

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM DHLÍ AGUS CEART

### JOINT COMMITTEE ON JUSTICE

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*Dé Máirt, 14 Meán Fómhair 2021*

*Tuesday, 14 September 2021*

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Tháinig an Comhchoiste le chéile ag 3.30 p.m.

The Joint Committee met at 3.30 p.m.

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Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Pa Daly,	Lynn Ruane,
Martin Kenny,	Barry Ward.
Niamh Smyth.	

Teachta / Deputy James Lawless sa Chathaoir / in the Chair.

## **Business of Joint Committee**

**Chairman:** Apologies have been received from Deputy Pringle, and Senator Gallagher has been in touch to say he has been delayed. Deputy Costello may be at his party's think-in so that may be a difficulty, and I have also had a communication from Deputy Niamh Smyth. Some or all of them may join at some stage but I understand they are having difficulties attending the start of the meeting.

I remind members, witnesses and the Minister of State to set their phones to flight mode to avoid interference, not only with our discussion but with the sound system. The proposal is that we conduct our public business with the Minister of State first and then go into private session for some housekeeping. Is that agreed? Agreed.

Before we do anything else I wish to welcome members back after the break. I hope they managed to get a break because if their constituency offices were anything like mine, it was not quite the usual break. There was a blur between holiday time and normal time and there were no particular boundaries this year. It all became one. There were a lot of queries about visas and passports and all sorts of the usual constituency business over the summer so it was a working summer but I hope members got an opportunity for some downtime. We have a busy time ahead and I am looking forward to it. I thank members on the call for their participation and collegiality over the last term and look forward to that again in the term ahead.

### **Proposed Approval by Dáil Éireann and Seanad Éireann of EU Regulation 2021/693: Motion**

**Chairman:** We turn our attention to the item before us, which is a motion on EU Regulation 2021/693 of the European Parliament and the Council of 28 April 2021, establishing the justice programme and repealing EU Regulation 1382/2013. I welcome Deputy James Browne, Minister of State at the Department of Justice with special responsibility for law reform, and his officials to the meeting. The purpose of this part of the meeting is to receive a briefing from the Minister of State on the above motion. He will bring us through that in a moment. I will invite the Minister of State to brief the committee on this regulation and then if any members have questions or wish to put points to him they are welcome to do so. If members are not speaking I ask them to make sure their microphones are muted so we do not pick up interference. I also ask them to use the "raise hand" function so we can get a list of members who wish to speak and I will take them in that order. I do not anticipate any difficulties as regards time. We will establish a speaking protocol going forward, as we discussed before the end of the previous term, but I do not think that is necessary today because we will get everyone in who wants to get in comfortably, so that is not an issue.

I remind participants of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

I invite the Minister of State to speak on the motion. He is welcome to the meeting. He can now talk us through this regulation and what it means for the committee and the Oireachtas.

**Minister of State at the Department of Justice (Deputy James Browne):** I thank the committee for taking this motion today. It is quite a positive motion. I thank the members of

the committee for making time available today to discuss this motion. I am pleased to bring this positive initiative on the part of the Department of Justice. As the members are aware, this motion concerns an opt-in by Ireland to a regulation establishing the new EU justice programme, which will run from 2021 to 2027.

As part of the new multi-annual financial framework, MFF, for 2021 to 2027, the European Commission published a proposal for a regulation establishing a new justice programme on 30 May 2018. The regulation was formally adopted by the Council and the Parliament on 27 April 2021 and entered into force on 5 May 2021.

The previous justice programme, in which Ireland participated, ran from 2014 to 2020. The objectives of the earlier programme included the promotion of judicial co-operation in civil matters and criminal matters, judicial training, effective access to justice in Europe and initiatives in the field of drugs policy.

The regulation lays down the objectives of the justice programme, its budgets, the forms of EU funding and the rules for providing such funding. It also repeals regulation 1382/2013, which established the previous justice programme for the period 2014 to 2020.

Negotiations on this measure commenced in July 2018, with provisional agreement reached between the European Parliament and the Council in March 2019. However, the budgetary aspects of the programme were subject to the overall agreement on the MFF package and, as a result, the regulation was not formally adopted until 27 April 2021.

