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COVER NOTE

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**The EU Justice Agenda for 2020 - Strengthening Trust, Mobility and Growth within the
Union**

1. INTRODUCTION

Over the last 15 years, on the basis of the Treaties of Maastricht, Amsterdam and Nice, the EU has progressively developed a European area of justice and an EU justice policy. Before 2009, action in these fields was marked by an institutional set-up that differed from that for other EU policy areas. In particular, the European Parliament and the Council were not yet on an equal footing, while priorities were mainly set by the European Council, through the adoption of partly very detailed five-year programmes (the Tampere, The Hague and Stockholm programmes).

Today, the EU justice policy has become close to other EU policies, following successive changes to the EU Treaties, in particular the entry into force of the Treaty of Lisbon on 1 December 2009. The European Parliament and the Council have become co-legislators in most areas of judicial cooperation in civil and criminal matters. As of 1 December 2014, a final transitional phase will come to an end. This will lift current limitations to the judicial control by the European Court of Justice and to the Commission's power to launch infringements, as the guardian of the Treaty over the area of judicial cooperation in criminal matters. The Commission will continue to ensure the proper implementation of EU legislation in the justice areas.

As also the European Council's Stockholm Programme¹ and the following Commission action plan² come to term at the end of 2014, the time has come to take stock of the progress made and identify the key challenges ahead and how to address them.

This Communication sets out the political priorities that should be pursued in order to make further progress towards a fully functioning common European area of justice oriented towards trust, mobility and growth by 2020.

In preparing this Communication, the Commission involved a wide range of stakeholders and interested parties, in particular through the "Assises de la Justice"³ conference and received a vast number of written contributions. Discussions were also carried out in the European Parliament⁴, the Council⁵ and the Committee of Regions⁶.

The Commission's orientations relating specifically to judicial cooperation in civil and criminal matters are intended to contribute to the strategic guidelines to be defined by the European Council in accordance with Article 68 of the Treaty on the Functioning of the European Union (TFEU); and to the strategic choices which the European Parliament will want to give to the further development of the European area of justice.

2. PROGRESS TO DATE: THE BASIS OF THE EUROPEAN AREA OF JUSTICE

The EU has taken action to establish the basis of "*an area of freedom, security and justice without internal frontiers*". Since the entry into force of the Lisbon Treaty and as a result of

¹ The Stockholm Programme - An open and secure Europe serving and protecting citizens – OJ C 115 of 4.5.2010.

² Delivering an area of freedom, security and justice for Europe's citizens - Action Plan Implementing the Stockholm Programme – COM(2010) 171 final of 20.4.2010.

³ *Assises de la Justice* – Shaping Justice policies in Europe for the years to come – 21 and 22 November 2013 – Results of proceedings, discussion papers and written contributions are available at: http://ec.europa.eu/justice/events/assises-justice-2013/index_en.htm.

⁴ In a plenary meeting of the European Parliament as well as in a number of meetings in its Committees, in particular, JURI, LIBE, AFCE, DROI.

⁵ In two formal and two informal meetings of the Justice and Home Affairs Council as well as working group level (CATS, FREMP and Civil Matters working groups).

⁶ In the CIVEX Committee.

close cooperation with the European Parliament and with the Council, substantial progress has been made towards a better functioning common European area of justice.

Enhancing mutual trust

EU justice policy has sought to develop a European area of justice based on mutual recognition and mutual trust by building bridges between the different justice systems of the Member States. This has required proper legal safeguards to be built in, to make sure that the bridges built between Member States' legal systems are structurally sound. In the area of criminal justice, mutual trust between Member States has been strengthened by progressively establishing, throughout the EU, a set of fair trial rights by means of common, EU-wide, minimum standards to protect persons suspected or accused of a crime⁷. The standing of victims throughout the criminal procedure has also been improved by providing minimum rights, support, advice and protection for victims and their close relatives.

