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NOTE

From: Presidency
To: Delegations

Subject: Proposal for a Regulation of the European Parliament and of the Council
establishing the Justice programme

Following the meetings on 18 July and 3 September 2018, delegations will find attached suggestions from the Presidency in relation to some provisions of the above-mentioned proposal.

Suggested amendments are highlighted with **bold** and ~~strikethrough~~.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the Justice programme 2021 - 2027

**CHAPTER I
GENERAL PROVISIONS**

Article 1

Subject matter

This Regulation establishes the Justice programme (the ‘Programme’).

It lays down the objectives of the Programme, the budget for the period 2021 – 2027, the forms of Union funding and the rules for providing such funding.

Article 2

Definition

For the purposes of this Regulation, the following definitions apply:

1. ‘Judiciary and judicial staff’ means judges, prosecutors and **court and prosecutors’ office** staff, as well as any other justice professionals associated with the judiciary, ~~such as lawyers, notaries, bailiffs or enforcement officers, insolvency practitioners, mediators, court interpreters and translators, court experts, prison staff and probation officers.~~¹

¹ **To be complemented with the following new recital:**
Recital 8(a) *The notion of 'judiciary and judicial staff' should be interpreted in extenso as covering judges, prosecutors, court and prosecutor’s office staff, as well as any other justice professionals associated with the judiciary or otherwise participating in the administration of justice, irrespective of their national definition, legal status and internal organisation, such as lawyers, notaries, bailiffs, insolvency practitioners, mediators, court interpreters and translators, court experts, prison staff and probation officers.*

Article 3
Programme objectives

1. The Programme has the general objective of contributing to the further development of a European area of justice based on the rule of law, on mutual recognition and mutual trust;
2. The Programme has the following specific objectives, ~~as further detailed in Annex I:~~
 - (a) to facilitate and support judicial cooperation in civil and criminal matters, and to promote the rule of law, **independence and impartiality of the judiciary**, including by supporting the efforts to improve the effectiveness of national justice systems and the enforcement of decision;
 - (b) to support and promote judicial training, with a view to fostering a common legal, judicial and rule of law culture;
 - (c) to facilitate effective access to justice for all and effective redress, including by electronic means, by promoting efficient civil and criminal procedures and by promoting and supporting the rights of victims of crime as well as the procedural rights of suspects and accused persons in criminal proceedings.

Article 4
Budget

1. The financial envelope for the implementation of the Programme for the period 2021 – 2027 shall be EUR ~~[[305 000 000]]~~ in ~~[current prices]~~.
2. **Option 1:**

Up to [XX]% of the amount referred to in paragraph 1 may be ~~used~~ allocated for technical and administrative assistance for the implementation of the Programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.

Option 2:

The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.

3. Without prejudice to the Financial Regulation, expenditure for actions resulting from projects included in the first work programme may be eligible as from 1 January 2021.
4. Resources allocated to Member States under shared management may, at their request, be transferred to the Programme. The Commission shall implement those resources directly in accordance with Article 62(1)(a) of the Financial Regulation or indirectly in accordance with Article 62(1)(c). Where possible those resources shall be used for the benefit of the Member State concerned.

Article 5

Third countries associated to the Programme

The Programme shall be open to the following third countries:

- (a) European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement;
- (b) acceding countries, candidate and potential candidate, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;

- (c) countries covered by the European Neighbourhood Policy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and association council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries.
- (d) [Other third countries, in accordance with the conditions laid down in a specific agreement covering the participation of the third country to any Union programme, provided that the agreement
- ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;
 - lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of [the new Financial Regulation];
 - does not confer to the third country a decisional power on the programme;
 - guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.]

Article 6

Implementation and forms of EU funding

1. The Programme shall be implemented in direct management in accordance with the Financial Regulation or in indirect management with bodies referred to in Article 62 of the Financial Regulation.
2. The Programme may provide funding in any of the forms laid down in the Financial Regulation.

3. [Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. The provisions laid down in [Article X of] Regulation XXX [successor of the Regulation on the Guarantee Fund] shall apply].

Article 7

Type of actions

Actions contributing to the achievement of a specific objective specified in Article 3 may receive funding under this Regulation. In particular, activities listed in Annex I shall be eligible for funding.

CHAPTER II

GRANTS

Article 8

Grants

Grants under the Programme shall be awarded and managed in accordance with Title [XX] VIII of the Financial Regulation.

Article 9

Cumulative [, complementary] and combined funding

1. An action that has received a contribution under the Programme may also receive a contribution from any other Union programme, including Funds under shared management, provided that the contributions do not cover the same costs. [The cumulative financing shall not exceed the total eligible costs of the action and the support from different Union programmes may be calculated on a pro-rata basis].

2. Where the Programme and the Funds under shared management referred to in Article 1 of Regulation (EU)[XX] [CPR] provide jointly financial support to a single action, that action shall be implemented in accordance with the rules set out in this Regulation, including rules on recovery of amounts unduly paid.
3. Actions eligible under the Programme and complying with the conditions referred to in the second subparagraph may be identified with the aim to be funded by the Funds under shared management. In this case the co-financing rates and the eligibility rules provided for in this Regulation shall apply.

The actions referred to in the first subparagraph shall comply with the following cumulative conditions:

- (a) they have been assessed in a call for proposals under the Programme;
- (b) they comply with the minimum quality requirements of that call for proposals;
- (c) they may not be financed under that call for proposals due to budgetary constraints.

The actions shall be implemented by the managing authority referred to in Article [65] of Regulation (EU)[XX] [CPR] in accordance with the rules set out in that Regulation and fund specific regulations, including rules on financial corrections."

