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#### INFORMATION NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND  
OF THE COUNCIL establishing the Justice programme  
- Outcome of the European Parliament's first reading  
(Strasbourg, 15 to 18 April 2019)

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#### I. INTRODUCTION

Pavel SVOBODA (EPP, CZ), on behalf of the Committee on Legal Affairs, and Claude MORAES (S&D, UK), on behalf of Committee on Civil Liberties, Justice and Home Affairs, presented an amendment (amendment 78) to the report by Joseph WEIDENHOLZER (S&D, AT) and Heidi HAUTALA (Greens/EFA, FI), on the above mentioned proposal.

## II. VOTE

When it voted on 17 April 2019, the plenary adopted amendment 78 (490 votes in favour, 120 against and 42 abstentions) to the proposal.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto<sup>1</sup>.

The parts of the text in the Annex that are not highlighted in grey correspond in substance, with minor inconsistencies, to the common understanding reached on 5 March 2019 at the last trilogue meeting under the 8th parliamentary term (2014-2019). Such inconsistencies are to be corrected before Council adopts its position, once an agreement has been reached on the whole text.

The text highlighted in grey in the Annex has not been agreed in the framework of interinstitutional negotiations at this stage.

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<sup>1</sup> The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

## **Justice programme \*\*\*I**

### **European Parliament legislative resolution of 17 April 2019 on the proposal for a regulation of the European Parliament and of the Council establishing the Justice programme (COM(2018)0384 – C8-0235/2018 – 2018/0208(COD))**

#### **(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0384),
  - having regard to Article 294(2), Article 81(1) and (2) and Article 82(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0235/2018),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - Having regard to the opinion of the European Economic and Social Committee of 18 October 2018<sup>1</sup>,
  - After consulting the Committee of the Regions,
  - having regard to the letter from its President to the committee chairs of 25 January 2019 outlining the Parliament's approach to the Multiannual Financial Framework (MFF) post-2020 sectorial programmes,
  - having regard to the letter from the Council to the President of the European Parliament of 1 April 2019 confirming the common understanding reached between the co-legislators during negotiations,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the joint deliberations of the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs under Rule 55 of the Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Budgets, the Committee on Budgetary Control and the Committee on Women's Rights and Gender Equality (A8-0068/2019),
1. Adopts its position at first reading hereinafter set out<sup>2</sup>;

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<sup>1</sup> OJ C 62, 15.2.2019, p. 178.

<sup>2</sup> This position replaces the amendments adopted on 13 February 2019 (Texts adopted, P8\_TA(2019)0097).

2. Recalls its resolution of 14 March 2018 on the next MFF: Preparing the Parliament's position on the MFF post-2020<sup>1</sup>; reiterates its support for programmes in the areas of culture, education, media, youth, sport, democracy, citizenship and civil society that have clearly demonstrated their European added value and enjoy lasting popularity among beneficiaries; reiterates that a stronger and a more ambitious Union can only be achieved if it is provided with reinforced financial means; calls, therefore, for providing continuous support to existing policies, for increasing resources to the Union' flagship programmes, and for additional responsibilities to be matched with additional financial means;
3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> Text adopted, P8\_TA(2018)0075.

**Position of the European Parliament adopted at first reading on 17 April 2019 with a view to the adoption of Regulation (EU) 2019/... of the European Parliament and of the Council establishing the Justice programme**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular, Article 81(1) and (2), Article 82(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>5</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure<sup>6</sup>,

Whereas:

- (1) According to Article 2 of the Treaty on European Union, ‘the Union is founded on the values of respect for human dignity, freedom democracy, equality, the rule of law and the respect for human rights, including the rights of the persons belonging to minorities. These values are common to the Member States in a society where pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail’. Article 3 further specifies that the ‘Union’s aim is to promote peace, its values and the well-being of its people’ and, among others, ‘it shall respect its rich cultural and linguistic diversity, and shall ensure that Europe’s cultural heritage is safeguarded and enhanced’. These values are further reaffirmed and articulated in the rights, freedoms and principles enshrined in the Charter of Fundamental Rights of the European Union (‘the Charter’).

