

***ANALYSIS OF THE***  
***COMMISSION'S***  
***PROPOSAL FOR A***  
***RIGHTS AND VALUES***  
***PROGRAMME***

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## **Key points:**

This paper analyses how the Commission's proposal for a Rights and Values programme compares to the European Values Instrument (EVI) suggested by the European Parliament and civil society organisations, and whether the Commission's proposal marks a departure from the Rights Equality and Citizenship (REC) and Europe for Citizens (EfC) funding programmes.

- The substantive scope of the EVI would include activities that promote and protect European and international legal standards that guarantee pluralist democracy, the rule of law and fundamental rights. In contrast, the Commission's proposal is excessively narrow in scope. As a continuation of the REC and EfC programmes, the proposal limits support to promotion of specific pieces of EU law and policy or action at transnational or Union level.
- The activities supported by the EVI would include advocacy, watchdog activities, monitoring and reporting to international supervisory bodies, litigation, public mobilisation and public education. The EVI would also build capacity of the non-governmental sector to communicate with the public more effectively. The Commission's proposal does not include these activities and largely continues to support the same activities as the REC and EfC programmes.
- The EVI would provide operational funding to NGOs working at national and grassroots level, based on a more flexible interpretation of the EU's Financial Regulation, so as to remove barriers for grassroots NGOs, such as eligibility and co-funding requirements as well as reporting burdens. This could be achieved through the use of intermediary bodies that could regrant funds to smaller NGOs. The Commission's proposal makes no allowance for a more flexible interpretation of the Financial Regulation, which has been interpreted narrowly to date so as to effectively exclude grassroots organisations.
- The beneficiaries of the EVI would be NGOs working to protect and promote the values set out in Article 2 of the Treaty on European Union. The size of the EVI would match the financial support given by the EU to NGOs promoting these values in third countries. This stands in the region of 2 billion EUR over 7 years. The Commission's proposal provides for a budget of 641m EUR, which is not exclusively dedicated to supporting NGOs, since it is open to any legal entity (public or private) in the Member States and a large range of third countries and international organisations.
- The Commission's proposal effectively ensures a continuation of existing funding programmes, which treat NGOs as sub-contractors helping the Commission implement EU law and policy. It thereby fails to include any of the elements of the European Values Instrument that would support the creation of a healthy and sustainable NGO sector capable of promoting and protecting the values set out in Article 2 of the Treaty on European Union. Given the growth of populist authoritarianism, the Commission may be throwing away the last opportunity it has while progressive governments are still in a majority in the EU, to stem the rise of the far right by taking meaningful measures to build grassroots support for democracy, the rule of law and fundamental rights.

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## Introduction

This paper analyses how the Commission's proposal for a Rights and Values programme<sup>1</sup> compares to the European Values Instrument (EVI) and whether it marks a departure from the Rights Equality and Citizenship (REC) programme<sup>2</sup> and Europe for Citizens (Efc) programme.<sup>3</sup> The European Parliament<sup>4</sup> and civil society organisations<sup>5</sup> have urged the Commission to propose the creation of a European Values Instrument among its proposals on the Multiannual Financial Framework. The purpose of the EVI would be to provide financial support and capacity building for non-governmental organisations (NGOs) promoting and protecting the values enumerated in Article 2 of the Treaty on European Union, namely democracy, the rule of law and fundamental rights. The key characteristics of the EVI proposal, as put forward in a resolution of the European Parliament and as elaborated in a paper published by Liberties are as follows:<sup>6</sup>

First, the substantive scope of the EVI should include activities that promote and protect European and international legal standards that guarantee pluralist democracy, the rule of law and fundamental rights.

Second, the activities supported by the EVI should include advocacy, watchdog activities, monitoring and reporting to international supervisory bodies, litigation, public mobilisation and public education. The EVI should further build capacity of the sector to ensure it can fulfil these functions sustainably and build the capacity of NGOs to engage in communications with the public more effectively.

Third, the EVI should provide operational funding to NGOs working at national and grassroots level. The EU's Financial Regulation should also be interpreted flexibly so as to remove barriers to access EU funds for national and grassroots NGOs, such as eligibility and co-funding requirements as well as reporting burdens. This could be achieved through the use of intermediary bodies that could regrant to smaller organisations.

Fourth, the size of the EVI should match the financial support given by the EU to NGOs promoting democracy, the rule of law and fundamental rights in third countries. This is currently in the region of 2 billion EUR over 7 years.

