European Union Agency for Fundamental Rights

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PURPOSE: to clarify the scope of the activities of the European Union Agency for Fundamental Rights and to strengthen the Agency's operational governance and effectiveness.

PROPOSED ACT: Council Regulation.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: the European Union Agency for Fundamental Rights (FRA) was established by Council Regulation (EC) No 168/2007 in order to provide the Union institutions, bodies, offices and agencies and the Member States with support and expertise in the field of fundamental rights. All Union policies must respect the fundamental rights enshrined in the Charter of Fundamental Rights of the European Union.

Every five years, the Agency commissions an independent external evaluation of its achievements. The first external evaluation of the Agency took place in 2012 and did not lead to any amendment to the founding Regulation. The second external evaluation took place in 2017.

In light of the findings of the external evaluation and of the analysis of the Commission services, this proposal aims to introduce some targeted technical amendments in the founding Regulation of the Agency.

CONTENT: the main purpose of the proposal to amend Council Regulation (EC) No 168/2007 is to:

- clarify in the Regulation that, since the entry into force of the Treaty of Lisbon, the scope of the Agency's activities covers the competences of the Union, including police cooperation and judicial cooperation in criminal matters;

- make certain targeted technical amendments to the Regulation in order to ensure that the Agency is governed and operates in accordance with the principles set out in the common approach annexed to the Joint Statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies of 19 July 2012.

Without changing the tasks and mandate of the Agency, the proposed amendments aim at bringing about simplification, better governance and efficiency gains to the Agency’s operation.

The proposed changes include the following:

- specify that the multiannual programming document must clearly set out the specific areas and projects on which the Agency will be working for three years, which should enable the Agency to plan its work and thematic areas over time and adapt them each year in line with emerging priorities;

- provide that the members of the Management Board should, in addition to fulfilling the criteria of independence, have knowledge in the field of fundamental rights and managerial experience, as well as appropriate administrative and budgetary powers;

- clarify that, even if the terms of office of Management Board members and alternates cannot be renewed consecutively, it should be possible to reappoint a former member or alternate for one or more non-consecutive terms of office;

- specify that, in all cases of termination of the term of office before the expiry of the 5-year period, not only in case of loss of independence, but also in other cases such as in case of resignation or death, the new member's term will complete his/her predecessor's five-year term, unless the remaining term is less than two years, in which case a new five-year term may run afresh;

- confer on the Management Board of the Agency the powers vested in the appointing authority;

- provide that the Management Board shall elect the members of the Executive Board by a majority of the members of the Management Board with voting rights;

- entrust the Management Board with the additional task of adopting a security strategy, including rules on the handling of EU classified information, as well as a communication strategy and rules on the management and prevention of conflicts of interest with regard to its members and those of the Scientific Committee;

- clarify that the Executive Board's task to supervise the preparatory work for the decisions to be adopted by the Management Board entails scrutinising budgetary and human resources matters;

- attribute the tasks of adopting the anti-fraud strategy prepared by the Director; ensuring adequate follow-up to audit and investigations of the European Anti-Fraud Office (OLAF) and of the European Public Prosecutor Office (EPPO);

- provide that, where necessary, in case of urgency, the Executive Board may take provisional decisions on behalf of the Management Board;

- ensure that the term of office of the Director of the Agency can be extended by a maximum of five years and that the appointment procedure, in which the European Parliament, the Council and the Commission take part, starts during the 12 months preceding the end of the term of office;

- increase the majority required to dismiss the Director, which is currently one third, to a two-thirds majority of the Management Board's members;

- entrust the Director with the task of implementing the decisions adopted by the Management Board, to prepare an anti-fraud strategy for the Agency, and to set out an action plan to follow up on internal or external audit reports and OLAF or EPPO's investigations.