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<sup>5</sup> OJ C 62, 15.2.2019, p. 178.

<sup>6</sup> Position of the European Parliament of 17 April 2019. The text highlighted in grey has not been agreed in the framework of interinstitutional negotiations.

- (2) *Those* rights and values must continue to be **actively cultivated, protected and** promoted and enforced **and** shared among the citizens and peoples **■** and be at the heart of **the EU project, given that deterioration in the protection of those rights and values in any Member State can have detrimental effects on the Union as a whole. Therefore, a new Justice, Rights and Values Fund, comprising the **Citizens, Equality, Rights and Values** and the Justice programmes shall be created in the **EU** budget. At a time where European societies are confronted with extremism, radicalism and divisions **and a shrinking space for independent civil society**, it is more important than ever to promote, strengthen and defend justice, rights and EU values: human rights, respect for human dignity, freedom, democracy, equality, the rule of law. This will have profound and direct implications for political, social, cultural and economic life in the EU. As **■** part of the new Fund, the **Justice Programme will continue to support the further development of Union area of justice based on the rule of law, independence and impartiality of the judiciary, on mutual recognition and mutual trust, access to justice and cross-border cooperation. The Citizens, Equality, Rights and Values Programme will bring together the 2014-2020 Programme Rights, Equality and Citizenship ■ established by Regulation (EU) No 1381/2013 of the European Parliament and of the Council<sup>7</sup> and the Europe for Citizens programme established by Council Regulation (EU) No 390/2014 ■<sup>8</sup> (hereafter 'the predecessor Programmes').****
- (3) The Justice, Rights and Values Fund and its two underlying funding programmes will focus **■** on **persons** and entities, which contribute to make our common values, **equality**, rights and rich diversity alive and vibrant. The ultimate objective is to nurture and sustain a rights-based, equal, **open, pluralist**, inclusive and democratic society. That includes a vibrant **and empowered** civil society **as a key stakeholder**, encouraging people's democratic, civic and social participation and **cultivating** the rich diversity of European society, **■** based on our common **values**, history and memory. Article 11 of the **■ Treaty of the European Union requires** that the institutions **of the Union maintain an open, transparent and regular dialogue with civil society and**, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.

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<sup>7</sup> Regulation (EU) No 1381/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020 (OJ L 354, 28.12.2013, p. 62).

<sup>8</sup> Council Regulation (EU) No 390/2014 of 14 April 2014 establishing the 'Europe for Citizens' programme for the period 2014-2020 (OJ L 115, 17.4.2014, p. 3).

- (4) The Treaty on the Functioning of the European Union (TFEU) provides for the creation of an area of freedom, security and justice, with respect for fundamental rights and the different legal systems and traditions of the Member States. ***Respect for and promotion of the rule of law, fundamental rights and democracy within the Union are prerequisites for upholding all rights and obligations enshrined in the Treaties, and for building people's trust in the Union. The way in which the rule of law is implemented in the Member States plays a vital role in ensuring mutual trust among Member States and between their legal systems.*** To that end, the Union may adopt measures to develop judicial cooperation in civil ***and*** criminal matters **■**. Respect for fundamental rights as well as for common principles and values, such as non-discrimination ***and equal treatment on the basis of any of the grounds listed in Article 21 of the Charter, solidarity***, effective access to justice for all, the rule of law, ***democracy*** and a well-functioning independent judicial system ***should*** be ensured ***and fostered at all levels*** in the further development of a European area of justice.
- (5) Financing should remain one of the important tools for the successful implementation of the ambitious goals set by the Treaties. They should be attained inter alia by establishing a flexible and effective Justice Programme which should facilitate planning and implementation of those goals. ***The Programme should be implemented in a user friendly way (i.e. user friendly application and reporting procedure) and should aim at balanced geographical coverage. Particular attention should be paid to the Programme accessibility to all types of beneficiaries.***
- (6) For the gradual establishment of an area of freedom, security and justice ***for all***, the Union is to adopt measures relating to judicial cooperation in civil and criminal matters based on the principle of mutual recognition of judgments and judicial decisions, which is a cornerstone of judicial cooperation within the Union since the Tampere **European Council** of 15 and 16 October 1999. Mutual recognition requires a high level of mutual trust among Member States. Measures to approximate the laws of the Member States in several areas have been adopted to facilitate mutual recognition and foster mutual trust. A well-functioning area of justice, where obstacles in cross-border judicial proceedings and access to justice in cross-border situations are eliminated, is also key to ensure economic growth ***and further integration. At the same time, a properly functioning European area of justice and of efficient, independent and quality national legal systems, as well as greater mutual trust, are necessary for a flourishing internal market and for upholding the common values of the Union.***

