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From: Presidency  
To: Delegations  
Subject: Future Development of the JHA Area on Justice

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Delegations will find below the Discussion Paper on Justice as distributed at the Informal Justice and Home Affairs Ministers' meeting on 18-19 July 2013 in Vilnius (Lithuania).

**1. Introduction**

In December 2009, the European Council adopted the Stockholm Programme, a multi-annual instrument for the development of an area of freedom, security and justice for the years 2010-2014. Almost five years later, the informal ministerial meeting in Vilnius offers an opportunity to start reflecting on the lessons learned during the implementation of the Programme and on the way forward.

This discussion paper prepared by the Lithuanian Presidency should serve as a basis for initiating the discussion on the post-2014 period. It is by no means a conclusive document but rather a tool to launch the reflection process within the Union, notably, in case of the informal ministerial meeting, between the Member States, the European Commission and the European Parliament, as well as associated and candidate countries. The Presidency thus looks forward to an open and lively exchange of views that could help the EU institutions to hold an EU-wide debate on the future of the JHA policy in accordance with the mandate given by the European Council in its conclusions of 27-28 June 2013:

*“The European Council will hold a discussion at its June 2014 meeting to define strategic guidelines for legislative and operational planning in the area of freedom, security and justice (pursuant to Article 68 TFEU). In preparation for that meeting, the incoming Presidencies are invited to begin a process of reflection within the Council. The Commission is invited to present appropriate contributions to this process.”*

## **2. Background**

The JHA area has undergone the most profound transformation in the EU during the last two decades. First appearing in the EU remit with the Maastricht Treaty in 1992, it was further elaborated by the Amsterdam Treaty in 1997. The EU moved to the first multi-annual programme, the Tampere programme, in 1999. A genuine European area of justice was flagged as one of the priorities. The implementation of the Tampere Programme in the area of justice is assessed in positive terms. Better access to justice for individuals and businesses has been secured by the principle of mutual recognition of judgements in civil and commercial matters. In criminal matters, the entry into force of the European arrest warrant and the establishment of Eurojust are two striking examples of the progress made.

The Union had already been enlarged when the Hague Programme was adopted (in 2004) in the legal framework of the Nice Treaty. The Hague Programme continued along the lines of the Tampere Programme in defining mutual recognition as the cornerstone of judicial cooperation. One of the most noteworthy achievements in the justice area during the years of the Hague Programme has been the significant progress made through improved cross-border judicial cooperation in both civil and criminal matters.

Finally, the current Stockholm Programme witnessed the entry into force of the Lisbon Treaty. It has put the focus on the interests and needs of citizens. The Council made a mid-term review in December 2012 and informed the European Council of its findings as it was requested. The achievements of the Stockholm Programme have yet to be summarised and should serve as a starting point for reflecting on the post-2014 objectives with regard to the EU policies on freedom, security and justice.

Since the Lisbon Treaty introduced major changes, including institutional ones, in the freedom, security and justice area, these modifications should also be taken into account. The future developments in this field should be discussed in the light of Article 68 TFEU, which provides that the European Council “*shall define the strategic guidelines for legislative and operational planning*” in this regard.

### **3. Reflections on the way forward**

The three JHA multi-annual programmes have significantly contributed to creating a common European legislative environment and hence to clear and transparent rules for the actors involved, government agencies and citizens alike.

With the current economic uncertainties and limited financial resources, future Union actions have to be focused on key priorities. Emphasis therefore has to be placed on the quality of action. With the European rules for many aspects of freedom, security and justice now in place, the stress should be laid on the quality of implementation of the Union *acquis*, in other words, consolidation of the achievements of the three programmes. Europe has to be **credible** in terms of implementation and abide by its commitments. Therefore, the reflection on the future should also focus on ways of consolidating the progress made so far in the JHA area. At the same time, a forward-looking and strategic political approach to post-2014 planning calls for discussion on whether the current JHA regulatory framework is evenly developed or there are some areas that require additional efforts.

Thanks to the achievements of the last 15 years, the Union has been able to develop not only the legislation, but also its own expertise and know-how, building a common judicial culture and providing practical support to the Member States in attaining the common goals.

The financial support tools in the JHA area have been very instrumental not only in financial burden sharing, but also in providing additional opportunities for cooperation between the Member States. The financial support provided by the EU financial instruments should be strategic and orientated to the achievement of the policy priorities and objectives. One of the ways to ensure better synergies could be to reflect on a better synchronisation between policy planning (post-2014) and the financial programming cycle (MFF) that should also make it possible to avoid fragmented action and offer instead a strategy-oriented approach.

The way the follow-up to the Stockholm Programme is designed should take into account the new realities. The Tampere Programme was designed for a Europe of 15, the Hague Programme was intended for a Europe of 25, the Stockholm Programme for 27 and the next policy programming cycle will serve Europe of 28. A **growing** Europe also needs adequate tools to meet the challenges of today. Notably, the initiatives should not be a burden on economic growth but rather promote it by providing a stable and appropriate legal environment and contribute to the predictability and **openness** of the economy and of society. Openness also means further developing partnerships and contacts with European neighbours and EU strategic partners, therefore, the external dimension of JHA policies should also be considered of great importance for future developments in the area.

At the same time, access to justice should be facilitated so that people can assert their rights throughout the Union. Work should be continued in order to develop at European level the use of information and communication technologies in the field of justice. Technological developments should alleviate and contribute to the functioning of the area of freedom, security and justice, at the same time ensuring and respecting privacy and fundamental rights.

### **Questions for discussion**

Hence the Ministers are invited to reflect on the principles of building the post-2014 area of freedom, security and justice. A credible future needs not only to take into account lessons from the past, but also to look for new and innovative solutions.

With this in mind, **the Presidency proposes the following questions for the Ministers' discussion:**

- 1. What has changed/what major challenges have emerged in the field of justice since the adoption of the Stockholm Programme?**
- 2. Which three main strategic priorities for the justice area could be highlighted for the post-2014 period?**
- 3. What core principles could be useful in constructing the post-2014 guidelines?**