The European Commission has portrayed its proposal for a Rights and Values programme, published on 30 May 2018, as its answer to the call for an EVI. A Commission fact sheet explaining the proposal stated that 'the Rights and Values programme will aim to protect and promote rights and values as enshrined in the EU Treaties, including by supporting civil society organisations, in order to sustain open, democratic and inclusive societies... The programme will also fund activities to encourage and facilitate active participation in the construction of a more democratic Union as well as awareness of rights and values through support to civil society organisations, including NGOs and think tanks.'<sup>7</sup> The preamble (para. 18) of the proposal refers to the European Parliament's resolution, stating that:

*'adequate financial support is key to the development of a conducive and sustainable environment for civil society organisations to strengthen their role and perform their functions independently and effectively... EU funding should therefore contribute to support, empower and build capacity of independent civil society organisations active in the promotion of human rights whose activities help the strategic enforcement of rights under EU law and the Charter of Fundamental Rights of the EU, including through advocacy and watchdog activities, as well as to promote, safeguard and raise awareness of the Union's common values at national level'.*

ed by NGOs to promote the values enshrined in Article 2 of the Treaty on European Union (TEU). The remainder of this document will compare the proposal for the RV programme to equivalent provisions in the REC and EfC programmes to determine whether the RV programme improves on existing programmes in its support for NGOs, or whether the RV programme is predominantly a continuation of these programmes. For ease of comparison, the relevant provisions will be set out in a table at the end of each subsection. Where different wording in the RV proposal suggests that the RV proposal may potentially differ from the REC and EfC programmes, this has been highlighted by **emboldening** the text.

Article 2 of the proposal also states that the:

*'general objective of the Programme is to protect and promote rights and values as enshrined in the EU Treaties, including by supporting civil society organisations, in order to sustain open, democratic and inclusive societies'.*

These general provisions and statements are broadly in line with the European Parliament's resolution and calls from civil society for an EVI.

However, the operational provisions of the proposal do not put these general provisions or the Commission's public statements into effect. All of the principal elements of the EVI appear to be missing. Rather, the text of the proposal suggests the programme will be a continuation of the REC and EfC programmes, which cannot be said to have provided the support need-

## Scope

The scope of the RV programme appears to replicate the REC and EfC programmes. The proposal contains three substantive 'strands'. The Equality and Rights strand (Article 3 RV) and the Daphne strand (Article 5 RV) correspond to the substantive scope of the REC programme. Like the REC programme, the RV programme would only cover activities that promote substantive pieces of EU law (such as data protection and non-discrimination) or EU policies (such as combating violence against women and children).

The 'Citizens Engagement and Participation' strand (Article 4 RV) seems to correspond to the substantive scope of the EfC programme, though there are differences in wording. These differences might mean that the RV has a different scope to the EfC, but this depends on how the Commission interprets the text. Unlike the EfC programme (Article 2), the RV proposal does not include the promotion of values as a specific objective, which actually makes the RV potentially narrower in scope than its predecessor. Article 4(a) RV contains a specific objective of 'increasing citizens' understanding of the Union, its history, cultural heritage and diversity', which corresponds to specific objectives of the EfC in Article 2(a). Article 4(b) RV also contains a specific objective of promoting transnational exchanges and collaboration, which is also found in Article 2 EfC. Finally, Article 4(b) RV covers the promotion of 'civic and democratic participation allowing citizens and representative associations to make known and publicly exchange their views in all areas of Union ac-

tion'. Article 2(b) EfC has a similar provision to allow it support democratic participation 'at Union level'. This is a clear limitation in the EfC to only provide support for democratic participation in the context of the EU law and policy process. It is unclear if the introduction in the RV of 'in all areas of Union action' is intended to allow the RV to provide support also at national level for associations to promote participatory democracy so long as this falls within 'an area of Union action', which is potentially broader than the EfC because it does not specify that actions must take place 'at Union level'. However, the first phrase of Article 2(b) RV, which refers to transnational activities, militates against this interpretation. In the absence of more express wording, it is likely that the RV merely replicates the restrictive substantive scope of the REC and EfC.

In light of the above, it is clear that the substantive scope of the RV programme would be extremely narrow compared to the proposed EVI and only support activities covering EU law and policy or certain activities at EU and transnational level. In contrast, the EVI would support activities to promote and protect standards that guarantee pluralist democracy, the rule of law and fundamental rights more broadly. Despite the promising text under Article 2(1) RV setting out the RV's general objective, Articles 3-5 RV effectively hollow out its meaning by framing the programme's specific objectives so narrowly.

