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Committee on Civil Liberties, Justice and Home Affairs

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DRAFT REPORT

on the proposal for a Council decision empowering the European Union Agency for Fundamental Rights to pursue its activities in areas referred to in Title VI of the Treaty on European Union
(COM(2005)0280 – C6-0289/2005 – 2005/0125(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Magda Kósáné Kovács

Symbols for procedures

*	Consultation procedure *majority of the votes cast*
**I	Cooperation procedure (first reading) *majority of the votes cast*
**II	Cooperation procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***	Assent procedure *majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
***I	Codecision procedure (first reading) *majority of the votes cast*
***II	Codecision procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***III	Codecision procedure (third reading) *majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision empowering the European Union Agency for Fundamental Rights to pursue its activities in areas referred to in Title VI of the Treaty on European Union
(COM(2005)0280 – C6-0289/2005 – 2005/0125(CNS))

(Consultation procedure)

The European Parliament,

– having regard to the Commission proposal (COM(2005)0280)[1],

– having regard to Article 34(2)(c) of the EU Treaty,

– having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0289/2005),

– having regard to Rules 93 and 51 of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0000/2006),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Calls on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;

5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission	Amendments by Parliament
	Amendment 1 Visa 1
Having regard to the Treaty on European Union, and in particular ***Articles 30, 31 and 34(2)(c)*** thereof,	Having regard to the Treaty on European Union, and in particular ***Articles 13, 14, 15, 30, 31 and 34(2)(c)*** thereof,

[1] OJ C xx, xx, p. xx.

Amendment 2
Recital 2 a (new)

(2a) In accordance with Article 11 of the EU Treaty, the Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy, with the objective of developing and consolidating democracy and the rule of law and respect for human rights and fundamental freedoms.

Amendment 3
Recital 3 a (new)

(3a) The Agency's remit enables it to provide protection for human rights not only in the field of terrorism and organised crime but also in other fields, such as trafficking in persons, offences against children, illicit drug and arms trafficking and corruption and fraud, where measures can also weaken the effectiveness of the protection of human rights.

Amendment 4
Recital 5

(5) This Decision constitutes the necessary legislative basis for empowering that Agency with the performance of the same tasks and under the same conditions in the area referred to in Title VI 'Provisions on police and judicial co-operation in criminal matters' of the Treaty.	(5) This Decision constitutes the necessary legislative basis for empowering that Agency with the performance of the same tasks and under the same conditions in the area referred to in ***Title V 'Provisions on a common foreign and security policy' and*** Title VI 'Provisions on police and judicial co-operation in criminal matters' of the *EU* Treaty.

Amendment 5
Recital 6

(6) The establishment of an area of freedom, security and justice with reference to actions under Title VI of the	(6) ***The foreign and security policy with reference to actions under Title V, and*** the establishment of an area of freedom,

Treaty require that ***the*** fundamental ***rights of individuals*** should be safeguarded. ***Articles 30, 31 and 34(2)(c)*** of the Treaty are accordingly the appropriate legal base for this proposal,	security and justice with reference to actions under Title VI of the *EU* Treaty require that ***human rights and*** fundamental ***freedoms*** should be safeguarded. ***Articles 13, 14, 15, 30, 31 and 34(2)(c)*** of the Treaty are accordingly the appropriate legal base for this proposal,

Amendment 6
Article 1

In conformity with Article 28 of Council Regulation (EC) No 2006/[…], the European Agency for Fundamental Rights is hereby empowered to pursue its activities defined in Regulation (EC) No 2006/[…] in the areas covered by ***Title VI*** of the Treaty.	In conformity with Article 28 of Council Regulation (EC) No 2006/[…], the European Agency for Fundamental Rights is hereby empowered to pursue its activities defined in Regulation (EC) No 2006/[…] in the areas covered by ***Titles V and VI*** of the *EU* Treaty.

Amendment 7
Article 2

Articles 2 to 32 of Regulation (EC) No 2006/[…] shall apply by analogy in the context of the Agency's activities under this Decision. References to Community law in these provisions of Regulation No (EC) 2006/[…] shall be understood as referring to Union law in the area of ***Title VI*** of the Treaty. References to relevant Community bodies, agencies and offices shall be understood as referring also to Union relevant bodies established in or on the basis of ***Title VI***.	Articles 2 to 32 of Regulation (EC) No 2006/[…] shall apply by analogy in the context of the Agency's activities under this Decision ***insofar as is relevant for the implementation of the EU's policies.*** References to Community law in these provisions of Regulation No (EC) 2006/[…] shall be understood as referring to Union law in the area of ***Titles V and VI*** of the *EU* Treaty. References to relevant Community bodies, agencies and offices shall be understood as referring also to Union relevant bodies established in or on the basis of ***Title V and VI*** *of that Treaty*.

EXPLANATORY STATEMENT

The effective protection and promotion of fundamental rights are the basis of democracy and the essential conditions for the consolidation of the area of freedom, security and justice by the European Union.

Providing a guarantee for the principles set out in the Article 6 and 7 of the Treaty on European Union and the Charter of Fundamental Rights and improving the current situation of human rights the European Union needs an body which is able to support the activities of the institutions and i.a. the European Ombudsman, the European Data Protection Supervisor, and the Court of Justice of the European Community.

The Fundamental Rights Agency could be a proper body providing a regular overview on the enforcement of human rights during the implementation of the European law and policies and to provide all the information required to develop the Union's legislative activity.

Therefore the Agency must have a strong mandate and a special position among EU agencies. If the Agency has the independence, it will have the credibility, as a precondition for proper interaction between it and the European institutions and the Member States. The position of the Agency should be strengthened by a clear agreement between the Council of Europe and the European Community, both to avoid duplication and to give the Agency all necessary input and to ensure its effectiveness.

The Agency also needs the extended competence provided by this Council decision to have a wider scope on the activities of the European Union. However, empowering the Agency to pursue its activity in areas of Title VI of the Treaty on the European Union is not sufficient.

Recent experiences concerning i.a. the CIA flights in Europe show that the European Union needs to have full scale support in protecting and promoting fundamental rights. Therefore it is reasonable to have all the information on fundamental rights provided by an independent body, on which the EU institutions can base their activities and develop their policies.

The scope of the Agency needs to be completed with the activities in the area of Title V (Common Foreign and Security Policy) of the Treaty on the European Union so that it can support all the relevant policies of the EU.

It will provide the legal basis enabling the Agency to collect data on third countries when the implementation of the EU policies is at stake.

Empowering the Agency to pursue its activities in areas referred to in Title V and VI of the Treaty on European Union will provide a greater transparency on these fields, which might enhance the democratic functioning of the institutions and might strengthen the trust of the citizens of the European Union.

The transparency shall make the people of the European Union aware of the fundamental rights they enjoy and improve a culture of fundamental rights within the EU, which can then be successfully promoted beyond the borders of the Union as one of its basic values.