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From: General Secretariat of the Council

To: Delegations

Subject: Conclusions on the application of the EU Charter of Fundamental Rights:
promoting trust through effective legal protection and access to justice

Delegations will find in the annex the Council conclusions on the Commission's annual report on the application of the Charter: effective legal protection and access to justice, as approved by the Council at its 4009th meeting held on 5th March 2024.

Council conclusions on the application of the EU Charter of Fundamental Rights
Promoting trust through effective legal protection and access to justice

Preamble

- a) **Recalling** Member States' obligation to guarantee the rights and freedoms enshrined in the Charter of Fundamental Rights of the European Union (the 'Charter').
- b) **Recalling** Articles 2 and 19 of the Treaty on European Union relating to European values and effective legal protection, and Article 47 of the Charter relating to the right to an effective remedy and to a fair trial.
- c) **Recalling** the 2021 Council conclusions on 'strengthening the application of the Charter of Fundamental Rights in the European Union'.
- d) **Welcoming** the Commission's '2023 Annual Report on the Application of the EU Charter of Fundamental Rights: Effective legal protection and access to justice' (the '2023 Charter Report').
- e) **Noting** that according to the 2023 Charter Report, various measures have been taken by the EU and Member States to provide and promote effective legal protection and access to justice without leaving anyone behind. Nonetheless, barriers to accessing justice continue to exist. These barriers may prevent individuals from seeking legal protection and fully enjoying their fundamental rights.
- f) **Recalling** the 2019 Council conclusions on 'victims' rights', the 2020 Council conclusions on 'access to justice – seizing the opportunities of digitalisation', the 2021 Council conclusions on 'the protection of vulnerable adults across the EU' and the 2023 Council conclusions on 'digital empowerment to protect and enforce fundamental rights in the digital age'.
- g) **Welcoming** the work of the European Union Agency for Fundamental Rights (the 'Fundamental Rights Agency') in providing assistance and expertise to the relevant EU institutions, bodies, offices and agencies and to Member States, including through its 'Fundamental Rights Report 2023'.

- h) **Acknowledging** that effective legal protection and access to justice contribute to uphold a culture of fundamental rights and the rule of law and must therefore be guaranteed in a democratic society.
- i) **Recalling** that the principle of mutual recognition and the underpinning notion of mutual trust are essential for effective cross-border judicial cooperation in civil and criminal matters, which in turn facilitates the proper functioning of justice systems across the EU and the removal of barriers for individuals, thereby enhancing access to justice.
- j) **Recognising** that ensuring effective legal protection and access to justice for all is a continuous endeavour, which requires collective efforts from the EU institutions, Member States (including law enforcement and judicial authorities and independent bodies), private legal practitioners and civil society organisations.

The Council of the European Union **renews** its commitment to the continuous application of the Charter of Fundamental Rights and **approves** the following conclusions:

Promoting trust through effective legal protection and access to justice

The Council of the European Union:

1. **Recognises** that effective legal protection and access to justice are all-encompassing concepts which include the upholding of all procedural rights and the possibility for all individuals to seek an effective remedy for the violation of their rights in impartial and independent courts established by law.
2. **Stresses** that the removal of barriers preventing individuals from seeking redress and the availability of non-judicial mechanisms¹, such as civil and commercial conciliation and mediation mechanisms², and non-judicial remedies in the field of equality and non-discrimination are similarly important to guarantee effective legal protection and access to justice.

¹ See Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC, OJ L 409, 4.12.2020, p. 1; Commission proposal for a Directive of the European Parliament and of the Council amending Directive 2013/11/EU, as well as Directives (EU) 2015/2302, (EU) 2019/2161 and (EU) 2020/1828, COM(2023) 649.

² Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters, OJ L 136, 25.5.2008, p.3.

3. **Acknowledges** that trust is essential for the legitimacy of justice systems and public participation in the administration of justice, and that a lack of trust can hinder effective legal protection and access to justice. **Recalls** that in order to promote trust, justice must not only be done but must also be seen to be done³.
4. **Notes** that public trust in the justice system remains a challenge in the EU, especially among persons belonging to minorities, those with experiences of discrimination⁴ and/or in a vulnerable situation⁵. **Recalls** that mutual trust between Member States' justice systems and justice professionals is the basis for the implementation of the principle of mutual recognition, and thus the efficiency of cross-border judicial cooperation instruments, such as the European arrest warrant or cross-border taking of evidence in civil and commercial cases.
5. **Stresses** that action is needed to enhance trust in and among the justice systems of the Member States and that solutions should address this issue from a horizontal and targeted perspective, by considering the specific needs of persons in vulnerable situations and by taking into account all possible unjustified limitations on access to judicial and non-judicial remedies.
6. **Acknowledges** that the appropriate use of safe and secure digital technologies should be maximised to foster efficient and accessible justice systems in line with relevant EU legislation and instruments⁶.
7. **Reaffirms** that the digital transformation of justice systems and the use of artificial intelligence can both bring positive outcomes but can also pose substantial and specific risks and must therefore be carried out in full respect of fundamental rights, taking into account the interests of individuals who due to a disability, lack of adequate digital skills, lack of resources or other reasons, cannot or do not navigate digital environments.