<p><b>Proposal for a Rights and Values Programme - Objectives [Articles 2-5]</b></p>	<p><b>Rights Equality and Citizenship Programme - Objectives [Articles 3-5]</b></p>
<p>Article 2 - General objective</p> <p>(1) The general objective of the Programme is to <b>protect and promote rights and values as enshrined in the EU Treaties, including by supporting civil society organisations, in order to sustain open, democratic and inclusive societies.</b></p> <p>(2) Within the general objective set out in paragraph 1, the programme has the following specific objectives which correspond to strands:</p> <p>(a) to promote equality and rights (Equality and rights strand),</p> <p>(b) to promote citizens engagement and participation in the democratic life of the Union (Citizens' engagement and participation strand),</p> <p>(c) to fight violence (Daphne strand).</p>	<p>Article 3 - General objective</p> <p>...contribute, in accordance with Article 4, to the further development of an area where equality and the rights of persons as enshrined in the TEU, in the TFEU, in the Charter and in the international human rights conventions to which the Union has acceded, are promoted, protected and effectively implemented.</p>

<p><b>Proposal for a Rights and Values Programme - Objectives [Articles 2-5]</b></p>	<p><b>Rights Equality and Citizenship Programme - Objectives [Articles 3-5]</b></p>
<p>Article 3 - Equality and rights strand</p> <p>(a) preventing and combating inequalities and discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, and supporting comprehensive policies to promote gender equality and anti-discrimination and their mainstreaming as well policies to combat racism and all forms of intolerance;</p> <p>(b) protecting and promoting the rights of the child, the rights of people with disabilities, Union citizenship rights and the right to the protection of personal data.</p>	<p>Article 4(1) - Specific objectives</p> <p>(a) to promote the effective implementation of the principle of non-discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, and to respect the principle of non-discrimination on the grounds provided for in Article 21 of the Charter;</p> <p>(b) to prevent and combat racism, xenophobia, homophobia and other forms of intolerance;</p> <p>(c) to promote and protect the rights of persons with disabilities;</p> <p>(d) to promote equality between women and men and to advance gender mainstreaming;</p> <p>...</p> <p>(f) to promote and protect the rights of the child;</p> <p>(g) to contribute to ensuring the highest level of protection of privacy and personal data;</p> <p>(h) to promote and enhance the exercise of rights deriving from citizenship of the Union;</p> <p>(i) to enable individuals in their capacity as consumers or entrepreneurs in the internal market to enforce their rights deriving from Union law, having regard to the projects funded under the Consumer Programme.</p>



<p><b>Proposal for a Rights and Values Programme - Objectives [Articles 2-5]</b></p>	<p><b>Europe for Citizens Programme - Objectives [Article 2]</b></p>
<p>Article 4 - Citizens engagement and participation strand</p> <p>(a) increasing citizens' understanding of the Union, its history, cultural heritage and diversity;</p> <p>(b) promoting exchange and cooperation between citizens of different countries; to <b>promote citizens' civic and democratic participation allowing citizens and representative associations to make known and publicly exchange their views in all areas of Union action;</b></p>	<p>Article 2</p> <p>The Programme shall have the following specific objectives which shall be implemented through actions at transnational level or with a European dimension:</p> <p>(a) to raise awareness of remembrance, the common history and values of the Union and the Union's aim, namely to promote peace, the values of the Union and the well-being of its peoples, by stimulating debate, reflection and the development of networks;</p> <p>(b) to encourage the democratic and civic participation of citizens at Union level, by developing citizens' understanding of the Union policy making-process and promoting opportunities for societal and inter-cultural engagement and volunteering at Union level.</p>

<b>Proposal for a Rights and Values Programme - Objectives [Articles 2-5]</b>	<b>Europe for Citizens Programme - Objectives [Article 2]</b>
<p>Article 4 - Citizens engagement and participation strand</p> <p>(a) increasing citizens' understanding of the Union, its history, cultural heritage and diversity;</p> <p>(b) promoting exchange and cooperation between citizens of different countries; to <b>promote citizens' civic and democratic participation allowing citizens and representative associations to make known and publicly exchange their views in all areas of Union action;</b></p>	<p>Article 2</p> <p>The Programme shall have the following specific objectives which shall be implemented through actions at transnational level or with a European dimension:</p> <p>(a) to raise awareness of remembrance, the common history and values of the Union and the Union's aim, namely to promote peace, the values of the Union and the well-being of its peoples, by stimulating debate, reflection and the development of networks;</p> <p>(b) to encourage the democratic and civic participation of citizens at Union level, by developing citizens' understanding of the Union policy making-process and promoting opportunities for societal and inter-cultural engagement and volunteering at Union level.</p>
<b>Proposal for a Rights and Values Programme - Objectives [Articles 2-5]</b>	<b>Rights Equality and Citizenship Programme - Objectives [Articles 3-5]</b>
<p>Article 5 - Daphne strand</p> <p>(a) preventing and combating all forms of violence against children, young people and women, as well as violence against other groups at risk;</p> <p>(b) supporting and protecting victims of such violence.</p>	<p>Article 5(e) to prevent and combat all forms of violence against children, young people and women, as well as violence against other groups at risk, in particular groups at risk of violence in close relationships, and to protect victims of such violence;</p>