- (6 a) *Access to justice should include, in particular, access to courts, to alternative methods of dispute settlement, and to public office-holders who are obliged by the law to provide parties with independent and impartial legal advice.*
- (7) *Full respect and promotion of the rule of law is essential for a high level of mutual trust in the area of justice and home affairs, in particular for effective judicial cooperation in civil and criminal matters which is based on mutual recognition. The rule of law is one of the common values enshrined in Article TEU 2, and the principle of effective judicial protection provided for in Articles 19(1) TEU and 47 of the Charter of Fundamental Rights is a concrete expression of the rule of law. Promoting the rule of law by supporting the efforts to improve the independence, **transparency, accountability**, quality and efficiency of national justice systems enhances the mutual trust which is indispensable for judicial cooperation in civil and criminal matters. **Judicial independence and impartiality forms part of the essence of the right to a fair trial and are key for the protection of European values. Furthermore, having efficient justice systems with reasonable time limits for proceedings serves legal certainty for all parties concerned.***
- (8) Pursuant to Articles 81(2)(h) and 82(1)(c) of the Treaty on the Functioning of the EU, the Union shall support the training of the judiciary and judicial staff as a tool to improve judicial cooperation in civil, and criminal matters based on the principle of mutual recognition of judgments and of judicial decisions. Training of justice professionals is an important tool to develop a common understanding of how best to **implement and** uphold the rule of law **and fundamental rights**. It contributes to the building of the European area of justice by creating a common judicial culture among justice professionals of the Member States. It is essential to ensure the **non-discriminatory**, correct and coherent application of law in the Union and mutual trust **and understanding** between justice professionals in cross-border proceedings. The training activities supported by the Programme should be based on sound training needs' assessments, use state of the art training methodology, include cross-border events gathering justice professionals of different Member States, comprise active learning and networking elements and be sustainable. **Such activities should include training on legal terminology, civil and criminal law, fundamental rights and on mutual recognition and procedural safeguards. It should include training courses for judges, lawyers and prosecutors about the challenges and obstacles experienced by people who often face discrimination or are in a vulnerable situation, such as women, children, minorities, LGBTQI persons, persons with disabilities, victims of gender-based violence,**



*domestic violence or violence in intimate relationships and other forms of interpersonal violence. Such training courses should be organised with the direct involvement of organisations representing or supporting such persons and where possible, the involvement of such persons. Taking into account that women judges are underrepresented in the top positions, female judges, prosecutors and other legal professions should be encouraged to participate in the training activities.*

