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NOTE

From:	Presidency
To:	Delegations
Subject:	Overview of the current legislative proposals under the Romanian Presidency

Delegations will find attached the state of play of current Justice and Home Affairs legislative items in view to the JHA Council meeting on 6/7 June 2019.

Information from the Presidency on current legislative proposals

Directive on the Supply of Digital Content

After intensive work, The Romanian Presidency finalised the negotiations with the European Parliament during January 2019. The Council formally adopted the proposal, as an “I/A” item, on 15th April 2019. This formal adoption marked the end of the ordinary legislative procedure. Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services (Text with EEA relevance) was published in the Official Journal L 136 from 22.5.2019 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2019:136:TOC>). Member States will have to adopt the transposition measures by 1st July 2021. They shall apply those measures from 1st January 2022.

Amended Directive on the sales of goods

After intensive work, The Romanian Presidency finalised the negotiations with the European Parliament during January 2019. The Council formally adopted the proposal, as an “I/A” item, on 15th April 2019. This formal adoption marked the end of the ordinary legislative procedure. Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC (Text with EEA relevance) was published in the Official Journal L 136 from 22.5.2019 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2019:136:TOC>). Member States will have to adopt the transposition measures by 1st July 2021. They shall apply those measures from 1st January 2022.

Insolvency Directive

The Council will formally adopt, at its meeting on the 6th June 2019, as an “I/A” item, the directive on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures. This marks the end of the legislative procedure with regard to this proposal and publication in the Official Journal (OJ) will follow in due course.

Recast of the Brussels IIa Regulation

On 30th June 2016, the European Commission submitted to the Council and to the European Parliament the proposal for a Council Regulation on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast) (the 'Brussels IIa Recast Regulation').

The proposal is subject to the special legislative procedure of Article 81(3) of the Treaty on the Functioning of the European Union and requires the Council to act by unanimity, after consultation of the European Parliament.

The Council reached a General Approach on the operative part of the Recast Regulation and the most relevant recitals on 7th December 2018 (see doc. 15401/18). Under the Romanian Presidency, a General Approach was reached on the preamble and the nine certificates to be annexed to the Regulation. The linguistic revision by lawyer-linguists has also been carried out, and the final adoption of the recast by the Council, as an "I/A item", is expected to take place in June 2019.

The European Parliament delivered its opinion on the Commission proposal on 18th January 2018. The European Parliament issued a second opinion on the text of the General Approach from December 2018 on 14th March 2019.

Proposal for Directive on the protection of whistleblowers

The negotiations with the European Parliament were successfully closed in March 2019. The draft directive is under lawyer-linguists review and is to be formally adopted thereafter. The new instrument will ensure a high level of protection for the whistleblowers as well as effective mechanisms to report breaches of EU law. The Member States will have two years in order to implement the new provisions.

MFF Justice Programme

Based on the partial mandate of December 2018 the RO Presidency finalised the negotiations with the European Parliament reaching a common understanding on 5th March 2019.

The common understanding was confirmed by COREPER on 13th March 2019 and by the European Parliament during its plenary of April 2019.

 **MFF Rights and Values**

Based on the partial mandate of December 2018, as extended by COREPER to the new strand related to the Union values, the RO Presidency finalised the negotiations with the European Parliament reaching a common understanding on 6th March 2019.

The common understanding was confirmed by COREPER on 13th March 2019 and by the European Parliament during its plenary of April 2019.

 **Directive on non-cash payment fraud**

The Directive (EU) 2019/713 of the European Parliament and of the Council of 17 April 2019 on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA has been published in OJ L 123, of 10.5.2019, p. 18 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2019:123:TOC>). Member States will have to adopt the transposition measures by 31st May 2021.

 **Directive on legal representatives for gathering evidence in criminal proceedings**

The Council reached a General Approach on the proposal for a Directive laying down harmonised rules for the purpose of gathering evidence in criminal proceedings on 8th March 2019. This text will represent the basis for the discussions during the trilogues phase of the legislative procedure, once the European Parliament would have adopted its position on the proposal.