## **Supported activities**

The activities to be supported by the RV programme appear largely to repeat those supported by the REC and EfC programmes. Those activities listed in Annex I to the RV programme which clearly replicate activities already supported by the REC and EfC are: awareness-raising and dissemination of information; mutual learning; analytical and monitoring activities; training, development and maintenance of ICT tools; strengthening awareness of culture, history, remembrance and belonging; town-twinning; promoting participation in the democratic life of the Union. There is no wording in Annex I RV that suggests that reference to these activities should be interpreted any differently from the way they are currently interpreted under the REC and EfC, which would mean that the RV would merely ensure a continuation of these activities.

There is certain wording in Annex I RV that could suggest that the range of activities or the substantive scope of some activities may differ from the current REC and EfC. The differences are as follows:

a) Although Annex I is ostensibly intended as a list of activities, it contains several references to the substantive scope of the RV programme. Under Annex I RV, the purpose of awareness-raising, dissemination of information, analytical and monitoring activities and training should be to improve knowledge 'in the areas covered by the Programme'. If 'the areas covered by the Programme' is taken to refer to the programme's general objective

in Article 2(a) RV - which is broadly framed as the promotion and protection of Article 2 TEU values by giving support for NGOs - this could allow for NGOs to be funded to protect and promote democracy, the rule of law and fundamental rights in the round. However, this would in essence deprive the operational articles governing the scope of the programme (the three 'strands' set out in Articles 3-5 RV) of their effect. Thus, it is more likely that the phrase 'areas covered by this Programme' refers to the more limited substantive scope set out in Articles 3-5.

b) In some respects, the REC is worded more broadly than Annex I RV. Article 4(2)(a) REC provides for awareness-raising not only of 'policies and rights in the areas covered by the Programme', but also the more general 'rights, values and principles underpinning the Union'. In practice, however, the REC has not been interpreted to allow the Commission to support activities promoting Article 2 TEU values in the round. This is evidence of the Commission's conservative interpretation of potentially broad provisions, which should be taken into account in the interpretation of the proposal for the RV programme. Similarly, Article 4(2)(b) REC includes wording that could have been used to justify Commission support for litigation ('effective, comprehensive and consistent implementation and application' of EU law). This wording is also wider than Annex I RV. However, the REC was not interpreted in such a way as to finance litigation. This again is evidence of the Commission's practice of applying a conservative interpretation of

potentially broader provisions. The fact that equivalent provisions were not included in the proposal for the RV programme can be understood to mean that the Commission does not intend offer more support for NGOs by comparison to the REC and EfC.

c) Under Annex I(b) RV, the purpose of mutual learning 'among stakeholders' should be 'to improve knowledge and mutual understanding and civic and democratic engagement'. This could be interpreted to mean that the only mutual learning activities that will be supported are those that are dedicated to helping NGOs improve their ability to engage in public mobilisation. However, this provision could also support less pertinent activities that are not geared towards providing practicable assistance to NGOs, such as academic research into civic engagement or offering guidance to governments that already have a healthy democracy on how to improve consultation with NGOs. In the absence of more express wording, it is unclear whether this activity will be used to support NGOs to mobilise public support in favour of Article 2 TEU values.

d) Annex I(h) RV sets out 'encouraging and facilitating active participation in the construction of a more democratic Union as well as awareness of rights and values through support to civil society organisations' as an eligible activity. The inclusion of awareness-raising of rights and values already exists in Article 4(2) (a) REC and was not interpreted in such a way as to fund awareness raising of Article 2 TEU values beyond limited substantive scope of the topics covered by the REC. Annex I(h) RV's reference to the 'construction of a democratic

