Council of the European Union

Brussels, 6 November 2018
(OR. en)

13842/18

**Interinstitutional Files:**
**2018/0207(COD)**
**2018/0208(COD)**

**JAI 1092**
**INF 202**
**CADREFIN 319**
**FREMP 187**
**COPEN 374**
**DROIPEN 170**
**JUSTCIV 261**
**CODEC 1876**

**COVER NOTE**

| | |
|---|---|
| From: | General Secretariat of the Council |
| date of receipt: | 30 October 2018 |
| To: | Delegations |
| Subject: | - Proposal for a Regulation of the European Parliament and of the Council establishing the Rights and Values programme<br>- Proposal for a Regulation of the European Parliament and of the Council establishing the Justice programme<br>= Opinion of the European Economic and Social Committee |

Delegations will find attached the opinion of the European Economic and Social Committee on the abovementioned proposal

Please note that other language version should be available at:

https://dm.eesc.europa.eu/EESCDocumentSearch/Pages/opinionssearch.aspx

*European Economic and Social Committee*

**SOC/599**
**Justice, Rights and Values Fund**

# OPINION

European Economic and Social Committee

**Proposal for a Regulation of the European Parliament and of the Council establishing the Rights and Values programme**
[COM(2018)383 final – 2017/0207 (COD)]

**Proposal for a Regulation of the European Parliament and of the Council establishing the Justice programme**
[COM(2018)384 final – 2017/0208 (COD)]

Rapporteur: **Jean-Marc ROIRANT**

| | |
|---|---|
| Referral | European Council, 21/06/2018<br>European Commission, 18/06/2018<br>European Parliament, 14/06/2018 |
| Legal basis | Articles 81(1) and (2) and 82(1) and 304 of the Treaty on the Functioning of the European Union<br><br>Articles 16(2), 19(2), 21(2), 24, 167, 168 and 304 of the Treaty on the Functioning of the European Union |
| Section responsible | Employment, Social Affairs and Citizenship |
| Adopted in section | 26/09/2018 |
| Adopted at plenary | 18/10/2018 |
| Plenary session No | 538 |
| Outcome of vote (for/against/abstentions) | 132/4/2 |

## 1. Conclusions and recommendations

1.1 The EESC welcomes the European Commission proposal, which is a merger of existing programmes, as a much-needed instrument for the promotion of EU values and history, fundamental rights, democracy, and the rule of law, the participation and support of a vibrant and diverse civil society, and the engagement of local communities.

1.2 The EESC calls for consistency of policy and funding to be ensured between the EU's external and internal policy engagement in human rights and democracy, and calls for overall funding of EUR 1.4 billion, of which at least EUR 500 million should be allocated to the strand on citizen engagement and participation.

1.3 The EESC believes that the Fund should be based on a truly participative and bottom up-approach in order to respond to the EU's current challenges as regards promoting rights and EU values, fostering democracy, bolstering citizens' trust in the EU through their direct participation in shaping Europe's future, and sustaining a vibrant civil society.

1.4 The EESC also calls for the use of innovative funding tools to allow civil society participation and capacity to be reinforced at local, national and transnational level such as through the provision of technical assistance, preparatory actions led by more experienced partners or cascading grants, thereby enabling different levels of grants or a two-step application process. It calls for specific earmarking of funding for civil society organisations, namely at least 50% of the different strands.

1.5 The EESC welcomes the decision to extend the duration of operating grants on a multiannual basis for all programmes and strands of the Fund, and stresses the need to further ensure the sustainability and continuity of actions.

1.6 The EESC proposes to rename the Fund “Citizens, Rights and Values” and the strand “Citizen Engagement and Participation” within the Rights and Values programme “Europe for Citizens” in order to ensure consistency with the Fund objectives, which are closely linked to the citizenship dimension and to empowerment, participation of rights holders, protection of victims, common history and memory.

1.7 The EESC regrets the fact that actions related to freedom of expression of the media, media pluralism and the need to address fake news and targeted misinformation have been removed from the final version of the Rights and Values programme and proposes therefore to create synergies with the Creative Europe programme given the relevance of these actions to EU values and to the promotion of a democratic and pluralist society.

1.8 The EESC calls for financial support under the Justice programme to be further extended to civil society organisations, encompassing activities ranging from awareness raising, mutual learning and exchange, analytical and monitoring activities, to training and capacity-building and calls for the participation of civil society organisations in the Justice Programme to be monitored.