Justice for Growth: contributing to economic growth

Over the past years, notably under the impression of the financial and sovereign debt crisis and in line with Europe 2020 strategy, EU Justice policy has become also a support for economic recovery, growth and structural reforms.⁸ The EU has taken action to progressively build the trust necessary for businesses and consumers to enjoy a single market that truly works like a domestic market. Red tape and costs have been cut: a judgement given in one Member State can now be recognised and enforced in another Member State without intermediary procedures (the formality of 'exequatur'⁹ has been progressively removed in both civil and commercial proceedings). In the field of data protection, a new pan-European regulation is currently the subject of advanced negotiations between the European Parliament and the Council that will replace the existing 28 national laws that regulate the protection of personal data by a single set of rules. The Consumer Rights Directive, which will be fully effective across all 28 EU Member States in June 2014, will increase consumer protection, while businesses will benefit from a single set of core rules, cutting compliance costs substantially for EU wide traders. As a first step towards an EU "rescue and recovery" culture to help companies and individuals in financial difficulties, the existing European rules on cross-border insolvency are being amended.

Improving the independence, quality and efficiency of national justice systems is part of the economic adjustment programmes and of the European Semester. The EU Justice Scoreboard is assisting Member States and the EU institutions by providing objective, reliable and comparable data on the effectiveness of the national justice systems.

The EU institutions also took action to better protect the financial interests of the EU and taxpayer's money against fraud. This work included in particular the Commission's proposal to establish a European Public Prosecutor's Office, which seeks to put in place a body to ensure that crimes against the EU budget are effectively investigated and prosecuted so that criminals are brought to court and money is recovered.

⁷ There are over 8 million criminal proceedings in the EU every year.

⁸ A key impulsion for this "justice for growth" was notably given by the Spanish Presidency of the Council in 2010 (Council conclusions on judicial cooperation for the support of economic activity – 23.4.2010) as well as by the Irish Presidency in 2013 - http://eu2013.ie/media/eupresidency/content/documents/EU-Pres_Prog_A4.pdf - page 21.

⁹ Exequatur, a concept specific to the private international law, refers to the requirement of a court decision authorising the enforcement in that country of a judgment or court settlement given abroad.

Justice for Citizens: Making justice simple for citizens

The EU took action to ensure that citizens can make full use of their right to move, to buy goods and services, and to live in another Member State. Citizens should fully enjoy EU citizenship throughout their life and feel at ease wherever they are in the EU. This was done for example by making it easier for them to handle the legal implications of cross border successions and divorce or by proposing to reduce costly paperwork in the Member States through the abolition of outdated rubber-stamping formalities such as the *Apostille* or certified translations between Member States.

Protecting Fundamental Rights

As the guardian of the Treaties, the Commission intervened to ensure respect of the EU Charter of Fundamental Rights (the “Charter”), including EU citizens' rights, and of the rule of law. The legally binding Charter has become a compass for all EU institutions. The Commission also intervened to ensure the respect of specific rights enshrined in EU legislation, in particular right to equality, protection of personal data, and consumer protection. This included action to strengthen gender equality by promoting women in decision-making.

3. THE CHALLENGES: STRENGTHENING TRUST, MOBILITY AND GROWTH WITHIN THE UNION

Though tangible progress has been made to date towards a fully common European area of justice, more needs to be done after the end of the transitional period on 1 December 2014.

Trust. Mutual trust is the bedrock upon which EU justice policy should be built. While the EU has laid important foundations for the promotion of mutual trust, it needs to be further strengthened to ensure that citizens, legal practitioners and judges fully trust judicial decisions irrespective of the Member State where they have been taken. EU instruments such as the European arrest warrant or the regulations on conflict of laws issues between Member States require a high level of mutual trust between justice authorities from different Member States. Mutual trust between courts and administrations helps them to recognise and enforce each other's decisions and facilitates access to justice on equal terms in all Member States. A key requirement for mutual trust is the independence, quality and efficiency of the judicial systems¹⁰ and the respect of the rule of law¹¹. A very important ingredient of trust is that progress in laws is made a reality on the ground. This requires laws already agreed at EU level to be transposed and applied effectively. It requires also effective enforcement tools at national level to ensure better access to justice in all Member States.