- (8 a) *For the purposes of this Regulation, the term 'judiciary and judicial staff' should be interpreted extensively so as to include 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 or enforcement officers, insolvency practitioners, mediators, court interpreters and translators, court experts, prison staff, probation officers.*
- (9) Judicial training can involve different actors, such as Member States' legal, judicial and administrative authorities, academic institutions, national bodies responsible for judicial training, European-level training organisations or networks, or networks of court coordinators of Union law. Bodies and entities pursuing a general European interest in the field of training of the judiciary, such as the European Judicial Training Network ('EJTN'), the Academy of European Law ('ERA'), the European Network of Councils for the Judiciary ('ENCJ'), the Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union ('ACA-Europe'), the Network of the Presidents of Supreme Judicial Courts of the European Union ('RPCSJUE') and the European Institute of Public Administration ('EIPA'), should continue to play their role in promoting training programmes with a genuine European dimension for the judiciary and judicial staff, and could therefore be granted adequate financial support in accordance with the procedures and the criteria set out in the ■ work programmes adopted by the Commission pursuant to this Regulation.
- (10) The programme should support the annual work programme of EJTN, which is an essential actor of judicial training. The EJTN is in a exceptional situation, insofar as it is the only network at Union level gathering the judicial training bodies of the Member States. It is in a unique position to organise exchanges for new and experienced judges and prosecutors between all Member States and to coordinate the work of the national judicial training

bodies regarding the organisation of training activities on Union law and the promotion of good training practices. The EJTN is also a provider of training activities of excellent quality delivered in a cost-efficient manner at Union level. Moreover, it comprises the judicial training bodies of candidate countries as observer members. ***The EJTN annual report should include information on the training provided disaggregated also by staff category.***

- (11) Measures under the Programme should support enhanced mutual recognition of judicial decisions and judgments ***in civil and criminal matters, mutual trust between Member States*** and the necessary approximation of legislation that will facilitate cooperation between all the relevant authorities, including ***by electronic means. It should also support*** the judicial protection of individual rights in civil and commercial matters. The Programme should also advance **■** greater convergence in civil law that will help to eliminate obstacles to good and efficient functioning judicial and extra-judicial procedures in benefit of all parties in a civil dispute. Finally, in order to support the effective enforcement and practical application of the Union law on judicial cooperation in civil matters, the Programme should support the functioning of the European Judicial Network in Civil and Commercial matters established by Council Decision 2001/470/EC. ***In criminal matters, the programme should help fostering and implementing rules and procedures for ensuring recognition of judgement and decisions throughout the Union. It should facilitate cooperation and contribute to eliminating obstacles to good cooperation and to mutual trust. The Programme should also contribute to improving access to justice, by promoting and supporting the rights of victims of crime as well as the procedural rights of suspects and accused persons in criminal proceedings.***
- (12) Pursuant to Article 3(3) of the TEU, Article 24 of the Charter and the 1989 United Nations Convention on the Rights of the Child, the Programme should support the protection of the rights of the child, and should mainstream the promotion of the rights of the child in the implementation of all of its actions. ***To this purpose, particular attention should be given to actions aimed at the protection of the rights of children in the context of civil and criminal justice, including the protection of children accompanying parents in detention, children of imprisoned parents and children who are suspects or accused persons in criminal proceedings.***
- (13) The 2014-2020 Programme has enabled training activities on Union law, in particular on the scope and application of the Charter, targeted at members of the judiciary and other legal

practitioners. In its conclusions of 12 October 2017 on the application of the Charter in 2016, the Council recalled the importance of awareness-raising on the application of the Charter, including among policymakers, legal practitioners and the rights holders themselves, at national as well as at Union level. Therefore, to mainstream fundamental rights in a consistent way, it is necessary to extend financial support to awareness –raising activities for other public authorities than judicial authorities and legal practitioners.