Union' also appears to mirror Article 1(2)(b) EfC, which refers to improving 'conditions for civic and democratic participation at Union level'. It is possible that the wording of the RV programme proposal could be interpreted more broadly to include activities at national level, since improving democratic participation at Member State level could be said to contribute to a 'democratic Union'. However, this would mark a departure from current Commission practice. In the absence of express wording in support of activities at national level, it seems unlikely that the Commission would interpret an ambiguous provision in a way that would constitute a significant change to current practice. Finally, it should be noted that the activity under this provision is to be achieved 'through support to civil society organisations'. This could mean that funding under this activity will be directed exclusively at, or for the principal benefit of, NGOs. This is a positive development since it could lead to a greater portion of the funds being dedicated to NGOs.

e) Annex I(i) RV provides for financial support to implement the European Citizens' Initiative (ECI). This is a positive development that could be used to support NGOs running ECI campaigns. However, a more express provision would be needed to ensure that NGOs become the primary beneficiaries under this activity.

f) Annex I(j) RV states that the RV programme will support activities to develop 'the capacity of European networks to promote and further develop Union law, policy goals and strategies as well as supporting civil society organisations active in the areas covered by the Programme'. While the express mention of capacity building

is new, support for NGOs is also provided for in the text of the REC and EfC programmes. Thus, Article 5(b) REC also refers to 'support for NGOs in the implementation of actions with European added value', and support for 'European-level networks' as well as support 'for networking activities at European level' for a range of bodies such as 'NGOs, including support by way of action grants or operating grants'. Article 2(a) EfC also listed one of its objectives as the 'development of networks'. This means that the RV programme may well merely ensure the continuation of existing practices, rather than the creation of new forms of support. Operational grants for umbrella or network NGOs operating at EU level are also already made under the REC. Commission officials have recently made oral statements that these types of operational grants, destined for umbrella or network NGOs, will continue under the RV. Commission officials have also made oral statements that NGOs working on Article 2 TEU values at national level will not receive operational grants under the RV programme. This is discussed further below. As noted above, it is unlikely that the wording 'in the areas covered by this Programme' will be interpreted broadly to cover the RV programme's general objectives, but rather will be taken to refer to specific objectives under Article 3-5 RV.

It should also be noted that although 'strategic enforcement' and 'advocacy and watchdog' activities are mentioned in the preamble of the RV proposal (para. 18), these activities are not repeated as activities eligible for funding in Annex I RV, which is the operative part of the proposal. Furthermore, the preamble merely

notes that the EU should support NGOs that carry out these activities, rather than directly fund such activities.

In light of the above, it does not seem that the range or scope of activities to be supported by the RV programme would offer any improvement over what is already in place under the REC and EfC programmes. This is far from what was envisaged by the EVI, which would support NGOs to carry out advocacy, watchdog activities, monitoring and reporting to international supervisory mechanisms, public education, public mobilisation and capacity building for NGOs working at national level.

<p><b>Proposal for a Rights and Values Programme - Activities [Annex I]</b></p>	<p><b>Rights, Equality and Citizenship Programme - Actions and specific objectives [Articles 4 and 5]</b></p>	<p><b>Europe for Citizens Programme - Specific objectives and actions [Articles 2 and 3]</b></p>
<p>(a) awareness-raising, dissemination of information <b>to improve the knowledge of the policies and rights in the areas covered by the Programme</b></p>	<p>Article 4(2)</p> <p>(a) enhancing awareness and knowledge of Union law and policies as well as of the rights, values and principles underpinning the Union;</p> <p>(b) supporting the effective, comprehensive and consistent implementation and application of Union law instruments and policies in the Member States and the monitoring and evaluation thereof;</p> <p>Article 5(c)... awareness-raising and dissemination activities...</p>	

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<p>(b) mutual learning through exchange of good practices <b>among stakeholders to improve knowledge and mutual understanding and civic and democratic engagement</b></p>	<p>Article 4(2)(c) promoting cross-border cooperation, improving mutual knowledge and enhancing mutual trust among all stake holders;</p> <p>Article 5 (c) mutual learning, cooperation... awareness-raising and dissemination activities, such as the identification of, and exchanges concerning, good practices, innovative approaches and experiences;</p> <p>the organisation of peer reviews and mutual learning;</p> <p>the organisation of conferences, seminars, media campaigns, including in the online media, information campaigns, including institutional communication on the political priorities of the Union as far as they relate to the objectives of the Programme...</p>	