EU funding under this new programme is aimed at contributing to the further development of a European area of justice based on the rule of law, mutual recognition and mutual trust. It is evident from the objectives of this programme that there is an increased emphasis on the rule of law. The regulation contains explicit references to a “European area of justice based on the rule of law”, and to the promotion of a “rule of law culture”. The regulation also states “Funding activities should also contribute to a common understanding of the Union’s values and the rule of law”.

I will briefly describe the main features of the justice programme. The programme has the general objective of contributing to the further development of a European area of justice based on the rule of law, on mutual recognition and mutual trust. This overall objective is supplemented by the three following specific objectives, namely, to facilitate and support judicial co-operation in civil and criminal matters and to promote the rule of law including by supporting the efforts to improve the effectiveness of national justice systems and the enforcement of decision; to support and promote judicial training with a view to fostering a common legal, judicial and rule of law culture; and to facilitate effective access to justice for all and effective redress, including by electronic means, by promoting efficient civil and criminal procedures and by promoting and supporting the rights of victims of crime, as well as the procedural rights of suspects and accused persons in criminal proceedings.

The objectives of this EU programme align well with the Government’s commitments in the programme for Government to implement reforms to facilitate equal access to justice and to strength victims’ rights and supports. The programme supports mainly activities for the Judiciary and judicial staff, by their representative bodies, public authorities and training bodies. It is also open to academic or research institutes and civil society organisations that contribute to the development of a European area of justice.

The programme will have a total budget of approximately €300 million over its lifetime. The priorities of the programme will be set out in an annual work programme on the initiative of the Commission. This programme is under the direct management of the European Commission, meaning that the Commission is directly responsible for all steps in its implementation. This includes launching the calls for proposals, evaluating submitted proposals, monitoring project implementation, assessing the results and making the payments. The first call for proposals took place earlier this year in March. Unfortunately, as Ireland had not opted in to the regulation at that stage, we were unable to benefit from this round.

This regulation provides a streamlined framework for EU funding of central and national initiatives for the period 2021 to 2027. The regulation does not present any fundamental policy difficulties for Ireland and the Office of the Attorney General has advised that it sees no legal impediment to opting into the measure.

The purpose of the justice programme is to support the further development of an EU area of justice based on the EU's values, the rule of law, and mutual recognition and trust. It will facilitate access to justice and promote judicial co-operation in civil and criminal matters, as well as the effectiveness of national justice systems.

I am strongly of the view that Ireland should participate in the application of this measure. In doing so, Ireland will be in a position to benefit from financial assistance in pursuit of the various forms of justice and home affairs, JHA, co-operation to which the measure relates.

I hope that the committee can support the exercise of Ireland's opt-ins in respect of this regulation.

**Chairman:** Sorry, there is an issue here with sound. I will take the members in the order they have indicated.

**Senator Barry Ward:** It is about time that we opted into this. It is good on pretty much every level. Article 8-----

*(Interruptions).*

**Senator Barry Ward:** -----and the extent to which there are fairness protections built into the system. We need to build in judicial training aspects for our Judiciary. The report that we produced in our previous session in respect of the experience of victims of sexual offences in the judicial system, judicial training was an important part. Judges need to understand very clearly the impact that certain offences have in particular on victims.

There was reference to a common culture. The Minister of State will be well aware that we have a very different legal system from the rest of Europe. Ours is the only common law jurisdiction left in Europe. I am wondering how that is going to work. The Minister of State has said that there is nothing to be concerned about with this. I agree, but how do we square the circle where here we have a system which follows the precedent of other courts rather than the civil law jurisdiction of other countries? How will this work?

**Deputy James Browne:** I agree that with the departure of the UK, Ireland and only two other common law jurisdictions are left in the EU. With proposed legislation in the EU, there will have to be much more aware of legislation being proposed at an early stage. Where there are issues of common law, it will be up to us to ensure that our voice is heard.

On judicial training, the separation of powers means that it is up to the Judiciary to identify what kind of training is needed, especially in marrying the two different codes of the law within the EU. The regulation specifically protects Ireland's common law culture. When we talk about promoting that culture, that it is not about promoting the civil code, our common law is protected. It is important that we work with the other common law jurisdictions in the EU, Malta and Cyprus. I hope that the Judiciary will avail of the training but that will be a matter for its members.

