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'I' ITEM NOTE

From:	Presidency
To:	Permanent Representatives Committee
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Justice programme - Progress report on the negotiations with the European Parliament - Confirmation of the common understanding

I. INTRODUCTION

1. On 30 May 2018, the Commission adopted the proposal for a Regulation of the European Parliament and of the Council establishing the Justice Programme[1] (hereinafter: the proposal for a Regulation establishing the Justice Programme). It is one of the proposals related to the Multiannual Financial Framework (hereinafter: MFF).

[1] 9598/18.

2. The proposal for a Regulation establishing the Justice Programme aims at supporting the further development of a European area of justice based on the Union's values, the rule of law and mutual recognition and trust, in particular by facilitating access to justice, and at promoting judicial cooperation in civil and criminal matters, as well as the effectiveness of national justice systems. Together with the Rights and Values programme, the new programme will form part of a new Justice, Rights and Values Fund, helping to sustain open, democratic, pluralist and inclusive societies. It will also help to empower citizens by protecting and promoting rights and values and by further developing an EU area of justice.

3. In the European Parliament, the proposal was considered by the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs. Ms. Heidi HAUTALA and Mr. Josef WEIDENHOLZER have been appointed as rapporteurs. The European Parliament adopted its position on 13 February 2019.

4. The European Economic and Social Committee adopted its position on 18 October 2018.

II. WORK WITHIN THE COUNCIL

5. The Commission presented the proposal and the impact assessment to the ad Hoc Working Party on JHA Financial Instruments in July 2018.

6. The examination of the proposal started in July and was completed in December 2018. On 19 December 2018, the Permanent Representatives Committee granted a partial mandate for negotiations[2]. Since the proposal for a Regulation establishing the Justice Programme is one of the package of proposals linked to the MFF, all provisions with budgetary implications or of horizontal nature have been set aside and thus excluded from the partial general approach aimed for pending further progress on the MFF.

[2] 15377/18.

The relevant provisions, which appear between square brackets in the text, are the following:

– recital 24, with respect to the part concerning the rule of law;

– recital 26, on climate change;

– Article 4 (budget), paragraph 1 - financial envelope - and paragraph 4.

– Article 5 (third countries associated to the programmes);

– Article 6 (implementation and forms of EU funding), paragraph 3;

– Article 9 (cumulative, [complementarity] and combined funding), part of paragraph 1;

– Article 15 (protection of the financial interests of the Union) and the corresponding recital 22.

III. NEGOTIATIONS WITH THE EP AND PROGRESS REPORT

8. Negotiations started immediately after the adoption by the EP of its position. Two trilogues were organised, on 20 February and 5 March 2019, prepared by several technical meetings. Within the Council, two meetings of the ad hoc Working Party on JHA MFF Financial Instruments were organised to inform Member States on the progress of the negotiations and receive their feed-back, which took place on 28 February and 4 March 2019.

9. These negotiations allowed to reach a common understanding with the EP on the non-bracketed parts for the proposal, for which the Presidency has been granted a mandate. The outcome of the negotiations is set out in the progress report attached to this Note.

IV. CONCLUSION

10. The document presented in Annex reflects the state of play of negotiations reached at the last trilogue on the Proposal for a Regulation of the European Parliament and of the Council establishing the Justice programme for the period 2021-2027 under the current legislature. While this reflects a common understanding between the European Parliament and the Council on the progress of negotiations, it is without prejudice to the final outcome of the negotiations on the full text.

11. It is understood that elements in brackets in the text were left outside of the scope of the negotiations at this stage, as they require the completion of negotiations on the Multiannual Financial Framework 2021-2027 for the Council to be able to establish its position.

12. Work will resume with the European Parliament once the Council has a mandate on all elements of the proposal.

13. In light of the above, the Permanent Representatives is invited to take note of the progress report and confirm the common understanding reached with the European Parliament.

ANNEX

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a 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[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

[1] OJ C […], […], p. […].
[2] OJ C […], […], p. […].

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’).

(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[3] and the Europe for Citizens programme established by Council Regulation (EU) No 390/2014[4], (hereafter 'the predecessor Programmes').

[3] 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)

[4] 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)

(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.

(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 an 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.

(15a) 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 European added value of all actions and activities carried out within the Programme, their complementarity to Member States' activities, and their consistency with other Union activities. In order to ensure efficient 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 Erasmus+ Programme, the Framework Programme for research and innovation, the Instrument for Pre-accession Assistance, and the LIFE Regulation[5].}[6]

(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[7]], for the European Parliament and the Council during the annual budgetary procedure.

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5 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 Text with EEA relevance

6 This text reflects the position of the Council as set out in the partial mandate for negotiations adopted by COREPER in December 2018 (15377/18). The negotiations will resume with the European Parliament on this part once the Council has a mandate on all elements of the proposal.