Article 10

Eligible entities

1. The eligibility criteria set out in paragraphs 2 and 3 shall apply in addition to the criteria set out in [Article 197] of the Financial Regulation.

2. The following entities are eligible:
 - (a) legal entities established in any of the following countries:
 - Member State or an overseas country or territory linked to it;
 - third country associated to the Programme;
 - (b) any legal entity created under Union law or any international organisation;
3. **The programme shall support the European Judicial Training Network's expenditure associated with its permanent work programme. Any operating grant to that effect shall be awarded without a call for proposals.** ~~An operating grant may be awarded without a call for proposals to the European Judicial Training Network to cover expenditure associated with its permanent work programme.~~

CHAPTER III

PROGRAMMING, MONITORING, EVALUATION AND CONTROL

Article 11

Work programme

1. The Programme shall be implemented by work programmes referred to in Article 110 of Financial Regulation.
2. The work programme shall be adopted by the Commission by means of an implementing act. That implementing act shall be adopted in accordance with the **examination** ~~advisory~~ procedure referred to in Article 17.

Article 12
Monitoring and reporting

1. Indicators to report on progress of the Programme towards the achievement of the specific objectives set out in Article 3 are set out in Annex II.
2. To ensure effective assessment of progress of the Programme towards the achievement of its objectives, the Commission shall be empowered to adopt delegated acts, in accordance with Article 14, to develop the provisions for a monitoring and evaluation framework, including through amendments to Annex II to review and complement the indicators where necessary.
3. The performance reporting system shall ensure that data for monitoring programme implementation and results are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and Member States.

Article 13
Evaluation

1. Evaluations shall be carried out in a timely manner to feed into the decision-making process.
2. The interim evaluation of the Programme shall be carried out once there is sufficient information available about the implementation of the Programme, but no later than four years after the start of the programme implementation.
3. At the end of the implementation of the Programme, but no later than four years after the end of the period specified in Article 1, a final evaluation of the Programme shall be carried out by the Commission.
4. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

Article 14
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 12 shall be conferred on the Commission until 31 December 2027.
3. The delegation of power referred to in Article 12 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 12 shall enter into force if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 15

Protection of the financial interests of the Union

Where a third country participates in the programme by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorizing officer responsible, the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).

CHAPTER IV

TRANSITIONAL AND FINAL PROVISIONS

Article 16

Information, communication and publicity

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to the Programme, and its actions and results. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.

Article 17
Committee procedure

1. The Commission shall be assisted by a committee. This committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 4 of Regulation (EU) No 182/2011 shall apply.

Article 18
Repeal

Regulation (EU) No 1382/2013 is repealed with effect from 1 January 2021.

Article 19
Transitional provisions

1. This Regulation shall not affect the continuation or modification of the actions concerned, under Regulation No 1382/2013, which shall continue to apply to those actions until their closure.
2. The financial envelope for the Programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted under its predecessor, Regulation (EU) No 1382/2013.
3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4(2), to enable the management of actions not completed by 31 December 2027.

Article 20
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.



ANNEX I

Activities of the programme

The specific objectives of the Programme referred to in Article 3 (2) will be pursued in particular through support to the following activities:

1. awareness raising, dissemination of information to improve the knowledge of Union policies and of Union law including substantive and procedural law, of judicial cooperation instruments, of the relevant case-law of the Court of Justice of the European Union, and of comparative law and of European and international standards;
2. mutual learning through exchange of good practices among stakeholders to improve knowledge and mutual understanding of the civil and criminal law and the legal and judicial systems of the Member States, including the rule of law, and enhancing mutual trust;
3. analytical and monitoring activities² to improve the knowledge and understanding of potential obstacles to the smooth functioning of a European area of justice and to improve the implementation of Union law and policies in the Member States;
4. training relevant stakeholders to improve the knowledge of Union policies and Union law including inter alia substantive and procedural law, the use of EU judicial cooperation instruments, the relevant case-law of the Court of Justice of the European Union, legal language and of comparative law.

² These activities include for instance the collection of data and statistics; the development of common methodologies and, where appropriate, indicators or benchmarks; studies, researches, analyses and surveys; evaluations; impact assessment; the elaboration and publication of guides, reports and educational material.

5. information and Communication Technology (ICT) tools development and maintenance to improve the efficiency of judicial systems and their cooperation by means of information and communication technology, including the cross-border interoperability of systems and applications.
6. developing capacity of key European level networks and European judicial networks, including networks established by Union law to ensure the effective application and enforcement of Union law, to promote and further develop Union law, policy goals and strategies in the areas of the programme, as well as supporting civil society organisations active in the areas covered by the Programme.
7. enhancing knowledge of the programme and dissemination and transferability of its results and fostering citizen outreach, ~~including by setting up and supporting programme desks/national contact network.~~

ANNEX II

Indicators

The Programme will be monitored on the basis of a set of indicators intended to measure the extent to which the general and specific objectives of the Programme have been achieved and with a view to minimising administrative burdens and costs. To that end, data will be collected as regards the following set of key indicators:

Number of members of the judiciary and judicial staff who participated in training activities (including staff exchanges, study visits, workshops and seminars) funded by the Programme, including by the operating grant of the EJTN
Number of exchanges of information in the European Criminal Records Information System (ECRIS)
Number of hits on the e-Justice portal / pages addressing the need for information on cross-border civil cases
Number of people reached by: (i) mutual learning and exchange of good practices activities; (ii) awareness raising, information and dissemination activities