- (14) Pursuant to Article 67 TFEU, the Union should constitute an area of freedom, security and justice with respect for fundamental rights, to which ***non-discriminatory*** access to justice ***for all*** is instrumental. In order to facilitate effective access to justice, and with a view to foster the mutual trust which is indispensable for the good functioning of the area of freedom, security and justice, it is necessary to extend financial support to activities of other authorities than judicial authorities ***at national, regional and local level***, and legal practitioners, as well as of civil society organisations, which contribute to these objectives. ***Support should be given, in particular, to activities which facilitate effective and equal access to justice for persons who often face discrimination or are in a vulnerable situation. It is important to support advocacy activities of civil society organisations such as networking, litigation, campaigning, communication and other watchdog activities. Within this context, justice professionals associated with the judiciary and working for civil society organisations have also an important role to play.***
- (15) Pursuant to Articles 8 and 10 TFEU, the Programme ***in all its activities*** should support ***gender mainstreaming*** and ***the mainstreaming of non-discrimination objectives***. ***The UNCRPD also confirms the right to full legal capacity and access to justice for persons with disabilities. The interim and the final evaluation of the programme should evaluate gender impacts to assess the extent to which the Programme is contributing to gender equality and to assess that the Programme is not having unintended negative impacts on gender equality. In this context and while taking into account the different nature and size of the activities of the specific objectives of the programme, it will be important that individual data collected are broken down by sex whenever possible. It is also important to provide information to grants applicants on how to take gender equality into account, including on the use of gender mainstreaming tools such as gender budgeting and gender impact assessments where necessary. Gender balance should be considered when consulting experts and stakeholders.***

- (15 a) *The Programme in all its activities, where relevant, should also support and protect the rights of victims both in civil and criminal matters. To this purpose, particular attention should be given to better implementation of and coordination between the various Union instruments for protection of victims as well as to actions aimed at the exchange of best practices between courts and legal practitioners dealing with cases of violence. The Programme should also support the improvement of the knowledge and use of collective redress instruments.*
- (16) Actions covered by this Regulation should contribute to the creation of a European area of justice, *fostering the independence and efficiency of the legal system*, increasing cross-border cooperation and networking, *underpinning mutual trust between the Member State judiciaries* and achieving the correct, coherent and consistent application of Union law. Funding activities should also contribute to a common understanding of the Union's values, the rule of law, to better knowledge of Union law and policies, to sharing know-how and best practices in using judicial cooperation instruments by all concerned stakeholders, as well as to a proliferation *and promotion* of interoperable digital solutions underpinning seamless and efficient cross-border cooperation, and should provide a sound analytical basis to support the development, enforcement and proper *understanding and* implementation of Union law and policies. Union intervention allows for those actions to be pursued consistently across the Union and brings economies of scale. Moreover, the Union is in a better position than Member States to address cross-border situations and to provide a European platform for mutual learning *and sharing of best practice*.
- (16 a) *The Programme should also contribute to enhancing cooperation between Member States whenever Union law has an external dimension and taking into account external consequences, to improve access to justice and facilitate tackling judicial and procedural challenges.*
- (17) The Commission should ensure overall consistency, complementarity and synergies with the work of Union bodies, offices and agencies, such as EUROJUST, *FRA*, *eu-LISA* and the European Public Prosecutor Office, and should take stock of the work of other national and international actors in the areas covered by the Programme.
- (18) It is necessary to ensure the *viability, visibility, the core principle of* European added value, *and sound financial management in the implementation* of all actions and activities carried

out within the *Justice* Programme, their complementarity to Member States' activities, and their consistency with other Union activities. In order to ensure efficient *and performance-based* allocation of funds from the general budget of the Union, consistency, complementarity and synergies should be sought between funding programmes supporting policy areas with close links to each other, in particular within the Justice, Rights and Values Fund – and thus with the Rights and Values Programme- and between the Programme and the Single Market Programme, Border management and Security, in particular the Asylum and Migration ('AMIF') and the Internal Security Funds, Strategic Infrastructure in particular the Digital Europe Programme, the *European Social Fund+*, the Erasmus+ Programme, the Framework Programme for research and innovation, the Instrument for Pre-accession Assistance, and the LIFE Regulation<sup>9</sup>. *The implementation of the Justice Programme should be without prejudice to, and complemented by, Union legislation and policies regarding the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in Member States.*

(19) This Regulation lays down a financial envelope for the Justice programme which is to constitute the prime reference amount, within the meaning of [reference to be updated as appropriate according to the new inter-institutional agreement: point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>10</sup>], for the European Parliament and the Council during the annual budgetary procedure.

