Regulation (EU) No 1382/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Justice Programme for the period 2014 to 2020 (Text with EEA relevance)

REGULATION (EU) No 1382/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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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) and Article 84 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[(3)],

Whereas:

(1) The Treaty on the Functioning of the European Union (TFEU) provides for the creation of an area of freedom, security and justice, in which persons are free to move. To that end, the Union may adopt measures to develop judicial cooperation in civil and criminal matters and to promote and support the action of Member States in the field of crime prevention. Respect for fundamental rights as well as for common principles, such as non-discrimination, gender equality, effective access to justice for all, the rule of law and a well-functioning independent judicial system should be ensured in the further development of a European area of justice.

(2) In the Stockholm Programme[(4)] the European Council reaffirmed the priority of developing an area of freedom, security and justice and specified as a political priority the achievement of a Europe of law and justice. Financing was identified as one of the important tools for the successful implementation of the Stockholm Programme's political priorities. The ambitious goals set by the Treaties and by the Stockholm Programme should be attained inter alia by establishing, for the period 2014 to 2020, a flexible and effective Justice Programme (the "Programme") which should facilitate planning and implementation. The general and specific objectives of the Programme should be interpreted in line with the relevant strategic guidelines defined by the European Council.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 1382/2013 of the European Parliament and of the Council. (See end of Document for details)*

(3) The Commission Communication of 3 March 2010 on the Europe 2020 Strategy sets out a strategy for smart, sustainable and inclusive growth. A well-functioning area of justice, where obstacles in cross-border judicial proceedings and access to justice in cross-border situations are eliminated, should be developed as a key element to support the specific objectives and flagship initiatives of the Europe 2020 Strategy and to facilitate mechanisms designed to promote growth.

(4) For the purposes of this Regulation, the term "judiciary and judicial staff" should be interpreted so as to include judges, prosecutors and court officers, as well as other legal practitioners associated with the judiciary, such as lawyers, notaries, bailiffs, probation officers, mediators and court interpreters.

(5) Judicial training is central to building mutual trust and improves cooperation between judicial authorities and practitioners in the various Member States. Judicial training should be seen as an essential element in promoting a genuine European judicial culture in the context of the Commission Communication of 13 September 2011 entitled "Building trust in EU-wide justice. A new dimension to European judicial training", the Council Resolution on the training of judges, prosecutors and judicial staff in the European Union[(5)], the Council conclusions of 27 and 28 October 2011 on European judicial training and the European Parliament resolution of 14 March 2012 on judicial training.

(6) 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 annual work programmes adopted by the Commission pursuant to this Regulation.

(7) The Union should facilitate training activities on the implementation of Union law by considering the salaries of participating judiciary and judicial staff incurred by the Member States' authorities as eligible costs or co-financing in kind, in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(6)] (the "Financial Regulation").

(8) Access to justice should include, in particular, access to courts, to alternative methods of dispute settlement and to public office-holders obliged by the law to provide parties with independent and impartial legal advice.

(9) In December 2012 the Council endorsed the EU Drugs Strategy (2013-20)[(7)], which aims to take a balanced approach based on simultaneous reduction of drug demand and drug supply, acknowledging that drug demand reduction and drug supply reduction are mutually reinforcing elements in illicit drugs policy. That Strategy maintains as one of its main objectives the aim of contributing to a measurable reduction of drug demand, of drug dependence and of drug-related health and social risks and harms. Whereas the Drug prevention and information programme established by Decision No 1150/2007/EC of the European Parliament and of the Council[(8)] was based on a public health legal basis and covered those aspects, the Programme is founded on a different legal basis and should aim at the further development of a European area of justice based on mutual recognition and mutual trust, in particular by promoting judicial cooperation. Thus, in responding to the need for simplification and in line with the legal basis of each programme, the Health for Growth Programme can support measures to complement the Member's States action in attaining the objective of reducing drug-related health damage, including information and prevention.

(10) Another important element of the EU Drugs Strategy (2013-20) is drug supply reduction. Whereas the Instrument for financial support for police cooperation, preventing and combating crime, and crisis management, as part of the Internal Security Fund, should support actions aimed at preventing and combating the trafficking of drugs and other types of crime, and in particular measures targeting the production, manufacture, extraction, sale, transport, importation and exportation of illegal drugs, including possession and purchase with a view to engaging in drug trafficking activities, the Programme should cover those aspects of drugs policy that are not covered by the Instrument for financial support for police cooperation, preventing and combating crime, and crisis management, as part of the Internal Security Fund, or by the Health for Growth Programme and are closely linked to its general objective.

(11) In any case, the continued financing of the priorities under the 2007-2013 programming period that have been maintained as objectives under the new EU Drugs Strategy (2013-20) should be ensured, and funds should therefore be available from the Health for Growth Programme, the Instrument for financial support for police cooperation, preventing and combating crime, and crisis management, as part of the Internal Security Fund, and the Programme in accordance with their respective priorities and legal bases while avoiding any duplicate financing.

