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RESOLUTION OF THE 1st STANDING COMMITTEE

(Constitutional affairs, affairs of the Prime Minister's office and home affairs, general legal system of the State and the civil service)

(Rapporteur DE PETRIS)

adopted at the sitting of 14 September 2016

ON THE

**COMMISSION PROPOSAL FOR A COUNCIL DECISION ESTABLISHING A
MULTIANNUAL FRAMEWORK FOR THE EUROPEAN UNION AGENCY FOR
FUNDAMENTAL RIGHTS FOR 2018-2022 (COM(2016) 442 FINAL)**

pursuant to Article 144(1) and (6) of the Rules of Procedure

Sent to the President's Office on 19 September 2016

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The Committee,

having examined, pursuant to Article 144(1) and (6) of the Rules of Procedure, the Proposal for a Council Decision establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2018-2022

whereas:

the proposal would establish the Agency's Multiannual Framework for 2018-2022, pursuant to Article 5 of Council Regulation (EC) No 168/2007 of 15 February 2007, since the current framework will end in 2017;

Article 5 provides that, when preparing its proposal, the Commission must: consult the Agency's management board; be in line with the Union's priorities, taking due account of orientations and resolutions; have due regard to the Agency's financial and human resources; ensure complementarity with other EU bodies, offices and agencies; include the fight against racism, xenophobia and related intolerance among the thematic areas,

whereas:

Article 2 of the Decision identifies the following thematic areas of activity: access to justice and victims of crime; equality and non-discrimination; information society and, in particular, respect for private life and protection of personal data; judicial and police cooperation; migration, borders, asylum and integration of refugees and migrants; racism, xenophobia and related intolerance; rights of the child; Roma integration and social inclusion;

Article 3 of the proposal contains provisions designed to make the Agency's powers and responsibilities complementary to those of other bodies operating in the field of fundamental rights,

noting, in particular, that:

the proposal confirms for the next five years the thematic areas already adopted for 2013-2017, whilst remedying the omission of judicial cooperation in criminal matters and adding a reference to police cooperation. In addition, within the theme of Roma integration, the social inclusion aspects are strengthened. Over recent years the Agency has developed expertise in the collection of data on Roma issues, as shown by its reports on the situation of Roma in 11 Member States,

having examined the Government's report, drawn up pursuant to Article 6(4) of Law No 234 of 24 December 2012;

whereas, moreover:

the proposal complies with the principle of subsidiarity, since Article 5 of the Regulation establishing the Agency provides that the Multiannual Framework of activities is to be adopted every five years by the Council acting on a proposal from the Commission and after consulting the European Parliament;

the activities of the Agency are confined to what is necessary to comply with its remit, in accordance with the principle of proportionality,

issues a favourable opinion, with the following comments:

with reference to access to justice and victims of crime, the Committee stresses the need, highlighted by the Stockholm programme on freedom, security and justice, to make more progress in this field;

as regards the information society, and in particular respect for private life and the protection of personal data, the Committee considers it important to consolidate online trust and security by guaranteeing access to a wide range of information while addressing issues of fundamental rights in cyberspace. In this respect, policies to protect and enhance media freedom and pluralism, promote media literacy, foster privacy and personal data protection and combat cybercrime should be enhanced;

the Agency should continue to gather data in the areas for which it is responsible, such as immigration, borders, asylum and integration of refugees and migrants, working in close contact with other EU agencies, and in particular the European Asylum Support Office and FRONTEX;

since racism and xenophobia and related intolerance are on the increase in the European Union, the Committee proposes considering the usefulness of collaboration between the Agency and the Member States so as to make progress in this field, in part by devising a common methodology for the recording of hate crimes, in cooperation with Eurostat;

the Committee believes that, in addition to gathering, analysing and disseminating data and information, the Agency should also be allowed to monitor actual respect for fundamental human rights in every Member State;

as regards Article 5 of the Regulation establishing the Agency, which provides that the thematic areas of the Agency's activity are to be determined in a multiannual framework adopted by the Council, albeit on a proposal from the Commission and after consulting the European Parliament, the Committee suggests assessing whether the tasks of protecting fundamental rights attributed to the Agency are limited by the wishes of the Member States' Governments and whether the choice of thematic areas to which resources are to be committed is really the appropriate response to the infringements of rights of which most EU citizens are conscious.