 **Regulation on European Production and Preservation Orders for electronic evidence in criminal matters (E-evidence Regulation)**

Once the General Approach on the proposal for a Regulation on European Production and Preservation Orders for electronic evidence in criminal matters has been reached by the Council on 7th December 2018, and bearing in mind that the Parliament position was not ready, the Council continued under the Romanian Presidency the discussions at technical level on the certificates set out in the annexes to the legislative proposal, aiming to improve these forms. To this end, the views of practitioners, expressed by Eurojust, the European Judicial Network and the European Judicial Cybercrime Network, have been taken into account together with the suggestions made by delegations. The outcome of these fruitful discussions is presented for adoption (“I/A” item) to the Council at its meeting of 6-7 June 2019, as a supplement to the General Approach reached on the proposed regulation.



New European Border and Coast Guard Agency Regulation

The LIBE Committee adopted its report on 11 February 2019 and the Romanian Presidency obtained the mandate to enter into interinstitutional negotiations with the European Parliament at COREPER on 20 February 2019. Following very intense negotiations, a provisional political agreement reached on 28 March 2019, which was confirmed by COREPER on 1st April and by the LIBE Committee on 2nd April and voted by the plenary on 17 April 2019. The text is currently being revised by the lawyer linguists and after the summer the revised version will be voted by the European Parliament and by the Council. The Regulation is expected to enter into force in Autumn this year.



ETIAS consequential amendments

On 7 January 2019, the Commission presented two proposals including consequential amendments to the legislative acts of the EU information systems queried by ETIAS, with the aim to set out the technical changes necessary for the proper functioning of ETIAS

The proposals were examined by the Working Party on Frontiers on 23 January, 26 February and 11 April 2019 and by the JHA Counsellors (Frontiers) on 3 and 16 May 2019. The file was submitted to COREPER, which took note on 13 February of the fact that ETIAS is allowed to query ECRIS-TCN for the purpose of assessing the travel authorisation. On 22 May 2019 the mandate for negotiations with the European Parliament was approved by COREPER. Due to the fact that EP neither nominated a rapporteur or approved a report, the file will be handled in the trilogue phase by the incoming Presidency.



Interoperability Package

With the objective of adopting the file under the current parliamentary term, the negotiations had to be continued and finalised in a very short time during RO Presidency while preserving the mandate of the Council. The political agreement reached on 5 February on the legislative package was approved by COREPER on 13 February and followed by a vote in LIBE on 19 February.

The agreed texts were adopted by the European Parliament and the Council, published in the Official Journal of the EU on 22 May and will enter into force on 11 June 2019.

Law enforcement access to financial information

Four trilogues were held on this file , resulting in an agreement on 12 February 2019, which was confirmed by COREPER on 20 February 2019. On 17 April 2019 the EP adopted its position at first reading on the Directive laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences and repealing Council Decision 2000/642/JHA. This position reflects the compromise agreement reached between the three institutions during the last informal trilogue on 12 February 2019.

The text of the Directive will be submitted to COREPER on 5 June 2019 and for adoption to the Council on 14 June 2019.

ID Cards security

Three trilogues were held under the Romanian Presidency , resulting in an agreement on 19 February 2019. LIBE Committee voted the agreed text on 11 of March and EP Plenary on 4 April 2019. The Council will adopt the text on 6th of June. The Regulation will be signed in June and enter into force in July 2019.

European network of immigration liaison officers (ILO)

On 16 April 2019 the EP Plenary adopted its position at first reading on the Commission proposal "Proposal for a Regulation of the European Parliament and of the Council on the creation of a European network of immigration liaison officers (recast)". This position reflects the compromise agreement reached in trilogues between the three institutions on 18 February 2019. The text of the Regulation will be submitted to COREPER on 5 June 2019 and will be an "A" item for the Council on 14 June 2019. The Regulation will be signed in June and enter into force in July 2019.

Visa Code Regulation

The Council mandate on the proposal for a Regulation amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code) was adopted by COREPER on 19 June 2018.

The interinstitutional negotiations started on 13 December 2018. Three political trilogues were held between 13 December 2018 and 31 January 2019. Technical negotiations continued after that, and on 20 February 2019, COREPER confirmed the political agreement. On 26 February 2019 LIBE Committee voted the agreed text and on 17 April 2019 the EP Plenary voted the text. The Regulation is expected to be adopted by the Council on 6 June 2019. It will be signed later in June and enter into force in July 2019.