(12) Pursuant to Article 3(3) of the Treaty on European Union (TEU), Article 24 of the Charter of Fundamental Rights of the European Union (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, including the right to due process, the right to understand the proceedings, the right to respect for private and family life and the right to integrity and dignity. The Programme should aim, in particular, to increase child protection within justice systems and access to justice for children, and should mainstream the promotion of the rights of the child in the implementation of all of its actions.

(13) Pursuant to Articles 8 and 10 TFEU, the Programme should support the mainstreaming of equality between women and men and non-discrimination objectives in all its activities. Regular monitoring and evaluation should be carried out to assess the way in which gender equality and non-discrimination issues are addressed in the Programme's activities.

(14) Experience of action at Union level has shown that achieving the objectives of the Programme in practice calls for a combination of instruments, including legal acts, policy initiatives and funding. Funding is an important tool complementing legislative measures.

(15) In its conclusions of 22 and 23 September 2011 on improving the efficiency of future Union financial programmes supporting judicial cooperation, the Council stressed the important role played by Union financing programmes in the efficient implementation of the Union acquis and reiterated the need for more transparent, flexible, coherent and streamlined access to those programmes.

(16) The Commission Communication of 29 June 2011 entitled 'A budget for Europe 2020' stresses the need for the rationalisation and simplification of Union funding. Especially in view of the current economic crisis, it is of the utmost importance that Union funds be structured and managed in the most diligent manner. Meaningful simplification and efficient management of funding can be achieved through a reduction in the number of programmes and through the rationalisation, simplification and harmonisation of funding rules and procedures.

(17) In responding to the need for simplification, efficient management and easier access to funding, the Programme should continue and develop activities previously carried out on the basis of three programmes established by Council Decision 2007/126/JHA[(9)], Decision No 1149/2007/EC of the European Parliament and of the Council[(10)], and Decision No 1150/2007/EC. The mid-term evaluations of those programmes include recommendations aimed at improving the implementation of those programmes. The findings of those mid-term evaluations, as well as the findings of the respective ex-post evaluations, need to be taken into account in the implementation of the Programme.

(18) The Commission Communication of 19 October 2010 entitled 'The EU Budget Review' and the Commission Communication of 29 June 2011 entitled 'A budget for Europe 2020' underline the importance of focusing funding on activities with clear European added value, i.e. where Union intervention can bring additional value compared to the action of Member States alone. Actions covered by this Regulation should contribute to the creation of a European area of justice by promoting the principle of mutual recognition, developing mutual trust between the Member States, increasing cross-border cooperation and networking and achieving the correct, coherent and consistent application of Union law. Funding activities should also contribute to achieving effective and better knowledge of Union law and policies by all concerned, and should provide a sound analytical basis for the support and the development of Union law and policies, in so doing contributing to their enforcement and proper implementation. 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.

(19) In selecting actions for funding under the Programme, the Commission should assess the proposals against pre-identified criteria. Those criteria should include an assessment of the European added value of the proposed actions. National projects and small-scale projects can also have European added value.

(20) Bodies and entities that have access to the Programme should include national, regional and local authorities.

(21) This Regulation lays down a financial envelope for the entire duration of the Programme which is to constitute the prime reference amount, within the meaning of 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[(11)], for the European Parliament and the Council during the annual budgetary procedure.

(22) In order to ensure that the Programme is sufficiently flexible to respond to changing needs and corresponding policy priorities throughout its duration, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission concerning modification of the percentages set out in the Annex to this Regulation for each specific objective that would exceed those percentages by more than 5 percentage points. To assess the need for such a delegated act, those percentages should be calculated on the basis of the financial envelope of the Programme for its entire duration, and not on the basis of annual appropriations. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(23) This Regulation should be implemented in full compliance with the Financial Regulation. In particular with regard to the eligibility conditions of value added tax (VAT) paid by grant beneficiaries, the eligibility of VAT should not depend on the legal status of the beneficiaries for activities which can be carried out by private and public bodies and entities under the same legal conditions. Taking into account the specific nature of the objectives and activities covered by this Regulation, it should be made clear, in calls for proposals, that, for activities which can be carried out by both public and private bodies and entities, the non-deductible VAT incurred by public bodies and entities is to be eligible, in so far as it is paid in respect of the implementation of activities, such as training or awareness-raising, which cannot be considered as the exercise of public authority. This Regulation should also make use of the simplification tools introduced by the Financial Regulation. Moreover, the criteria for identifying actions to be supported should aim at allocating the available financial resources to actions generating the highest impact in relation to the policy objective pursued.

(24) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the adoption