7 [Reference to be updated: OJ C 373, 20.12.2013, p. 1. The agreement is available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.1.0001.01.ENG&toc=OJ:C:2013:373:TOC]

(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[9], Council Regulation (Euratom, EC) No 2988/95[10] Council Regulation (Euratom, EC) No 2185/96[11] and Council Regulation (EU) 2017/1939[12] the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the 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) may 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) may 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[13]. 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 in respect of those Member States participating in enhanced cooperation 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, the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences.[8]}

(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.]

[8] This text reflects the position of the Council as set out in the partial mandate for negotiations adopted by COREPER in December 2018 (15377/18). The negotiations will resume with the European Parliament on this part once the Council has a mandate on all elements of the proposal.

(25) Pursuant to [reference to be updated as appropriate according to a new decision on OCTs: Article 94 of Council Decision 2013/755/EU[9]], 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.

(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, 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.

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[9] 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).

(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.}[10]

(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[15].}[11]

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

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[10] This text reflects the position of the Council as set out in the partial mandate for negotiations adopted by COREPER in December 2018 (15377/18). The negotiations will resume with the European Parliament on this part once the Council has a mandate on all elements of the proposal.

[11] This text reflects the position of the Council as set out in the partial mandate for negotiations adopted by COREPER in December 2018 (15377/18). The negotiations will resume with the European Parliament on this part once the Council has a mandate on all elements of the proposal.

(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:

'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 3a

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. The financial envelope for the implementation of the Programme for the period 2021 – 2027 shall be EUR [[305 000 000]] 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.

3. Without prejudice to the Financial Regulation, expenditure for actions resulting from projects included in the first work programme may be eligible as from 1 January 2021.

4. [Resources allocated to Member States under shared management may, at their request, be transferred to the Programme. The Commission shall implement those resources directly in accordance with Article 62(1)(a) of the Financial Regulation or indirectly in accordance with Article 62(1)(c). Where possible those resources shall be used for the benefit of the Member State concerned.]

[*Article 5*

Third countries associated to the Programme

The Programme shall be open to the following third countries:

a) European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement;

b) acceding countries, candidate and potential candidate, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;

c) countries covered by the European Neighbourhood Policy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and association council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries.

d) Other third countries, in accordance with the conditions laid down in a specific agreement covering the participation of the third country to any Union programme, provided that the agreement

– ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;

– lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of [the new Financial Regulation];

– does not confer to the third country a decisional power on the programme;

– guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.]

Article 6

Implementation and forms of EU funding

1. The Programme shall be implemented in direct management in accordance with the Financial Regulation or in indirect management with bodies referred to in Article 62(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) hey 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[12]

1. The Programme shall be implemented by work programmes referred to in Article 110 of the Financial Regulation.

2. The work programme shall be adopted by the Commission by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 17.}

Article 12

Monitoring and reporting

1. Indicators to report on progress of the Programme towards the achievement of the specific objectives set out in Article 3 are set out in Annex II**.**

2. To ensure effective assessment of progress of the Programme towards the achievement of its objectives, the Commission shall be empowered to adopt delegated acts, in accordance with Article 14, to develop the provisions for a monitoring and evaluation framework, including through amendments to Annex II to review and complement the indicators where necessary.

3. The performance reporting system shall ensure that data for monitoring programme implementation and results are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and Member States.

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[12] This text reflects the position of the Council as set out in the partial mandate for negotiations adopted by COREPER in December 2018 (15377/18). The negotiations will resume with the European Parliament on this part once the Council has a mandate on all elements of the proposal.

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}[13].

[13] This text reflects the position of the Council as set out in the partial mandate for negotiations adopted by COREPER in December 2018 (15377/18). The negotiations will resume with the European Parliament on this part once the Council has a mandate on all elements of the proposal.

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}[14].

[*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).**]**

[14] This text reflects the position of the Council as set out in the partial mandate for negotiations adopted by COREPER in December 2018 (15377/18). The negotiations will resume with the European Parliament on this part once the Council has a mandate on all elements of the proposal.

CHAPTER IV
TRANSITIONAL AND FINAL PROVISIONS

Article 16

Information, communication and publicity

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.

2. The Commission shall implement information and communication actions relating to the Programme, and its actions and results. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.

{*Article 17*

Committee procedure

1. The Commission shall be assisted by a committee. This committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.}[15]

[15] This text reflects the position of the Council as set out in the partial mandate for negotiations adopted by COREPER in December 2018 (15377/18). The negotiations will resume with the European Parliament on this part once the Council has a mandate on all elements of the proposal.

Article 18

Repeal

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

Article 19

Transitional provisions

1. This Regulation shall not affect the *continuation* or modification of the actions concerned, under Regulation No 1382/2013, which shall continue to apply to those actions until their closure.

2. The financial envelope for the Programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted under its predecessor, Regulation (EU) No 1382/2013.

3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4(2), to enable the management of actions not completed by 31 December 2027.

Article 20

Entry into force

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

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

ANNEX I

Activities of the programme

The 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[1] 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;

[1] 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.

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;

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 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 organizing 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

Number of civil society organisations supported by the programme

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 and criminal cases

Number of people per specifc objective 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.