1.9 The EESC takes stock of the Commission's ongoing work regarding the implementation of a preparatory action proposed by the European Parliament to develop an EU fund offering financial support for litigation cases relating to violations of democracy, the rule of law and fundamental rights targeted at civil society organisations and calls for these activities to be incorporated into the Justice programme.

1.10 The EESC considers this Fund to be an important tool for reinforcing gender mainstreaming, gender budgeting and gender disaggregating data collection. In particular, it welcomes the inclusion of actions aimed at preventing and combatting all forms of violence against women, children and young people in the Rights and Values programme and calls for further coherence and synergies with the Justice programme activities relating to victims' rights and enforcement. It also calls for a breakdown by sex of programme indicators for both programmes

1.11 The EESC welcomes the proposal to extend the role of the National Contact Points of the Europe for Citizens programme to the different strands of the Rights and Values programme given their effective role in liaising with and supporting potential beneficiaries on the ground. It requires appointed entities to be independent of their national government and to have a thorough knowledge of the needs of the civil society sector and of local actors. It calls for adequate funding, the development of guidelines on their role and tasks, ways to ensure the programme's greater visibility, as well as training.

## 2. Description of the proposal

2.1 The EESC opinion concerns the Justice, Rights and Values Fund which includes two separate proposals for a regulation of the European Parliament and Council, one establishing the "Justice programme" and another establishing the "Rights and Values programme", both of which have complementary aims for the period 2021-2027.

2.2 The Fund's objective is to help sustain open, democratic, pluralist and inclusive societies, as well as to empower people by protecting and promoting rights and values and by further developing an EU area of justice, which is a key priority in the current EU context with the upsurge in extremism and radicalism, increased polarisation, reforms challenging the rule of law and shrinking civic space.

2.3 In order to promote European values and rights as enshrined in Article 2 TEU, Article 3 TEU and the EU Charter of Fundamental Rights, the Fund combines several existing instruments: the Rights, Equality and Citizenship programme, the Europe for Citizens programme and the Justice programme in an attempt to overcome fragmentation and address current gaps and new challenges, notably the confidence of citizens in democracy and support for upholding values and fundamental rights.

2.4 In addition to promoting equality and rights and fighting violence, the proposal for a Rights and Values programme is intended to sustain a vibrant civil society, encourage people's democratic and social participation and foster the rich diversity of European society, based on our common history and memory. This also follows up on calls for a European Fund for democracy, human rights and values by the EESC[1], the European Parliament[2] as well as from 80 NGOs from 22 countries[3].

2.5 The Justice programme is based on Articles 81 and 82 TFEU concerning judicial cooperation in civil and criminal matters, while the Rights and Values programme is based on a combination of different TFEU articles: Articles 16(2) on data protection, 19(2) on combatting discrimination, 24 on supporting European Citizens' Initiatives, 167 on culture and cultural heritage, 168 on the promotion of a high level of human health and prevention, as well as 21(1) (2) on citizens' right to free movement.

2.6 The two programmes would be endowed as follows: EUR 305 million would be given to the Justice programme and EUR 642 million to the Rights and Values programme, of which EUR 233 million would be allocated to citizen engagement and participation, and EUR 408 million to Equality and Rights and Daphne.

## 3. General comments

3.1 The EESC welcomes the European Commission proposal as a much-needed instrument for the effective promotion of human rights, democracy, the rule of law, respect of minorities, rights of discriminated, excluded groups and disadvantaged persons such as persons with disabilities and the Roma community, the participation, support and capacity-building of a vibrant and diverse civil society, as enshrined in the EU Treaties and the Charter of Fundamental Rights and in international human rights treaties endorsed by the EU and Member States such as the Convention on the Rights of Persons with Disabilities.

3.2 The EESC appreciates the Commission's efforts to strengthen respect for the values referred to in Article 2 TEU, and in this regard welcomes the Commission's Proposal for a regulation of the European Parliament and of 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. This proposal is complementary to the present proposals on the Justice, Rights and Values programmes and would put economic pressure on Member States that commit serious and persistent violations of values enshrined in Article 2 TEU. While the former proposal aims to protect the rule of law through top-down pressure, the latter proposal has the potential to protect the rule of law and other Article 2 values by creating grassroots support among the public. In this regard, the EESC refers to its related opinion concerning the Union's budget and the rule of law[4].

---

1 OJ C 81, 2.3.2018, p. 9–15

2 EP Resolution on a European Values Instrument (2018/2619(RSP)), and EP resolution on The next MFF: Preparing the Parliament's position on the MFF post-2020 (2017/2052(INI)).