Visa Information System

A revision of the VIS regulation was presented by the Commission on 16 May 2018, updating Regulation 767/2008. The proposed revision among others extends the scope of VIS to include long-term visas and residence permits and improves the interoperability with other EU information systems. After a first discussion under the Bulgarian Presidency, seven meetings at Working party level were held by the Presidency, a mandate for interinstitutional negotiations was approved on 19 December 2018. In the EP a draft report was presented to the LIBE Committee on 5 November 2018. The EP Plenary voted the draft report on March 2019. Taking into count that the actual EP legislature finalized in April, it was not enough time to start the interinstitutional negotiations. The Visa Working Party has been analyzing the EP amendments with a view to preparing the file for the negotiations with the new EP.

UK Visa proposal (Regulation 539/2001)

On 13 November 2018 the Commission tabled a proposal amending Regulation 539/2001 with a view to exempt UK nationals who are British citizens from any visa requirement for short stays in the EU, upon the condition that the UK also grants reciprocal and non-discriminatory visa-free travel to EU citizens travelling to the UK after its withdrawal from the EU. COREPER approved the mandate for interinstitutional negotiations on 1 February 2019. . Six trilogues took place until 3 April 2019 when the Council and European Parliament reached the political agreement. The agreed text was voted by the European Parliament on 4 April and adopted by the Council on 9 April 2019.. On 12 April the Regulation was published in the EU Official Journal.

Removal of Terrorist Content Online

Following a call by the European Council in June 2018, the Commission submitted the proposal on 12 September 2018 . Discussions started in the Terrorism Working Party on 25 September 2018 and the Council agreed on a general approach on 6 December 2018 .The EP report on the Commission proposal for a Regulation on preventing the dissemination of terrorist content online was voted in the LIBE Committee on 8 April, after two postponements. The EP position in first reading was approved on 17 April 2019, at its last plenary session. Trilogues can start after the new Parliament is in place and the EP position is reconfirmed.

Schengen Borders Code

On 27 September 2017, the Commission tabled a Communication on preserving and strengthening Schengen, which was accompanied by a proposal for amending the Schengen Borders Code (SBC).

The mandate for interinstitutional negotiations was adopted by COREPER on 19 June 2018, while the European Parliament adopted its position on 29 November 2018. Two trilogues took place, on 12 December 2018 and on 30 January 2019. At COREPER on 6 February 2019 possible compromise solutions were not supported by the Member States and consequently no further trilogue took place. On 4 of April the EP adopted its position in first reading.

Blue Card Directive

On 11 January 2019, Romanian Presidency presented a compromise package with a view to continuing negotiations on the proposal. The Presidency's compromise proposal, as an approach, was in general supported by Member States and it was presented to the European Parliament. Subsequently, the European Parliament informed the Presidency that, following discussions at a Shadows' meeting, substantial negotiations on the proposal could not take place on the basis of that compromise package.

Common European Asylum System (CEAS)

On 4 May and 13 July 2016, the Commission submitted seven legislative proposals aimed at reforming the Common European Asylum System (CEAS). This package included the recast of the Dublin Regulation and of the Eurodac Regulation, a proposal for a Regulation on the establishment of the European Union Agency for Asylum (EUAA), a proposal for a Regulation establishing a Common Procedure for International Protection in the EU, a proposal for a Qualification Regulation, the recast of the Reception Conditions Directive and a proposal for a Regulation establishing a Union Resettlement Framework.

A progress report detailing the state of play on current legislative proposals under the CEAS reform was presented at the last JHA Council in March (6600/2019). Since then, the Presidency continued discussions on the Asylum Procedure Regulation with a view to accommodating several positions of the Member States regarding border procedure and the definition of final decision. The Presidency's compromise proposals have not received necessary support, therefore a general approach is not feasible to be obtained during this time.

 **Union Civil Protection Mechanism (UCPM)**

The Council examined the new MFF - related legislative proposal, presented by the European Commission in March 2019, which establishes the financial envelope of the Union Civil Protection Mechanism for 2021-2027. Negotiations focused on solutions to adjust the investments in prevention, preparedness and response to disasters in a flexible manner, necessary due to the unpredictable nature of disasters.