(19 a) *Mechanisms to ensure a link between Union funding policies and Union values should be further refined, allowing the Commission to make a proposal to the Council to transfer resources allocated to a Member State under shared management to the Programme where that Member State is subject to procedures relating to Union values. A comprehensive Union mechanism on democracy, rule of law and fundamental rights should guarantee the regular and equal review of all Member States, providing the necessary information for the activation of measures related to general deficiencies of Union values in Member States. In order to ensure uniform implementation and in view*

<sup>9</sup> Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007 (OJ L 347, 20.12.2013, p. 185).

<sup>10</sup> OJ C 373, 20.12.2013, p. 1

***of the importance of the financial effects of measures being imposed, implementing powers should be conferred on the Council which should act on the basis of a Commission proposal. To facilitate the adoption of decisions which are required to ensure effective action, reversed qualified majority voting should be used.***

- (20) Regulation (EU, Euratom) No [the new FR] (the ‘Financial Regulation’) applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect implementation, financial assistance, financial instruments and budgetary guarantees.
- (21) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, ***the capacity of relevant stakeholders and targeted beneficiaries***, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.
- (22) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>11</sup>, Council Regulation (Euratom, EC) No 2988/95<sup>12</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>13</sup> and Council Regulation (EU) 2017/1939<sup>14</sup> the financial interests of the Union are to be protected through proportionate measures, including the ***complete transparency of the Programme financing and selection procedures***, prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the

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<sup>11</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>12</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

<sup>13</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>14</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) *should* carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) *should* investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>15</sup> In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

- (23) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a decision under that agreement. Third countries may also participate on the basis of other legal instruments. A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorizing officer responsible, *human rights bodies and networks, including national institutions responsible for the protection of human rights in each Member State, bodies and networks responsible for non-discrimination and equality policies, ombudsmen, the European Agency for Fundamental Rights (FRA), the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences, and enhance their synergies and cooperation. It should be possible to include third countries especially whenever their involvement fosters the objectives of the programme, taking note that it is 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.*

<sup>15</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- (24) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.
- (24 a) *The proposal for a regulation of the European Parliament and the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States aims to equip the Union to better protect its budget when weaknesses in the rule of law impair or threaten to impair sound financial management of the financial interests of the Union. It should complement the Justice programme the role of which is different, namely to further support the development of a European Area of Justice that is based on the rule of law and mutual trust, and to ensure people can enjoy their rights.*
- (25) Pursuant to [reference to be updated as appropriate according to a new decision on OCTs: Article 94 of Council Decision 2013/755/EU<sup>16</sup>], persons and entities established in overseas countries and territories are eligible for funding subject to the rules and objectives of the Programme and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked. *It is essential that the Programme ensure that such persons and entities are sufficiently informed about their eligibility for funding.*
- (25a) *Based on their importance and relevance, this Programme should contribute to fulfilling the commitment of the Union and its Member States to achieving the Sustainable Development Goals.*
- (26) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals,

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<sup>16</sup> Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ( ‘Overseas Association Decision’) (OJ L 344, 19.12.2013, p. 1).



this Programme will contribute to mainstream climate action and to the achievement of an overall target of 25 % of the EU budget expenditures supporting climate objectives.

Relevant actions will be identified during the Programme's preparation and implementation, and reassessed in the context of its mid-term evaluation.

- (27) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this Programme on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Programme on the ground.
- (28) In order to ensure uniform conditions for the implementation of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of indicators as set out in Article 12 and 14 and Annex II. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (29) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>17</sup>.
- (30) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European

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<sup>17</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13)

Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

- (31) [In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified [, by letter of ...] its wish to take part in the adoption and application of this Regulation. OR

In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]

HAVE ADOPTED THIS REGULATION:

## 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 prosecutor’s office* staff, as well as *any* other justice professionals associated with the judiciary ■ .

