



Ministry  
of Justice

# **Statement under Section 8 of the European Union Act 2011**

Fundamental Rights Agency multiannual  
framework 2018-2022

July 2017



**Statement under section 8 of the  
European Union Act 2011**

Fundamental Rights Agency multiannual framework  
2018-2022

Statement made for the purposes of section 8(1) and (5)  
of the European Union Act 2011 relating to the Council  
Decision establishing a Multiannual Framework for  
2018-2022 for the European Union Agency for  
Fundamental Rights

Presented to Parliament pursuant to section 8(5) of the European Union Act  
2011

July 2017



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Print ISBN 9781474148498

Web ISBN 9781474148504

Printed in the UK by the Williams Lea Group on behalf of  
the Controller of Her Majesty's Stationery Office

ID 17071708 07/17

Printed on paper containing 75% recycled fibre content minimum.

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## Statement under section 8 of the European Union Act 2011

This statement is made under section 8(5) of the European Union Act 2011 (c. 11) (“the Act”). It relates to the draft Council Decision establishing a Multiannual Framework for 2018-2022 for the European Union Agency for Fundamental Rights<sup>1</sup> (“the draft decision”) that was published on 28 November 2016.

### The requirement for a statement

Part 1 of the Act came into force on 19 August 2011.

Under section 8(1) of the Act, a Minister of the Crown may not vote in favour of or otherwise support a decision under Article 352 of the Treaty of the Functioning of the European Union (“TFEU”) unless one of subsections (3), (4) or (5) is complied with in relation to the draft decision.

Subsection (3) is complied with if a draft decision is approved by Act of Parliament. Subsection (4) provides for urgency procedures which are not relevant in this instance. Subsection (5) is complied with:

“... if a Minister of the Crown has laid before Parliament a statement specifying a draft decision and stating that in the opinion of the Minister the decision relates only to one or more exempt purposes.”

Section 8(6) of the Act sets out the exempt purposes referred to in subsection (5). In particular, the exempt purpose in subsection (6)(a) is to make provision equivalent to that made by a measure previously adopted under Article 352 of TFEU, other than an excepted measure.

### The draft decision

In accordance with Article 352 TFEU, the proposal for the draft decision is subject to the special legislative procedure. The Committee of Permanent Representatives (COREPER) agreed to send the draft decision to the European Parliament whose consent is required. The European Parliament gave its consent on 1 June 2017. Thereafter the proposal will need to be agreed by the Council acting unanimously.

### Whether the draft decision falls within an exempt purpose in section 8(6) of the Act

The Fundamental Rights Agency (“the FRA”) was established by Regulation (EC) No 168/2007, adopted on 15 February 2007 under Article 308 of the Treaty establishing the European Community (“TEC”) (now replaced by Article 352 TFEU). Article 5 of that Regulation requires the adoption by the Council of a multiannual framework. The current FRA multiannual framework for the period 2013-2017 was adopted by Council Decision of

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<sup>1</sup> Council Document 14423/16

11 March 2013<sup>2</sup> (“the Decision of 11 March 2013”). In accordance with the requirements of the Regulation, the Decision of 11 March 2013 provided for nine thematic areas of activity, all of which were expressly within the scope of community law.

In order for the UK to vote in support of the 2013-17 Framework it was necessary to pass the European Union (Approvals) Act 2013 rather than rely on an exemption under section 8(6) of the European Union Act 2011. This was because the original framework did not cite Article 352 as its legal base. However, the Decision of 11 March 2013 was made under the provision of Article 352 of the TFEU.

The current draft decision provides for the same thematic areas of activity falling within “community law” (the former first pillar) and thereby provides for the continuation of the existing remit of the FRA. Some minor adjustments are also effected by this measure. It has, for example, consolidated the previously separate themes of access to justice and victims of crime and has confirmed the prominence of Roma integration by also adding Roma social inclusion. There are also other minor changes to the thematic areas of discrimination and migration and it updates the references to the bodies with which the FRA may co-operate with in the thematic areas agreed. These adjustments are not substantive in nature. In my opinion, the draft decision makes provision equivalent to that made by the Decision of 11 March 2013.

The draft decision is not an excepted measure, as described in section 8(7) of the Act.

**In my opinion the draft decision (the Council Decision establishing a Multiannual Framework for 2018-2022 for the European Union Agency for Fundamental Rights (published on 28 November 2016) makes provision equivalent to that made by Council Decision 252/2013/EU of 11 March 2013 establishing a Multiannual Framework for 2013-2017 for the European Agency for Fundamental Rights. The draft decision therefore falls within the exempt purpose in section 8(6)(a) of the European Union Act 2011 and subsection (5) of the Act is therefore complied with in relation to it.**

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<sup>2</sup> Council Decision 252/2013/EU of 11 March 2013 establishing a Multiannual Framework for the European Union Agency for Fundamental Rights.









ISBN 978-1-4741-4849-8



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