Mobility. Europeans are increasingly taking advantage of the rights conferred on them by the EU Treaties. There are currently nearly 14 million EU citizens residing in a Member State of which they are not a national (up from 12.1 million in 2009).¹² EU citizens increasingly travel¹³, study, vote¹⁴, work, benefit from health care, get married¹⁵, have children, buy

¹⁰ Communication from the Commission – “The EU Justice Scoreboard A tool to promote effective justice and growth” – COM(2013)160 and Communication from the Commission – “The 2014 EU Justice Scoreboard” – COM(2014)155.

¹¹ Communication from the Commission “A new EU Framework to strengthen the Rule of Law” –, COM(2014) 158.

¹² There are 13.7 million European citizens residing in a Member State of which they are not a national (up from 12.1 million in 2009 (Eurostat data).

¹³ Europe is the world's largest travel market with sales of more than 550 million trips annually, covering also trips outside the EU – source: (data from Eurostat, reflected in SWD(2013) 263 final).

property, divorce¹⁶ and die¹⁷ in a Member State other than the one they were born in. Even without leaving home, consumers¹⁸ buy goods and services across borders, including online. Despite progress in the enjoyment of their rights, EU citizens still face some obstacles. They still experience practical and legal difficulties when they try to enjoy the same rights they have at home in another Member State. The EU needs to address these obstacles with determination, while continuing to enable the fight against abuse, particularly at a time when the right to free movement of EU citizens is being challenged by some. The right of EU citizens to move freely and live in any EU country is one of the four fundamental freedoms enshrined in EU law and a cornerstone of EU integration. In addition, the absence of borders in the digital online world is a driver for the EU to address the interplay between substantive laws.

Growth. EU justice policy should continue to support economic recovery, growth and tackling unemployment. Structural reforms need to be pursued so as to ensure that justice systems are capable of delivering swift, reliable and trustworthy justice, which would notably reduce the length of judicial proceedings thereby supporting the effectiveness of other policies. Businesses and consumers need to be confident that they will be able to effectively enforce contracts and handle litigation in court, or where possible out of court, throughout the EU, within a reasonable time and without encountering the variety of hurdles they still confront today. Growth in the digital economy also requires the trust and confidence of citizens, as they are concerned about the large-scale processing or surveillance of their personal data when using online services.

4. ADDRESSING THE CHALLENGES: CONSOLIDATE, CODIFY, COMPLEMENT

To tackle the challenges identified for bringing about a fully functioning European area of justice, the focus of EU justice policy in the years to come should be on **consolidating** what has already been achieved, and, when necessary and appropriate, **codifying** EU law and practice and **complementing** the existing framework with new initiatives. Depending on the type of challenges, the future EU justice policy should use a combination of these methods, based on a case by case analysis and impact assessment.

When applying any of these methods, the EU should fully take account of the fact that the diversity of legal systems and traditions in the EU has to be preserved; that subsidiarity and proportionality have to be respected as well as the need to base all EU action, and notably EU action in the field of justice policies, firmly on the EU Charter of Fundamental Rights.

¹⁴ The proportion of citizens living in another Member State and registered to vote there was 5,9% in 1994. The figure increased to 11,6% in 2009.

¹⁵ Approximately 16 million (13%) of the 122 million marriages in the Union have a cross-border dimension. Of the 2.4 million marriages celebrated in the Union in 2007, 300,000 had a cross-border dimension – source: SEC(2011) 327.

¹⁶ In Europe, there are around 16 million international couples, and every year at least 650,000 of them face the question of how to divide up their property when their marriage or partnership comes to an end – source: SEC(2011) 327.

¹⁷ An estimated 450,000 European families deal with an international succession each year, valued at more than €20 billion – source: SEC(2009) 410.

¹⁸ There are more than 500 million consumers in Europe. Consumer expenditure, amounting to 56% of EU GDP, reflects the enormous power of the consumer to drive forward the European economy – source: EU Consumer Agenda of 2012, COM(2012) 225.

