

Translation

**ASSEMBLY OF THE PORTUGUESE REPUBLIC**

**EUROPEAN AFFAIRS COMMITTEE**

---

**Opinion**

**COM(2016) 442**

---

# ASSEMBLY OF THE PORTUGUESE REPUBLIC

## EUROPEAN AFFAIRS COMMITTEE

---

### PART I - INTRODUCTION

Pursuant to Article 7 of Law No 43/2006 of 25 August 2006 on the monitoring, examination and issuing of opinions by the Assembly of the Republic in the context of the process of EU integration, as amended by Law No 21/2012 of 17 May 2012, and in accordance with the Guidelines for the Scrutiny of European Initiatives approved on 1 March 2016, the European Affairs Committee has received the Proposal for a COUNCIL DECISION establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2018-2022 [COM(2016) 442].

In view of the subject matter, the above initiative was referred to the Committee on Constitutional Affairs, Rights, Freedoms and Guarantees, which voted on and approved the Report attached to and forming an integral part of this Opinion.

Under the new guidelines for the scrutiny of European initiatives, approved by the European Affairs Committee, this Committee has drafted a technical note on the initiative under examination, which is also attached to this Opinion.

### PART II – GROUNDS

1. The Directive redefining the multiannual framework for the European Union Agency for Fundamental Rights (hereinafter referred to as ‘the Agency’) is part of a European legislative framework that combines aspects related to fundamental rights and budgetary and sound financial management issues.

2. The document under examination starts by pointing out that the creation of the European Union Agency for Fundamental Rights<sup>1</sup> served to ‘*provide the relevant institutions, bodies, offices and agencies of the Union and its Member States, when implementing Union law, with assistance and expertise relating to fundamental rights in order to support them when they take measures or formulate courses of action within their respective spheres of competence to fully respect fundamental rights.*’

3. The activities of the Agency<sup>2</sup> relating to the issuing of opinions for EU institutions and public administrations, the collection, analysis and dissemination of reliable and comparable information on the specific impact of EU action in the field of fundamental rights and the conduct of scientific research have been instrumental in supporting the policy-making process. This also helps to build a genuine ‘*culture of fundamental rights in the EU*’.

4. Given that, as provided for in Article 5 of the above-mentioned Regulation, ‘*the thematic areas of activity of the Agency shall be determined through a five-year Multiannual Framework*’, the aim of the proposal under examination, bearing in mind the objectives

---

<sup>1</sup> Regulation (EC) No 168/2007 establishing a European Union Agency for Fundamental Rights.

<sup>2</sup> Ibid.

underlying the creation of the Agency (referred to above), is to establish the Agency's multiannual framework for the years 2018-2022 in order to enable the Agency to properly carry out such activities.

5. Moreover, Article 5 lays down a number of provisions with which the multiannual framework is required to comply, ranging in scope from the Agency's human and financial resources to the consultations it conducts and internal and external evaluations, amongst others.

6. In this context, it should be pointed out that in accordance with Article 3 of Regulation (EC) No 168/2007, the Commission proposes the following thematic areas for the Agency's multiannual framework for 2018-2022:

- (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.*

7. The proposal under examination therefore recommends that for reasons of consistency and continuity of the Agency's work, none of the themes already present in the previous multiannual framework should be withdrawn, since this is the only way to make improvements, enhance reliability, objectivity and relevance and make accurate comparisons with the data collected.

8. Lastly, it should be noted that the Report submitted by the Committee on Constitutional Affairs, Rights, Freedoms and Guarantees was approved and fully reflects the content of the Proposal.

Accordingly, the Report should be deemed to have been reproduced here in full in order to avoid repetition of analysis and consequent redundancy, and it should be attached to this Opinion, of which it forms an integral part.

9. In the light of the provisions contained in the Proposal, the following must be considered:

**(a) Legal basis**

The proposal is based on Article 352 of the Treaty on the Functioning of the European Union.

**(b) Principle of subsidiarity**

Since the technical note drafted by the European Affairs Committee does not refer to the assessment of the principle of subsidiarity, the rapporteur of this Opinion states the following:

In accordance with Article 5(2) of the Treaty on European Union and Protocol No 2 annexed thereto, this initiative is not in breach the principle of subsidiarity. The principle of

subsidiarity requires the EU to intervene in the areas falling within its exclusive competence only if and insofar as the objectives of the proposed action cannot be sufficiently achieved at the level of the individual Member States.

Given that the objective of the Agency is to provide expertise to the institutions and Member States of the EU in the area of fundamental rights so that they can ascertain that the measures taken or the laws adopted comply with such rights, it is clear that this objective will be better achieved at Union level.

By defining the Agency's areas of activity for the period 2017-2022, the initiative under examination ensures the smooth and proper functioning of the Agency and guarantees its duty of assistance, which will only be achieved more effectively at Union level.

### **PART III – OPINION**

In the light of the information set out above, the European Affairs Committee is of the opinion that:

1. This initiative is not in breach of the principle of subsidiarity, in so far as the objective pursued will be achieved more effectively by means of action at Union level.
2. With regard to the issues raised in the grounds, the European Affairs Committee will continue, within its powers, to monitor the implementation process relating to this initiative, specifically by exchanging information with the government. Given the range of areas in which the European Union Agency for Fundamental Rights is active, particularly with regard to the fields identified in point 6(c), (d) and (e), the European Affairs Committee is also justified in setting up, within its powers, appropriate and well-defined information channels to monitor the Agency's activity.

Palácio de S. Bento, 3 October 2016

**Rapporteur**

*[Signature]*

**(Pedro Mota Soares)**

**Chair of the Committee**

*[Signature]*

**(Regina Bastos)**