3 https://megacampaign.eu/support-csos-ask-your-mep-to-vote-for--the-european-values-instrument-resolution.

4 SOC/598 (not yet adopted).

3.3 The EESC regrets the fact that the Fund is built only on existing programmes which have had successful results, and notes that it needs to be upscaled and increased to respond to the changed realities within the European Union and to ensure greater visibility and to allow for comprehensive promotion and protection of values enshrined in Article 2 TEU.

3.4 The EESC calls for consistency of policy and funding to be ensured between the EU's engagement in human rights and democracy in external and internal policies. The EESC recalls in this context the Council Conclusions on the action plan on human rights and democracy which committed the EU to step up its efforts to promote a safe and enabling environment in which civil society and independent media can flourish[5].

3.5 The EESC welcomes the proposed legal basis for both the Rights and Values programme and the Justice programme as it allows the European Parliament and the Council of the EU to be equally involved in the decision-making process in an area that is critical for citizens and civil society in its broadest sense. However, the EESC considers that the legal basis should afford sufficient scope in terms of thematic areas and support to civil society at all levels and it proposes that consideration be given to inclusion of a reference to Article 11 (1-2) TEU.

3.6 The EESC considers the proposed budget to be very low in view of the current challenges that the EU is facing in this area which is of critical importance to European societies, and calls[6] for overall funding of at least EUR 1.4 billion[7], of which at least EUR 500 million should be allocated to the strand on citizen engagement and participation.

3.7 The EESC also notes the positive evaluations of the programmes that have been incorporated into the Fund and highlights the fact that the limited availability of funds and high demand for the Europe for Citizens programme and for the Daphne strand of the Rights and Equality Programme generated frustration among applicants. The EESC regrets the fact that despite this there has been only a very limited increase.

3.8 The name of the Fund and programmes should be changed in order to make them more consistent with the programme title and objectives, which are closely linked to the citizenship dimension and to empowerment, participation of rights holders, common history and memory as well as to the corresponding heading of the Multiannual Financial Framework: Investing in People, Cohesion and Values. The EESC considers therefore that the Fund should be renamed *Citizens, Rights and Values*. In addition, the strand relating to citizen engagement and participation within the Rights and Values programme should be renamed *Europe for Citizens* in order to ensure consistency with the names of the other strands and to enhance visibility.

---

5 Joint Communication to the European Parliament and The Council Action Plan on Human Rights and Democracy (2015-2019) "Keeping human rights at the heart of the EU agenda", JOIN/2015/0016 final.

6 See OJ C 81, 2.3.2018, p. 9–15.

7 To ensure consistency with EU support within external funding such as the European Instrument for Human Rights and Democracy.

3.9 In order to respond also to the EU's current challenges as regards promoting rights and EU values, fostering democracy, bolstering citizens' trust in the EU through their direct participation in shaping Europe's future as well as building capacity and sustaining a vibrant civil society, the Fund should be based on a truly participative and bottom-up approach, in which legal considerations underpin these aims, rather than shaping them. In addition, support and capacity-building should cover the activities of independent civil society, and organisations at local, regional, national and transnational level that promote and monitor the implementation of EU values.

## 4. Specific comments

4.1 The EESC welcomes the inclusion among the activities of the programme of the support to civil society organisations in order to encourage and facilitate the active participation in the construction of a more democratic Union as well as awareness of rights and values. However the EESC considers that this activity should be supported by an overall objective to be included in Article 4(a)"building the capacity of civil society organisations to increase civic and democratic participation". In addition in Article 4(b) it should be made explicit that the promotion of citizen's civic and democratic participation should be supported at local, regional and national level.

4.2 The EESC welcomes the continued focus on the prevention and combatting of all forms of violence against women, children and young people within the Rights and Values programme and by fostering redress for victims through the Justice Programme. It notes that persons with disabilities face two to five times more domestic violence, the increased incidence of violence against elderly people, as well as the violence perpetrated on migrants, the Roma community and ethnic minorities, and calls for additional efforts as well as the need to ensure more coherence and synergies within the two programmes of the Fund.

4.3 The EESC considers this Fund to be a new opportunity to enforce gender mainstreaming, gender budgeting and gender disaggregated data collection. Such measures allow the promotion of further equality by undertaking analyses of the differing impacts of funding on women, girls, men and boys, as well as setting goals and targets and allocating funding more effectively in order to support these goals. It calls in particular for a breakdown by sex of the Rights and Values programme indicators.