4.1. Consolidate

In carrying the EU agenda for justice forward, the EU should first and foremost consolidate the progress achieved, ensuring that fundamental rights are upheld and that rights granted by EU legislation become a reality. Instruments agreed at EU level must be transposed by Member States, effectively implemented and used. When such rights are not respected, there should be effective remedies available.

i) Upholding Fundamental Rights

The EU should pursue its efforts to ensure that it remains exemplary in its application of the Charter. This requires action from all European institutions and Member States when implementing EU law to promote the effective application of the Charter and of secondary legislation addressing specific rights, such as the protection of personal data, gender equality, citizens' rights, fair trial rights or children's rights. Ensuring the effective protection of these rights across the EU is crucial for the trust of citizens in the proper functioning of the European area of justice. This includes the rights of persons belonging to minorities or those of persons in particularly vulnerable situations such as children, victims of crime and persons with disabilities. Moreover, there should be a continued common determination to fight xenophobic or racist hate speech and crimes within the EU. The advice and expertise of the EU Fundamental Rights Agency is important to contribute to the development of EU policies, including in criminal matters.

The EU should also continue its work in ensuring equality between women and men in pay, pensions and participation in the labour market, including in positions of top management. This action should help ensuring that Europe is making full use of all available talent.

ii) Ensuring effective remedies

There are no rights without effective remedies. The EU should pursue its efforts to ensure the respect of the right to an effective remedy before a tribunal in case of violation of EU law (Article 47 of the Charter), including in cases where national procedures make it excessively difficult for citizens to claim the rights granted to them by EU law in cross-border cases.

To further facilitate the rapid resolution of disputes, Member States should promote the use of other types of non-judicial redress and remedies mechanisms developed in the EU which could offer a swift, efficient and less costly solution to disputes. Such mechanisms and instruments include, for example, mediation, alternative dispute resolution, online dispute resolution, SOLVIT, the European Small Claims Procedure and the newly agreed European Account Preservation Order.

Administrative review, the work of national enforcement authorities as well as procedures before equality bodies, can also play a role. Close cooperation between national authorities or administrative bodies is particularly important for the effectiveness of certain EU rights, such as the right to free movement or the protection of personal data. To better tackle EU-wide breaches of consumer protection law, the cooperation between national enforcement authorities needs to be strengthened. The independence of enforcement authorities, when required by EU law, as is the case for data protection authorities, must be ensured.

Well-functioning justice systems dealing with administrative cases are also crucial for the effectiveness of EU law.

iii) Judicial Training

The impact of EU law on the daily lives of European citizens and businesses is such that every national legal practitioner – from lawyers and bailiffs on the one hand, to judges and prosecutors on the other – should also be knowledgeable in EU law and capable of interpreting and effectively enforcing EU law, alongside his or her own domestic law. In the Union's decentralised legal system, national judges often need to become "Union law judges" to be able to fulfil their responsibilities.

Training legal practitioners in EU law is thus of utmost importance to ensure EU law is implemented and applied correctly, to build trust in each other's judicial systems and enable practitioners to cooperate and trust each other across borders.

More than 130,000 legal practitioners received training in EU law in 2011 and 2012. This includes a quarter of all EU judges and prosecutors. It is now time to take training a step further and actively involve court staff and legal practitioners in EU law from the outset as well. The experience of the European Judicial Training Network should be consolidated and expanded to include all new judges and prosecutors. The potential of e-learning should also be fully exploited.

The EU should make full use of existing networks to facilitate the training of legal practitioners and help reach the objective of training 50% of them – a total of 700,000 – in EU law by 2020. The Commission is ready to support these efforts: the 2014-2020 Justice financial programme reflects the importance granted to training by the Commission. 35% of the programme's overall budget of 378 million EUR will support high-quality European training projects for all justice professions and help share best practices on subjects such as curricula or interactive training methodology.

iv) Information and communication technologies

Information and communication technologies (e-justice) facilitate access to justice for citizens and businesses.

The E-justice¹⁹ and other relevant portals informing citizens and businesses on their rights such as Your Europe²⁰, should continue to develop into operational tools that facilitates access to justice, removes red tape and unnecessary procedures in the Member States, notably in civil and commercial proceedings. The E-justice portal can also make cross-border cooperation easier, for example by providing citizens and practitioners with templates and forms translated in all official languages of the EU. The interconnection of national registers at EU level should ensure that legal practitioners, citizens and businesses can access the information they need in other Member States. Such registers include business, land and insolvency registers, as well as registers of wills.

