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COMMUNICATION

WRITTEN PROCEDURE

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Subject:	Draft Regulation of the European Parliament and of the Council establishing the Justice Programme and repealing Regulation (EU) No 1382/2013 – Adoption of the Council's position at first reading and of the statement of the Council's reasons – Outcome of the written procedure initiated by CM 2691/21

Delegations are informed that the written procedure, opened by CM 2691/21 of 14 April 2021 was completed on 19 April 2021 and that all delegations[1] voted in favour of, except for Hungary and Poland that voted against, the adoption of the Council's position at first reading on the draft Regulation of the European Parliament and of the Council establishing the Justice Programme and repealing Regulation (EU) No 1382/2013 as set out in document 6834/20, and the statement of the Council's reasons as set out in the ADD 1 + COR 1 + COR 2 to that document.

[1] Denmark and Ireland are not taking part in the adoption of this Regulation and are not bound by it or subject to its application.

The required qualified majority has been reached. Therefore, the above position of the Council at first reading and the statement of the Council's reasons are adopted.

The statements by Hungary and Poland are reproduced in the Annex to this CM.

The above statements will be included in the summary of acts adopted by the written procedure as statements to be entered in the Council minutes, in accordance with the third subparagraph of Article 12(1) of the Council's Rules of Procedure.

ANNEX

Statement by Hungary

Hungary has expressed concerns as regards the draft regulations establishing the Rights and Values programme and the Justice programme for the period 2021-2027 several times during the negotiations and cannot support their final texts either.

Concerning the draft regulation establishing the Rights and Values programme for the period 2021–2027 and the draft regulation establishing the Justice programme for the period 2021-2027, Hungary is of the opinion that deficiencies as regards the legal basis (especially concerning the 'Union values' strand, as well as the 'Citizens engagement and participation' strand of the Rights and Values programme), the blurred scope not limited to the field of application of Union law (including references to international treaties not ratified by the Union), the focus on the support of one specific type of eligible entities (civil society organisations), instead of focusing on the substantial projects, as well as the reference to concepts which are not in line with the language of the Treaties would have made a substantial revision of the draft regulations necessary. Hungary is firmly committed to the protection of fundamental rights and European values, including the promotion of civil society and equal treatment.

Hungary maintains that basic requirements of legal certainty, principle of conferral and compliance with the Treaties in general shall be respected in order to prevent the impression that political and ideological views could have an impact, when defining the priorities of EU funding.

Statement by Poland

Poland maintains its objection to the wording of recital 10 of the regulation which contains an inconsistent and incomplete list of vulnerable groups particularly in risk of discrimination, prioritizing LGBT people over other vulnerable groups exposed to discrimination, e.g. poor people or exposed to discrimination due to political or religious beliefs, e.g. Christians, for whom there have been signs of intolerance or even acts of vandalism in recent times.

The Republic of Poland notes that the conditionality mechanism indicated in recital 30 of the Regulation is currently the subject of complaint submitted by the Republic of Poland to the CJEU as duplicating the procedure under Art. 7 TEU and violating the competence of the European Council established in that article.

For Poland it is unacceptable to provide in the regulation insufficiently specified conditions for the operation of non-governmental organizations, the fulfillment of which enables their financing under the regulation. Lack of clarification on this subject implies the risk of improper spending of EU funds and introduces an unlimited margin of discretion.

Poland opposes the use of the term "gender" in the regulation. That wording is unknown to primary law and ambiguously understood by individual Member States, and at the risk of overinterpretation in the absence of its legal definition in EU law. Poland understands wording “gender equality” as referring to “equality between women and men”, in line with art. 2 and art. 3 of the Treaty on European Union. Also Poland understands wording “gender” as referring to “sex” in line with art. 10, art. 19 para 1 and art. 157 para 2 and 4 of the Treaty on the Functioning of the European Union.