



Council of the  
European Union

Brussels, 17 January 2018  
(OR. en)

8034/07  
DCL 1

JAI 161  
COSCE 1  
COHOM 34  
COEST 91  
FIN 159

## DECLASSIFICATION

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of document: ST 8034/07 RESTREINT UE/EU RESTRICTED

dated: 2 April 2007

new status: Public

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Subject: Draft agreement between the European Community and the Council of Europe for the purpose of instituting, in accordance with Article 9 of Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, close cooperation between the Agency and the Council of Europe

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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# RESTREINT UE



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THE EUROPEAN UNION**

**Brussels, 2 April 2007**

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## **NOTE**

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from : the Commission  
to : the Ad hoc Working Party on Fundamental Rights and Citizenship

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Subject : Draft agreement between the European Community and the Council of Europe for the purpose of instituting, in accordance with Article 9 of Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, close cooperation between the Agency and the Council of Europe

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THE EUROPEAN COMMUNITY AND THE COUNCIL OF EUROPE (hereinafter referred to as “the Parties”),

WHEREAS the Council of the European Union adopted, on 15 February 2007, Regulation (EC) No 168/2007 establishing a European Union Agency for Fundamental Rights (hereinafter referred to as the ‘Agency’);

## **RESTREINT UE**

WHEREAS the objective of the Agency is to provide the relevant institutions, bodies, offices and agencies of the Community and its Member States when implementing Community 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;

WHEREAS the Agency shall refer in carrying out its tasks to fundamental rights within the meaning of Article 6 (2) of the Treaty on European Union, including the rights and freedoms guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950;

WHEREAS the Council of Europe has acquired extensive experience and expertise in intergovernmental cooperation and assistance activities in the field of human rights, having also established several human rights monitoring and control mechanisms, as well as the Council of Europe Commissioner for Human Rights;

WHEREAS, in pursuing its activities, the Agency shall take account, where appropriate, of activities already carried out by the Council of Europe;

WHEREAS the Agency shall, in order to avoid duplication and in order to ensure complementarity and added value, coordinate its activities with those of the Council of Europe, particularly with regard to its annual work programme and to cooperation with civil society; whereas close links should now be established with the Council of Europe;

WHEREAS the Representatives of the Member States of the European Union, meeting within the European Council on 16 and 17 December 2004 agreed that the Agency will play a major role in enhancing the coherence and consistency of the EU Human Rights Policy;

## RESTREINT UE

WHEREAS the Guidelines on the relations between the Council of Europe and the European Union, adopted at the Third Council of Europe Summit of Heads of State and Government (Warsaw, 16-17 May 2005) refer to the Agency as an opportunity to further increase cooperation with the Council of Europe and to contribute to greater coherence and enhanced complementarity;

WHEREAS it is for the Council of Europe to appoint an independent person to sit on the Agency's Management Board and on its Executive Board,

HAVE AGREED AS FOLLOWS:

### I. Use of terms

1. For the purposes of this Agreement:

- a) the term "Council of Europe Secretariat" shall mean the Secretariat General of the Council of Europe;
- b) the term "Council of Europe intergovernmental committees" shall mean any committee or body set up by the Committee of Ministers, or with its authorisation, by virtue of Articles 15 (a), 16 or 17 of the Council of Europe Statute;
- c) the term "Council of Europe's human rights monitoring committees" shall mean the European Committee of Social Rights, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Commission against Racism and Intolerance, the Committee of experts of the European Charter for Regional or Minority Languages, the Advisory Committee of the Framework Convention for the Protection of National Minorities and any other such independent bodies that the Council of Europe might set up in the future.

# RESTREINT UE

d) the term “Agency” shall mean the bodies referred to in Article 11 of Council Regulation (EC) No 168/2007 within their respective areas of competence.

## II. General cooperation framework

2. Regular contacts shall be established at the appropriate level between the Agency and the Council of Europe. The Director of the Agency and the Council of Europe Secretariat shall each appoint a contact person to deal specifically with matters relating to their cooperation.

3. As a general rule, Council of Europe Secretariat representatives shall be invited by the Agency’s Executive Board to attend meetings of the Agency’s Management Board as observers. This shall not extend to particular agenda items for which, on account of their internal nature, such attendance would not be justified. Such representatives may also be invited to other meetings organized by the Agency’s Management Board, including those referred to in Article 6 (1) of Council Regulation (EC) No 168/2007.