## 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, ***including independence and impartiality of the judiciary***, on mutual recognition, mutual trust ***and judicial cooperation***, ***thereby also strengthening democracy rule of law and fundamental rights***.
2. The Programme has the following specific objectives **■** :
  - (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 ***effective*** enforcement of ***decisions***;
  - (b) to support and promote judicial training, with a view to fostering a common legal, judicial and rule of law culture, ***as well as the consistent and effective implementation of the Union's legal instruments relevant in the context of this programme***;
  - (c) to facilitate effective ***and non-discriminatory*** access to justice for all, and effective redress, including by electronic means (***e-justice***), by promoting efficient civil, and criminal procedures, and by promoting and supporting the rights of ***all*** victims of crime as well as the procedural rights of suspects and accused persons in criminal proceedings.

### *Article 3 a*

#### *Mainstreaming*

***In the implementation of all of its actions, the Programme shall seek to promote gender equality, the rights of the child, inter alia by means of child- friendly justice, the protection of victims and the effective application of the principle of equal rights and non-discrimination based on any of the grounds listed in Article 21 of the Charter, in accordance with and within the limits set by Article 51 of the Charter.***

## Article 4

### Budget

1. ***Within the meaning of [reference to be updated as appropriate according to the new inter-institutional agreement] point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, the financial envelope for the implementation of the Programme for the period 2021 – 2027, representing the prime reference for the budgetary authority during the annual budgetary procedure, shall be EUR 316 000 000 in 2018 prices (EUR 356 000 000 in current prices).***
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.
- 2 a. The budget allocated for actions linked to the promotion of gender equality shall be indicated annually.***
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, ***or at the request of the Commission***, be transferred to the Programme. The Commission shall implement those resources directly in accordance with Article 62(1)(a) of the Financial Regulation ■ . 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(1)(c) 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 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 ***and any operating grant to that effect shall be awarded without a call for proposals in accordance with the Financial Regulation.***

## 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 ***a delegated act***. That ***delegated act*** shall be adopted in accordance with the advisory procedure referred to in Article 14.

#### 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, **and shall be assisted by the relevant civil society and human rights organisations. Gender balance and appropriate representation of minority and other excluded groups in the Committee shall be safeguarded.**
2. Where reference is made to this paragraph, Article 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.

Done at ...,

*For the European Parliament*

*For the Council*

*The President*

*The President*

## ANNEX I

### Activities of the programme

The **general and** specific objectives of the Programme **set out** in Article 3 ■ will be pursued in particular **by supporting** 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, **including the understanding of the interaction between different areas of law**;
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 access to justice, and through** enhancing mutual trust;
3. analytical and monitoring activities<sup>18</sup> to improve the knowledge and understanding of potential obstacles to the smooth functioning of a European area of justice, to improve the implementation of Union law and policies in the Member States;
4. training relevant stakeholders to improve the knowledge of Union **law and** policies, including inter alia substantive and procedural law, **fundamental rights**, the use of **Union** judicial cooperation instruments, the relevant case-law of the Court of Justice of the European Union, legal language and of comparative law;
5. information and Communication Technology (ICT) **as well as e-justice** tools development and maintenance, **taking into account privacy and data protection**, 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;

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<sup>18</sup> 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.

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 ■ ;
- 6a. ***Supporting civil society organisations and non-profit stakeholders active in the areas of the Programme to increase their capacity to react and advocate as well as to ensure adequate access for all citizens to their services, counselling and support activities, thereby also contributing to democracy, the rule of law and fundamental rights;***
7. enhancing knowledge of the programme and dissemination, transferability ***and transparency*** of its results and fostering citizen outreach, including by ***organising forums for discussion for stakeholders.***

## 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, ***while respecting rights related to privacy and data protection***, 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
<b><i>Number of civil society organisations supported by the programme</i></b>
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 <b><i>and criminal</i></b> cases
Number of people <b><i>per specific objective</i></b> reached by:  (i) mutual learning and exchange of good practices activities;  (ii) awareness raising, information and dissemination activities

***All individual data shall be broken down by sex whenever possible; the interim and the final evaluations of the programme shall focus on each specific objectives and include a gender equality perspective and evaluate impacts on gender equality.***