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<p>(c) analytical and monitoring activities to improve the understanding of the situation in the Member States and at EU level in the areas covered by the Programme as well as to improve the implementation of EU law and policies (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)</p>	<p>Article 4(2)(b) supporting the effective, comprehensive and consistent implementation and application of Union law instruments and policies in the Member States and the monitoring and evaluation thereof;</p> <p>Article 5 a) analytical activities, such as the collection of data and statistics; the development of common methodologies and, where appropriate, indicators or benchmarks; studies, researches, analyses and surveys; evaluations; the elaboration and publication of guides, reports and educational material; workshops, seminars, experts' meetings and conferences;</p>	
<p>(d) training relevant stakeholders to improve their knowledge of the policies and rights in the fields covered</p>	<p>Article 5(b) training activities, such as staff exchanges, workshops, seminars, train-the-trainer events and the development of online training tools or other training modules</p>	



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<p>(e) information and Communication Technology (ICT) tools development and maintenance</p>	<p>Article 5(c)... the development, operation and maintenance of systems and tools using information and communication technologies</p>	<p>Article 3(2) (a) Mutual learning and cooperation activities such as... — exchanges based, inter alia, on the use of information and communication technologies (ICT) and/or social media</p>
<p>(f) strengthening citizen's awareness of European culture, history and remembrance as well as their sense of belonging to the Union</p>		<p>Article 3(2) (a) Mutual learning and cooperation activities such as... — remembrance projects with a European dimension...  Article 1(2)(a) contribute to citizens' understanding of the Union, its history and diversity</p>
<p>(g) bringing together Europeans of different nationalities and cultures by giving them the opportunity to participate in town-twinning activities</p>		<p>Article 3(2)(a) Mutual learning and cooperation activities such as: — citizens' meetings, town-twinning, networks of twinned towns; — projects implemented by transnational partnerships including different types of stakeholders listed in Article 6...</p>

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<p>(h) encouraging and facilitating active participation in the construction of a more democratic Union as well as awareness of <b>rights</b> and values through support to <b>civil society organisations</b></p>	<p>Article 4(2)(a) enhancing awareness and knowledge of Union law and policies as well as of the rights, values and principles underpinning the Union;</p>	<p>Article 1(2)(b): foster European citizenship and to improve conditions for civic and democratic participation at Union level</p> <p>Article 2</p> <p>The Programme shall have the following specific objectives which shall be implemented through actions at transnational level or with a European dimension:</p> <p>(a): to raise awareness of remembrance, the common history and values of the Union and the Union's aim, namely to promote peace, the values of the Union and the well-being of its peoples, by stimulating debate, reflection and the development of networks;</p> <p>(b): to encourage the democratic and civic participation of citizens at Union level, by developing citizens' understanding of the Union policy making-process and promoting opportunities for societal and intercultural engagement and volunteering at Union level.</p>

<p><b>Proposal for a Rights and Values Programme - Activities [Annex I]</b></p>	<p><b>Rights, Equality and Citizenship Programme - Actions and specific objectives [Articles 4 and 5]</b></p>	<p><b>Europe for Citizens Programme - Specific objectives and actions [Articles 2 and 3]</b></p>
<p>(i) financing the technical and organisational support to implement Regulation [(EU)No 211/2011], thereby underpinning the exercise by citizens of the right to launch and support European citizens' initiatives</p>		
<p>(j) developing the capacity of European networks to promote and further develop Union law, policy goals and strategies as well as supporting civil society organisations active in the areas covered by the Programme</p>	<p>Article 5(d) support for main actors whose activities contribute to the implementation of the objectives of the Programme, such as support for NGOs in the implementation of actions with European added value, support for key European actors, European-level networks and harmonised services of social value; support for Member States in the implementation of Union law and policies; and support for networking activities at European level among specialised bodies and entities as well as national, regional and local authorities and NGOs, including support by way of action grants or operating grants</p>	<p>Article 2(a): to raise awareness of remembrance, the common history and values of the Union and the Union's aim, namely to promote peace, the values of the Union and the well-being of its peoples, by stimulating debate, reflection and the development of networks;</p>
<p>k) enhancing knowledge of the programme and dissemination and transferability of its results and fostering citizen outreach, including by setting up and supporting programme desks/ national contact network</p>	<p>Article 5 c)... the compilation and publication of materials to disseminate information about the Programme and its results;</p>	

## Accessibility of funds

The accessibility of funds under the proposal for the RV programme seems likely to continue to be as restrictive as under the REC and EfC programmes. Article 8 RV makes no reference to the adoption of an annual work-plan or implementing acts, nor does it mention co-financing rates, which are all mentioned in Article 9 REC and Article 8 EfC. It is unclear whether this will have any impact on how the programme is implemented in practice. Article 8 RV states that the programme 'shall be implemented in direct management in accordance with the Financial Regulation or in indirect management'. It is unclear whether the mention of indirect financial management is intended to allow the Commission to establish a means of re-granting through an intermediary in a similar way to fund operators under the NGO programme of EEA/Norway Grants, as was suggested in Liberties' policy paper. This appears not to be the case because Article 58(1)(c) of the Financial Regulation does not seem to allow foundations or NGOs to indirectly manage EU funds. This provision of the Financial Regulation would seem to allow indirect management by an international organisation such as the Council of Europe, which could prove to be a solution that would allow for funds to be distributed by an intermediary body that makes funds easier to access for NGOs. However, the wording of the proposal is so vague that it is not possible to determine the Commission's intentions.