4. Representatives of the Agency shall be invited to attend as observers in meetings of those Council of Europe intergovernmental committees in which the Agency has expressed an interest. Upon invitation by the relevant committee, representatives of the Agency may attend meetings or exchanges of views organised by Council of Europe human rights monitoring committees or committees set up under partial agreements as observers.

5. Cooperation shall cover the whole range of the Agency’s activities, both present and future.

# RESTREINT UE

## III. Exchange of information and data

6. Without prejudice to the rules on data protection in force for the Agency and Council of Europe respectively, the Agency and the Council of Europe shall provide each other with information and data collected in the course of their activities, including access to online information. Information and data thus provided may be used by the Agency and the Council of Europe in the course of their respective activities. These provisions do not extend to confidential data and activities produced or undertaken.

7. The Agency shall, where appropriate, take account of relevant judgments and decisions of the European Court of Human Rights, findings, reports and activities of the Council of Europe's human rights monitoring and intergovernmental committees, as well as those of the Council of Europe's Commissioner for Human Rights.

8. Whenever the Agency uses information taken from Council of Europe sources, it shall indicate the origin and reference thereof. The Council of Europe shall proceed in the same way when using information taken from Agency sources.

9. The Agency and the Council of Europe shall ensure, by means of their networks, the widest possible dissemination of the results of their respective activities on a reciprocal basis.

10. The Agency and the Council of Europe shall ensure regular exchanges of information about activities proposed, under way or completed.

# RESTREINT UE

## IV. Methods of cooperation

11. Regular consultations shall be held between the Agency and the Council of Europe Secretariat, with the aim of coordinating the Agency's activities with those of the Council of Europe in order to avoid duplication, ensure complementarity, added value and the best possible use of available resources, in particular in carrying out research and scientific surveys as well as drafting conclusions, opinions and reports.

12. Consultation and coordination shall notably concern:

- the preparation of the Agency's annual work programme;
- the preparation of the Agency's annual report on fundamental rights issues;
- cooperation with civil society, in particular association of the Council of Europe with the establishment and functioning of the Agency's Fundamental Rights Platform.

13. On the basis of such consultations, it may be agreed that the Agency and the Council of Europe shall conduct joint and/or complementary activities on subjects of common interest, such as the organisation of conferences or workshops, data collection and analysis or the setting up of shared information sources or products.

14. Cooperation between the Agency and the Council of Europe may be further promoted through grants awarded by the Agency to the Council of Europe. The 2004 Framework Administrative Agreement between the European Commission and the Council of Europe on the application of the financial checks clause to operations administered by the Council of Europe and financed or co-financed by the European Community shall apply.

## RESTREINT UE

15. Temporary exchanges of staff between the Agency and the Council of Europe may be effected by agreement between the Secretary General of the Council of Europe and the Director of the Agency in so far as the relevant applicable staff regulations allow.

### V. Appointment by the Council of Europe of an independent person to sit on the Agency's Management and Executive Boards

16. The Secretary General of the Council of Europe shall appoint an independent person to sit on the Management and Executive Boards of the Agency, together with an alternate member. The Council of Europe appointees shall have appropriate experience in the management of public or private sector organizations and knowledge in the field of fundamental rights.

17. The Council of Europe shall notify the Agency and the European Commission of the appointments made.

#### 18. Option A

The person appointed by the Council of Europe to the Management Board shall be invited to participate in the meetings of the Executive Board. His or her voting rights in the Executive Board shall not cover the matters excluded from his/her voting rights in the Management Board, in accordance with Article 12 § 8 of Council Regulation (EC) No 168/2007.

#### Option B

The person appointed by the Council of Europe to the Management Board shall be invited to participate in the meetings of the Executive Board. His or her views shall be duly taken into account. If he or she considers that a decision taken by the Executive Board is not in conformity with the aims set out in Article 9 of Council Regulation (EC) No 168/2007, the matter shall be referred to the Management Board.



# RESTREINT UE

## VI. General and final provisions

19. Nothing in this agreement may be interpreted as preventing the Parties from pursuing their respective activities.

20. This Agreement abrogates and replaces the Agreement of 10 February 1999 between the European Community and the Council of Europe for the purpose of establishing, in accordance with Article 7 (3) of Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia, close cooperation between the Centre and the Council of Europe.

21. This Agreement shall enter into force upon signature by the duly authorized representatives of the Parties.

22. This Agreement may be modified by mutual agreement between the Parties.

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