**Chairman:** I do not see any other members wishing to come in at this point. I thank the Minister of State. He covered all the points that are of interest to the committee. Sorry, is Senator Ruane looking to come in? The Senator can put a question to the Minister of State. Apologies, I did not see the Senator signal.

**Senator Lynn Ruane:** I am in Leinster House. Is it okay? I cannot hear anything.

**Chairman:** Senator, can you try again?

**Senator Lynn Ruane:** Can you hear me?

**Chairman:** Yes, go ahead.

**Senator Lynn Ruane:** Obviously, I am largely supportive of the framework but there were three points in it to which I want to draw attention. One of those is in regard to paragraph (9) of the regulation. I was wondering where it leaves us in respect of the Special Criminal Court, or if that arises at all. The paragraph refers to the notion of transparency. I am wondering if it is possible for us to remain in line with the framework, while also having the Special Criminal Court in place.

The next point relates to paragraph (10), which refers to ironing out the discrimination within the legal profession. However, there is no mention of economic discrimination in the law profession. There is currently only one bursary that I am aware of in respect of King's Inns and passing the Bar exam in order to become a barrister. I am wondering would this funding see that those who are able to get into the law profession would gain more training rather than encouraging those who cannot enter it in the first place to access it.

My final point is on paragraph (18), which states that it is important to look at the framework in the context of the cross-sectional feminist approach and how that is taken into account when analysing the success of the programme. If the funding only results in white middle- and upper-class women getting access to the law sector, then this will not be a success in the wider scheme of things. I am wondering how important paragraphs (18) and (10) are in relation to each other in the context of ensuring that the gender aspect involves an intersectional aspect. Is there any way we can make recommendations in respect of the wording on frameworks or what way does it work?

**Chairman:** Since the Senator mentioned bursaries at King's Inns, I must inform here that there is more than one. There are quite a few academic scholarships. There are at least three, because I secured three when I was there. I will let the Minister respond to the wider points.

**Deputy James Browne:** In the context of the Special Criminal Court, this programme is not really relevant to that in any way. The economic discrimination is a matter for domestic policy, as I understand it, rather than anything through this programme.

The programme is, as I say, open to the judicial bodies but also to other interconnected bodies - perhaps the Courts Service, the Prison Service or other training bodies as well. It highlights that under the previous programme, only €700,000 came to Ireland out of nearly €400 million that was available. On a broader point, one of the things we are a little weak at is tapping into funding of this type that is available within the European Union. It is something I will be raising with the Department in terms of making sure that this programme is highlighted to whomever can avail of it and that these people would be helped and facilitated if they are looking for funding. It is certainly important funding that is available and I would like us to take advantage of it.

**Senator Lynn Ruane:** To clarify, I was referring to one King's Inns' bursary relating to a specific minority group, women, access students and so on, rather than bursaries in the general sense.

**Chairman:** That concludes our discussion of this particular item. I again thank members for contributing to the discussion and I thank the Minister of State for briefing us. I wish him good luck with the term ahead. I am sure we will be seeing plenty of him over the coming weeks and months.

**Deputy James Browne:** I thank the Chairman and members. Take care.

**Chairman:** I again thank the Minister of State and his officials for briefing the committee today.

### Messages to Dáil and Seanad

**Chairman:** In accordance with Standing Order 101, the following message will be sent to the Dáil:

The Joint Committee on Justice has completed its consideration of the following measure:

Regulation (EU) 2021/693 of the European Parliament and of the Council of 28 April 2021 establishing the Justice Programme and repealing Regulation (EU) No. 1382/2013, a copy of which was laid before Dáil Éireann on 17th June, 2021.

In accordance with Standing Order 75 the following message will be sent to the Seanad:

The Joint Committee on Justice has completed its consideration of the following measure:

Regulation (EU) 2021/693 of the European Parliament and of the Council of 28 April 2021 establishing the Justice Programme and repealing Regulation (EU) No. 1382/2013, a copy of which was laid before Seanad Éireann on 17th June, 2021.

The joint committee went into private session at 4.01 p.m. and adjourned at 5 p.m. until 3.30 p.m. on Tuesday, 21 September 2021.