Article 8(2) RV, unlike the Article 9 REC and Article 8 EfC, expressly states that 'any of the forms' of funding featured in the Financial

Regulation can be used under the RV programme. But it is unclear whether this means the Commission would adopt a more flexible interpretation of the Financial Regulation to facilitate access for NGOs.

Article 121(1) of the Financial Regulation allows operating grants to be given to finance:

*'a) an action intended to help achieve a Union policy objective;*

*'(b) the functioning of a body which pursues an aim of general Union interest or has an objective forming part of, and supporting, a Union policy ('operating grants').'*

Article 177 of the Rules of Application accompanying the Financial Regulation defines 'a body pursuing an aim of general Union interest' as:

*'(a) a body involved in education, training, information, innovation or research and study in European policies, any activities contributing to the promotion of citizenship or human rights, or an European standards body;*

*'(b) an entity representing non-profit bodies active in the Member States, in the candidate countries or in the potential candidate countries and promoting principles and policies consistent with the objectives of the Treaties.'*

Article 3 of the Treaty on European Union states that the 'Union's aim is to promote... its values'.

Based on the foregoing it seems difficult to agree with the Commission's longstanding position that it may not make operating grants to NGOs promoting fundamental rights, the rule of law and democracy and whose work is focused at national level. Nevertheless, the Commission has continued to interpret the Financial Regulation restrictively. Under the REC it has only made operational grants to umbrella or network NGOs, or to organisations whose work has a purely EU focus, like EU policy think tanks.

In the absence of more express language indicating a change in practice, it would seem that the Commission will continue to make only action grants to NGOs working at national level and reserve operating grants for umbrella and network NGOs, despite the fact that the Financial Regulation appears to allow otherwise. This does not meet the call on the Commission to create an EVI that facilitates access to EU funds for NGOs working at national and grassroots level.

<p><b>Proposal for a Rights and Values Programme - Forms of funding</b></p>	<p><b>Rights Equality and Citizenship Programme - Implementing measures [Article 9]</b></p>	<p><b>Europe for Citizens Programme - Implementation [Article 8]</b></p>
<p>Article 8 (1) The Programme shall be implemented in direct management in accordance with the Financial Regulation <b>or in indirect management</b> with bodies referred to in Article 61(1)(c) of the Financial Regulation.</p> <p>(2) The Programme may provide funding in <b>any of the forms laid down in the Financial Regulation.</b></p>	<p>Article 9 (1) The Commission shall implement the Programme in accordance with the Financial Regulation.</p> <p>(2) In order to implement the Programme, the Commission shall adopt annual work programmes in the form of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 10(2).</p> <p>(3) Each annual work programme shall implement the objectives of the Programme by determining the following:</p> <p>(a) the actions to be undertaken, in accordance with the general and specific objectives set out in Article 3 and Article 4(1), including the indicative allocation of financial resources;</p> <p>(b) the essential eligibility, selection and award criteria to be used to select the proposals which are to receive financial contributions in accordance with Article 84 of the Financial Regulation and with Article 94 of its Rules of Application;</p> <p>(c) the minimum percentage of annual expenditure to be allocated to grants.</p>	<p>Article 8 (1) The Commission shall implement the Programme in accordance with the Financial Regulation.</p> <p>(2) In order to implement the Programme, the Commission shall adopt annual work programmes by way of implementing acts in accordance with the advisory procedure referred to in Article 9(2). The annual work programmes shall set out the objectives pursued, the expected results, the method of implementation and the total amount of the financing plan. They shall also contain a description of the actions to be financed, an indication of the amount allocated to each action and an indicative implementation timetable. In relation to grants, the annual work programmes shall include the priorities, the essential evaluation criteria and the maximum rate of co-financing.</p>

## Budget

The budget of the proposed RV programme (Article 6 RV) falls far short of the amount requested for the EVI by civil society and by the European Parliament, which had called for the budget to match the EU's funding for NGOs to promote and protect Article 2 TEU values in third countries. This figure is estimated to be in the region of 2 billion EUR.<sup>8</sup> Furthermore, the range of entities that can access funding under the RV programme means that only a portion of the total budget will reach

NGOs. Under the RV programme any legal entity would be eligible for funding. Similarly to the REC (Article 6) and EfC (Article 6) programmes, the proposed RV programme (Article 12) would be open to a wide range of entities inside and outside the Member States, as well as international organisations. This stands in contrast to the EVI, which would have reserved funding for NGOs protecting and promoting Article 2 TEU values.