The benefits of e-justice tools are not limited to cross-border contexts alone. Direct electronic communication between citizens, legal practitioners, businesses and courts is becoming a

¹⁹ <https://e-justice.europa.eu/>

²⁰ <http://europa.eu/youreurope/>

reality across the European area of justice and the EU should support initiatives in this area. In the context of ongoing structural reforms and the work on a modern public administration, the digitisation of national justice systems is becoming a key instrument for ensuring effective national justice systems.

The EU should encourage the use of electronic tools, which can provide a real extra benefit for citizens, businesses, legal practitioners and the courts, including tools to access the case-law of courts in other Member States.

v) Operational Co-operation

Practitioners across Europe need to work together to exchange information in a fast and secure way and to obtain assistance from their counterparts. Enhancing operational cooperation between all parties involved is crucial, particularly for establishing mutual trust.

Existing mechanisms and networks in civil and criminal matters, such as the European Judicial Networks, should be strengthened and their potential fully exploited, including online.

Eurojust needs to play its part to the full, benefiting from its on-going reform, as it will remain an important EU body for coordinating the prosecution of crime also after the establishment of the European Public Prosecutor's Office, which will focus its activities, at least initially, on the fight against fraud to the detriment of the financial interests of the Union. For other transnational crimes, Eurojust will have a key role to play and therefore will need to be further strengthened in effectiveness. In this context, the potential of joint investigation teams should be used to the maximum.

4.2. Codify

Codification of existing laws and practices can facilitate the knowledge, understanding and the use of legislation, the enhancement of mutual trust as well as consistency and legal certainty while contributing to simplification and the cutting of red tape. In a number of cases, the codification of certain parts of the existing EU legislation relating to justice or to relevant case-law of the Court of Justice of the Union in the area of justice can be beneficial in terms of providing consistency of legislation and clarity for the citizens and users of the law in general:

- **Civil and commercial law:** Since 2000, the EU has adopted a significant number of rules in civil and commercial matters as well as on conflict of laws. The EU should examine whether codification of the existing instruments could be useful, notably in the area of conflict of laws;
- **Consumer rights law:** Following an assessment of the overall functioning of the Consumer Rights Directive and the related *acquis* in the field of consumer legislation, codification initiatives based on existing legislation should be explored and assessed. The aim should be to raise consumers' awareness of their rights, to simplify partially overlapping directives and to help companies apply the same set of rules in different contexts;

- **Criminal law:** EU legislation relating to procedural rights in criminal matters is currently contained in a considerable number of different instruments which have been developed and adopted step by step over the past years. To further strengthen the level-playing field and the consistency of the protection of the rights of suspected persons, the need for codifying criminal procedural rights into one instrument could be examined.

To facilitate trust and mutual cooperation attention should also be paid to the case-law of the Court of Justice of the Union relating to the rules and principles that need to be applied by national administrations when implementing EU law.

4.3. Complement

Justice policy is a dynamic area, shaped in particular by the increasing mobility of citizens and businesses. Initiatives to complement existing justice policies and legal instruments may therefore have to be envisaged where appropriate. This should always be done with the purpose of enhancing mutual trust, to facilitate the life of citizens and to further contribute to growth. The need and the added value of such complementary initiatives will have to be as carefully assessed as in other areas of EU policies. In addition, the diversity of Member States' legal systems and traditions will always have to be taken into account. The approaches to be chosen – for example, mutual recognition, identification of the applicable law, traditional harmonisation, harmonised optional substantive, or procedural law regime – will depend on the issue at stake.