OPINION OF THE 14TH STANDING COMMITTEE
(EUROPEAN UNION POLICIES)

(Rapporteur: GINETTI)

27 July 2016

The Committee, having examined the proposal,

whereas:

the European Union Agency for Fundamental Rights established by Council Regulation (EC) No 168/2007 of 15 February 2007 has been operational since 1 March 2007;

the objective of the Agency is to provide assistance and expertise relating to fundamental rights when EU law is being implemented, thereby also contributing to the development of a culture of fundamental rights in the EU;

under Article 5 of the Regulation establishing the Agency, the thematic areas of the Agency's activity are to be established in a five-year multiannual framework, and the most recent framework, laid down in Council Decision No 252/2013/EU of 11 March 2013, runs from 2013 to 2017 and expires at the end of 2017;

noting that:

the proposal under consideration establishes the multiannual framework of the Agency for the period 2018-2022;

the proposed thematic areas of activity of the Agency are as follows: (a) access to justice and victims of crime; (b) equality and non-discrimination; (c) information society and, in particular, respect for private life and protection of personal data; (d) judicial and police cooperation; (e) migration, borders, asylum and integration of refugees and migrants; (f) racism, xenophobia and related intolerance; (g) rights of the child; (h) Roma integration and social inclusion;

the thematic areas of the previous multiannual framework have been confirmed, whilst the omission of judicial cooperation in criminal matters has been remedied and a reference to police cooperation has been added. In addition, within the theme of Roma integration, the social inclusion aspects are strengthened;

Article 3 of the proposal aims to make the activities of the Agency for fundamental rights complementary to those of other agencies working in the area of fundamental rights, such as EASO (asylum), FRONTEX (external borders), EIGE (gender equality), ENISA (network and information security), EUROPOL (police), CEPOL (police college), EUROFOUND (improvement of living and working conditions) and eu-LISA (IT systems in the area of freedom, security and justice);

taking account of the resolution approved by this Committee on 14 October 2015 (Doc. XVIII, No 99) on the Commission's Progress Report on the implementation of the Common Approach on EU decentralised agencies (COM(2015) 179 final), and the European Commission's reply of 5 February 2016 (C2016) 759);

having examined the Government's report, drawn up pursuant to Article 6(4) and (5) of Law No 234 of 24 December 2012;

comments favourably on the proposal, within its area of responsibility, with the following comments:

the legal basis selected is correct, namely Article 352 TFEU, which concerns 'implicit powers' and provides that the Council, acting unanimously and after obtaining the consent of the European Parliament, is to adopt appropriate measures to attain one of the objectives set out in the Treaties where the Treaties have not provided the necessary powers to take the necessary action. The first multiannual framework, covering the period 2007-2012, was based on Article 5 of the Regulation establishing the Agency, but this legal basis was declared invalid by the Court of Justice (case C-133/06), since it was 'secondary', i.e. not based on the Treaties. It is therefore necessary to use the legal basis of the Regulation establishing the Agency, namely Article 308 of the EC Treaty (corresponding to the current Article 352 TFEU), which was also the basis used to adopt the multiannual programme for 2013-2017;

since the act updates the thematic areas in which the Agency works for five-year periods, as provided by the Regulation establishing the Agency, it can be adopted only using EU procedures, and therefore complies with the principle of subsidiarity;

the forms of activity of the Agency do not go beyond what is necessary to comply with its remit and therefore comply with the principle of proportionality;

the Committee fully supports the inclusion in the Agency's activities of judicial cooperation in criminal matters and police cooperation, and hopes that they will be retained in the final version of the proposal;

it also considers it necessary to include in the Agency's five-year remit particular attention to employment-related rights;

lastly, the Committee would again emphasise, as it has already done in the resolution referred to above on the report on EU Agencies (COM(2015) 179 final), the need to devote serious and sustained attention to limiting the Agencies' administrative expenditure and consider whether agencies performing similar functions might be merged.