4.4 The EESC highlights the key value and uniqueness of mutual learning and exchange of good practices activities among local communities within the Europe for Citizens programme and calls for closer involvement of citizens in town twinning through partnerships to improve the bottom-up nature of these actions. In particular, it notes the positive experience of Community Led Local Development[8] in order to ensure the participation and capacity-building of local communities and stakeholders.

8 OJ C 129, 11.4.2018, p. 36–43.

4.5 The EESC welcomes the continued focus on increasing understanding of the Union, its history and its cultural diversity. It considers that, in view of the upsurge in extremism and radicalism, objectives should explicitly include remembrance activities and a critical reflection on historical memory.

4.6 The EESC regrets the fact that actions related to freedom of expression of the media, media pluralism, and the need to address fake news and targeted disinformation have been removed from the final version of the Rights and Values programme. Given the relevance of these actions to EU values and the promotion of a democratic and pluralist society, it proposes the creation of synergies with the Creative Europe programme.

4.7 The EESC calls for financial support under the Justice programme to be further extended to all its activities: awareness raising, public education and mobilisation, mutual learning and exchange, analytical and monitoring activities, training and capacity-building.

4.8 The EESC takes stock of the Commission's ongoing work regarding the implementation of a preparatory action proposed by the European Parliament to develop an EU fund offering financial support for litigation cases relating to violations of democracy, the rule of law and fundamental rights targeted at civil society organisations and calls for these activities to be incorporated into the Justice programme.

4.9 National contact points have proven to be generally effective in supporting the bottom-up approach of the Europe for Citizens programme, liaising with and supporting potential beneficiaries on the ground. The EESC welcomes the extension of their role to the other strands of the Rights and Values programme while stressing the need to ensure adequate funding and to appoint entities that are independent of their national Government and possess a thorough knowledge of the civil society sector, of local actors and their needs. It calls for the development of guidelines on their independence role and tasks, including on ensuring the programme's greater visibility as well as training.

4.10 The EESC welcomes the inclusion of civil dialogue meetings as part of the Europe for Citizens programme, and considers that such meetings should be maintained and extended to all the strands of the Fund in order to enable a thorough exchange on values, rights, democracy and the rule of law, based on Article 11 of the Treaty on dialogue with civil society. Such meetings should be open to relevant actors other than the programme beneficiaries and include discussion on the future priorities of the programme.

4.11 The EESC welcomes the fact that all the actions of the programmes will be funded through direct and indirect management and that funding will include a mixture of operating and action grants. The EESC stresses that the availability of small grants is critical to ensuring the participation and support of civil society organisations across the different actions of the Fund, and in particular for the maintenance of a bottom-up approach, reaching out to national and local beneficiaries.

4.12 The EESC also considers that the Rights and Values programme would benefit from the same mode of direct management for the different strands so as to ensure enhanced consistency in implementation, and it notes, in particular, the positive evaluation of the Education Audiovisual and Culture Executive Agency, under the supervision of the Commission, in terms of managing different types of grants, funding arrangements, use of simplified costs and the low percentage of errors.

4.13 The EESC calls for programmes to implement the new provisions of the most recent Financial Regulations as these are particularly relevant to civil society, such as use of co-funding in kind, and valuing volunteers' work as eligible costs. It also reiterates the need to limit the use of co-funding and to make increased use of simplification measures such as lump sums, flat rates and unit costs. It invites the Commission to involve civil society organisations in the development and monitoring of guidelines for the implementation of these rules. In addition, it calls on national governments to also include in their public funding programmes provisions for eligibility of co-funding in kind including volunteers' work.

4.14 The EESC welcomes the decision to extend the duration of operating grants on a multiannual basis for all programmes and strands of the Fund and stresses the need to further ensure the sustainability and continuity of actions.

4.15 The EESC also calls for the development of new tools to allow civil society participation to be reinforced at national level, particularly in areas where it lacks adequate capacity, for instance through the provision of efficient technical assistance, preparatory actions led by more experienced partners or cascading grants, thus enabling, for example, different levels of grants or a two-step application process.

4.16 The EESC welcomes the inclusion of an indicator on civil society organisations to enable support and capacity-building activities within the Rights and Values programme and considers that the same should be done under the Justice programme. It also calls for specific earmarking of funding for civil society organisations, namely at least 50% of the different strands.

4.17 The EESC invites the Commission in cooperation with the EESC to organise an annual meeting aimed at fostering coordination between public and private donors in the areas covered by the Fund to explore synergies and learn from good practices.

Brussels, 18 October 2018

Luca JAHIER
The president of the European Economic and Social Committee