Enhance mutual trust. Mutual trust requires justice systems which are independent, of quality and efficient. Existing or perceived shortcomings should be addressed so that citizens and businesses can fully rely on the judicial system they are dealing with. Assurance that both parties' procedural rights are protected is also a crucial element in ensuring mutual trust both in civil and in criminal matters. The need to reinforce civil procedural rights should be examined, for example as regards the service of documents or the taking of evidence and in ensuring that the best interests of the child are upheld as a primary concern. In order to facilitate smooth cooperation in criminal matters, the mutual recognition of instruments could be further strengthened, building on work done so far, in areas such as the recognition of financial penalties, confiscation orders and disqualifications. Once the European Public Prosecutor's Office is set up, practice will show the possible need for complementary measures.

Contribute to economic growth. Complementary justice policy initiatives may also be needed to further contribute to growth, for example, by going a step further in developing an EU "rescue and recovery" culture for insolvencies. Minimum standards in the field of substantive insolvency law could become desirable for all Member States to allow viable businesses that are in financial difficulties to undergo restructuring at an early stage. Technological developments, in particular in markets with significant potential for growth (like the cloud market), require EU civil law to be up-to-date. A clearer and more consistent civil and contract law framework, including by means of optional systems which are respectful of subsidiarity and the diversity of national legal systems, could respond to this challenge by providing businesses with a level-playing field while safeguarding the interests of consumers. Enforcement of consumer protection rights remains national while cross-border

shopping increases. Strengthening the enforcement or clarifying existing consumer protection laws should help to strengthen consumer trust.

Facilitate citizens' lives. In order to give full effect to the right of every citizen to participate in the democratic life of the Union and enable mobile EU citizens to better integrate into their host country, the need to adopt provisions adding to the citizenship rights referred to in the EU Treaties can be examined. In order to avoid situations where citizens encounter problems, for example, related to civil status records, the EU should assess the need for further action, such as rules on family names to complement existing proposals to facilitate the acceptance of those public documents which are of particular practical relevance when citizens or businesses make use of their free movement rights. In criminal matters, victims do not always benefit from a satisfactory level of compensation, in particular from the offender. Action to remedy this should be explored. Furthermore, national Roma integration strategies should be translated into concrete actions at national and local level. This includes the optimisation of the use of EU funds and looking at how to ensure better targeting of EU funds explicitly for Roma inclusion.

Being active in **international** fora and engaging with EU partners is crucial to ensure EU citizens and businesses are protected in their relations with third countries. The objective should be that what has been achieved at EU level in the justice areas for defending rights and setting standards, such as in the field of personal data protection, finds support and drives EU relations with third countries. Special attention will be paid to the promotion of effective justice systems in particular in enlargement and neighbouring countries. At multilateral level, focus will be given to more efficient cooperation with the Hague Conference on Private International Law, where the EU speaks with one voice in areas of civil and commercial law.

In view of its importance for the overall fundamental rights architecture around the European area of justice, the EU's accession to the European Convention on Human Rights – negotiated by the Commission between 2010 and 2014 on the basis of a mandate given to it by the Council – needs to overcome the last hurdles. Once the Court of Justice will have issued its opinion on the outcome of these negotiations, the EU, taking full account of this opinion, should take all the action necessary to speedily conclude the negotiations and complete the ratification process in all EU Member States, so as to meet the obligation contained in the Treaties.

5. CONCLUSION

EU justice policy has become increasingly central to EU integration and very tangible for many citizens. It has a major role to play in enforcing the common values upon which the Union is founded, in strengthening economic growth and in contributing to the effectiveness of other EU policies. A properly designed EU justice policy can ensure that individuals and businesses, notably those who make use of their free movement rights, effectively benefit from a trusted and fully functioning common European area of justice.

This EU Justice Agenda for 2020 sets out the Commission's orientations for the political direction for the EU's work in the years to come, which will now be discussed with the European Parliament and the Council as well as with the public at large. The result of this discussion should also inspire the strategic guidelines to be provided by the European Council under Article 68 TFEU.

Making these orientations a reality will require the continuous and determined efforts of all EU institutions and all Member States, as well as the full involvement of all stakeholders, in particular the citizens as end-users of the justice systems, the judiciary and legal practitioners. Such involvement is crucial for developing solutions that respond to the real practical challenges in citizens' and businesses' daily lives and meet their expectations. As a result, by 2020, justice and citizens' rights should know no borders in the EU.