³ See i.a. ECtHR, *Karaca v Türkiye*, No. 25285/15, 20/06/2023, para. 121.

⁴ See, for instance, various FRA publications on discrimination and systemic discrimination: FRA (2023) [Being Black in the EU – Experiences of people of African descent](#); FRA (2020) What do fundamental rights mean for people in the EU? – Fundamental Rights Survey – section 2.3 on the judiciary; FRA (2020) [A long way to go for LGBTI equality](#); FRA (2018) [Experiences and perceptions of antisemitism – Second survey on discrimination and hate crime against Jews in the EU](#); FRA (2017) [Second European Union Minorities and Discrimination Survey - Main results](#).

⁵ See for instance: FRA (2023) Fundamental rights of older people: ensuring access to public services in digital societies; FRA (2022) Children as suspects or accused persons in criminal proceedings – procedural safeguards; FRA (2021) Crime, safety and victims' rights; FRA (2015) Equal protection for all victims of hate crime – The case of people with disabilities.

⁶ See i.a. the e-Justice strategy and Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a computerised system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters (e-CODEX system) and amending Regulation (EU) 2018/1726.

The Council of the European Union invites Member States to:

8. **Improve** access to information and raise awareness regarding rights and procedures related to effective legal protection and access to justice and, where necessary, provide this information via a media, in an accessible format, that is easy to understand and tailored to the needs of all persons in a vulnerable situation, including those lacking literacy or adequate digital skills. **Continue** to regularly update the European e-Justice Portal of the European Union.
9. **Inform** law enforcement, judicial and any other relevant national, regional and local authorities about victims' rights – as well as the rights of suspects and accused persons – and the related procedures and mechanisms, e.g. through information sessions or content material, where appropriate in cooperation with civil society and victim support organisations.
10. **Improve** the physical accessibility of the relevant infrastructure, e.g. court houses and police stations, for persons with disabilities in line with existing legal obligations, and **take appropriate steps**, where necessary and feasible, to improve the accessibility of the relevant infrastructure for other users, such as older persons, and from a geographical perspective.
11. **Remove** undue financial barriers to enable individuals in need to access justice, including by taking into account the particular needs of victims and persons in vulnerable situations and by providing legal aid for suspects, accused persons and requested persons in criminal proceedings⁷, as well as for persons in cross-border civil disputes⁸ who lack sufficient resources to pay for the assistance of a lawyer under the conditions set out in EU law. **Reflect** on the possibility of introducing other measures to make justice more affordable for all.
12. **Increase** efforts to empower victims by ensuring they have access to justice, including by facilitating their participation or engagement in criminal proceedings in accordance with EU law⁹ and by enabling them to make informed decisions during those proceedings.
13. **Make** every effort to ensure that suspects and accused persons in vulnerable situations and parties to civil proceedings with limited decision-making capacity can effectively participate in the proceedings, including by respecting their right to be heard and to express their views.

⁷ See i.a. Article 4 of Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings, OJ L 297, 4.11.2016, p. 1.

⁸ Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

⁹ Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315, 14.11.2012, p.57.