<b><i>Proposal for a Rights and Values Programme - Budget and eligible entities [Articles 6 and 12]</i></b>	<b><i>Rights Equality and Citizenship Programme - Participation and budget [Articles 6 and 7]</i></b>	<b><i>Europe for Citizens Programme - Access to the programme and budget [Articles 6 and 12]</i></b>
<p>Article 6</p> <p>641,705,000</p> <p>Article 12</p> <p>(2)(a) legal entities established in any of the following countries:</p> <ul style="list-style-type: none"> <li>• a Member State or an overseas country or territory linked to it;</li> <li>• a third country associated to the Programme [see Article 7];</li> </ul> <p>(b) any legal entity created under Union law or any international organisation;</p> <p>(3) An operating grant may be awarded without a call for proposals to The European Network of Equality Bodies (EQUINET) to cover expenditure associated to its permanent work programme.</p>	<p>Article 7</p> <p>439,473,000</p> <p>Article 6</p> <p>(1) Access to the Programme shall be open to all bodies and entities legally established in: [Member States and third countries detailed in (a)-(c)]</p> <p>(4) Access to the Programme shall be open to international organisations active in the areas covered by the Programme in accordance with the Financial Regulation and the relevant annual work programme</p>	<p>Article 12</p> <p>185,468,000</p> <p>Article 6</p> <p>The Programme shall be open to all stakeholders promoting European citizenship and integration, in particular local and regional authorities and organisations, twinning committees, European public policy research organisations (think-tanks), civil society organisations (including survivors' associations), and cultural, youth, educational and research organisations.</p> <p>[See Article 7 re. third countries]</p>

## ***Concluding remarks***

In essence, the Commission has ensured a simple continuation of the REC and EfC programmes while superficially applying the label of 'values' to the replacement funding programme. While the REC and EfC programmes support important work, the threat posed by the rise of populist authoritarianism is such that the EU must urgently direct resources towards creating grassroots support for Article 2 TEU values. Public support for these values constitutes the foundation on which EU law and policy is built. Dedicating EU funding for the objectives of the EfC and REC will become a fruitless exercise if public opinion in the Member States continues to question deeper, prior issues such as the very nature of pluralist democracy, the need for fundamental rights, the desirability of independent courts or the benefits of an EU that promotes progressive values. The EVI would allow the EU to secure its fundamental values in public opinion. Given the political tide, the upcoming Multiannual Financial Framework may represent the EU's last chance to make such an important investment before progressive governments find themselves outnumbered.



## Notes

- 1 Proposal for a Regulation establishing the Rights and Values programme, COM(2018) 383 final, 30 May 2018; Annexes to the Proposal for a Regulation establishing the Rights and Values programme, COM(2018) 383 final, 30 May 2018, Annexes 1 to 2.
- 2 Regulation 1391/2013 establishing a Rights, Equality and Citizenship Programme 2014-2020 (OJ L 354, 28 December 2013, p. 62).
- 3 Regulation 390/2014 establishing the 'Europe for Citizens' programme 2014-2020 (OJ L 115, 17 April 2014, p. 3).
- 4 European Parliament resolution of 13 April 2018 on the need to establish a European Values Instrument to support civil society organisations which promote fundamental values within the European Union at local and national level (2018/2619(RSP)).
- 5 See, for example, calls from [Civil Society Europe](#), the [Batory Foundation](#) and the [Human Rights and Democracy Network](#).
- 6 Butler, I., 'Two proposals to promote and protect European values through the Multiannual Financial Framework: Conditionality of EU funds and a financial instrument to support NGOs', [Civil Liberties Union for Europe](#), March 2018.
- 7 European Commission, [Fact Sheet on EU Justice, Rights and Values Fund](#), 30 May 2018.
- 8 Butler, I., 'Two proposals to promote and protect European values through the Multiannual Financial Framework: Conditionality of EU funds and a financial instrument to support NGOs', [Civil Liberties Union for Europe](#), March 2018, pp 21-22.

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