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

Under Article 30 (3) and (4) of Council Regulation (EC) N° 168/2007 ('the Regulation') an independent, external evaluation of the EU Agency for Fundamental Rights ('FRA') will be carried out in 2017. As stipulated in Article 31 (2) of the Regulation, the Commission, after having assessed the evaluation report and recommendations made on that basis by the FRA's Management Board, may consider submitting any proposals for amendments to the Regulation which it considers necessary.

In this context, the Council agrees that it will consider carefully any proposals for amendments to the Regulation that the Commission may decide to submit, including those pertaining to the remit of the Agency to cover the areas of police cooperation and judicial cooperation in criminal matters. The Council further agrees that it will consider carefully any proposals to improve procedures for the governance and functioning of the Agency.

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(b) 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.

Commission Declaration

The Commission regrets the lack of agreement on the inclusion of the proposed new thematic areas of police cooperation and judicial cooperation in criminal matters in the EU Agency for Fundamental Rights' Multiannual Framework for 2018-2022.

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 Union law and are therefore covered by the scope of the tasks of the Agency, as all areas falling within the competences of the Union, under Article 3(1) of Council Regulation (EC) n°168/2007.

If these thematic areas are not included in the Council Decision establishing a Multiannual Framework for the Agency for 2018-2022, the Agency will continue to carry out its tasks in these areas upon request from the European Parliament, the Council or the Commission, under Article 5(3) of Council Regulation (EC) n°168/2007.

Following the external evaluation of the Agency in 2017, 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 Regulation (EC) n°168/2007 which it considers necessary, as provided in Article 31(2) thereof.