14. **Promote** effective legal protection and access to justice for children, including the right of children to be heard and to express their views in an age-appropriate manner, and to have their best interests taken into account, as set out in EU law.
15. **Encourage** the training of law enforcement and justice professionals on treating and assisting everyone – especially victims, suspects and accused persons and witnesses – in an impartial, respectful, professional and non-discriminatory manner. **Reflect** on whether specific action should be taken to ensure that everyone feels encouraged to turn to law enforcement and justice structures.
16. With due regard for judicial independence and differences in the organisation of the judiciary across the EU, **promote** appropriate initial and ongoing training for judges, prosecutors, lawyers, law enforcement and other justice professionals, including on contact with children and other persons in vulnerable situations, on issues such as avoiding re-traumatisation, unconscious bias, dealing with vulnerable witnesses, assisted decision-making and coercive control, and on fundamental and human rights. **Inform** them of EU legal instruments and relevant case-law of the Court of Justice of the European Union and the European Court of Human Rights.
17. **Foster** the accessibility, readability and clarity of judicial decisions to ensure that they can be easily understood by all affected individuals, among others through appropriate training for judges and judicial staff.
18. **Increase** efforts to enhance the effectiveness and efficiency of judicial processes in line with the right to a fair and public hearing within a reasonable time, for example by allocating sufficient human and financial resources to the justice system.
19. **Foster** a culture of mediation and conciliation mechanisms in civil and commercial cases within their legal systems and, if these mechanisms are publicly funded, ensure that they receive the necessary funds to make sure they are well-promoted, accessible and effective.
20. **Promote** national human rights institutions (NHRIs), equality bodies and ombudspersons' offices as key players for advancing effective legal protection and access to justice and thereby fostering trust in the justice system as a whole.

21. **Use** and **promote** safe, secure and accessible digital technologies in the area of justice that do not impair access to justice, in line with the European e-Justice strategy's strong focus on the effective protection of fundamental rights, e.g. by thoroughly testing these technologies before generalising their use, and addressing the risk of cybersecurity breaches and the potential implications of the digital divide.
22. **Ensure** that artificial intelligence tools comply with the applicable legal framework to guarantee full respect for fundamental rights, including by ensuring that they do not undermine fair trial guarantees.
23. **Ensure** that judicial services and proceedings are accessible for persons who lack adequate digital skills or access to digital tools, as well as for persons who may face challenges in using digital justice platforms, emphasising the importance of constantly striving to bridge the digital divide. Channels of communication and possibilities for the exercise of procedural rights that do not involve the use of digital tools should be maintained as an alternative to ensure that no one is left behind.
24. **Aim** to involve representatives of all groups of end-users when developing new safe, secure and accessible digital technologies, to ensure that the latter are easy to use and respond to their needs. **Foster** the training for all law enforcement and justice professionals in the use of these technologies.

The Council of the European Union invites the Commission to:

25. **Continue** to implement the 2020 Charter strategy and ensure that a fundamental rights perspective is included in all its actions related to ensuring effective legal protection and access to justice. **Continue** to implement the objectives set out in the 2020 Council conclusions on 'access to justice – seizing the opportunities of digitalisation'.
26. **Take stock** of the work done under the EU Strategy on Victims' Rights (2020-2025) and continue to work on strengthening victims' rights in the EU.
27. **Maintain** and **encourage** opportunities for dialogue between national administrations, independent bodies, civil society organisations and EU institutions and agencies on the findings on effective legal protection and access to justice set out in relevant Commission documents and processes, such as its annual Charter reports and Rule of Law Reports.

28. **Continue** to monitor the implementation of the existing law enforcement and judicial cross-border cooperation framework and, where necessary, **submit** new proposals to enhance effective cross-border legal protection and access to justice, thereby fostering trust between national authorities.
29. **Involve** Member States and representatives of all groups of end-users when developing new digital technologies, and **undertake** impact assessments to assess whether such technologies are compliant with fundamental rights.
30. **Consider** providing adequate funding from relevant financial programmes for existing EU mechanisms to access cross-border civil and commercial mediation and conciliation, such as the European Consumer Centre, in view of their importance in cultivating effective legal protection and access to justice and, thereby, trust.

The Council of the European Union invites:

31. The agencies of the Justice and Home Affairs Agencies' Network to continue to maintain the highest expertise on fundamental rights and apply it horizontally in the performance of their tasks, e.g. by involving a fundamental rights officer in their monitoring activities or by continuing their exchange of experiences in relation to the application of the Charter in their work.
32. Europol, Eurojust and the Agency for Law Enforcement Training, in accordance with their respective competences, to ensure that members of joint investigation teams receive training on available victim support mechanisms and on EU standards concerning the rights of victims, suspects and accused persons.
33. The Fundamental Rights Agency to update its 2016 'Handbook on European Law Relating to Access to Justice', which is an important tool for relevant practitioners, and to continue collecting and disseminating relevant data to support Member States with evidence and guidance on effective legal protection, access to justice and victims' rights.
34. The Agency for Law Enforcement Training and the Fundamental Rights Agency, where necessary in collaboration with Europol, Eurojust, and the European Judicial Training Network, to continue to develop training material on access to justice in all EU languages for judges, prosecutors, lawyers, law enforcement authorities and other professionals working in the justice systems, and to strengthen the use of such material in the Member States, including at regional and local level.