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NOTE

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

Delegations will find attached the state of play of ongoing legislative files in the area of Justice and Home Affairs in preparation for the meeting of the Justice and Home Affairs Council on 13 and 14 June 2024.

INFORMATION FROM THE PRESIDENCY ON**CURRENT LEGISLATIVE PROPOSALS****HOME AFFAIRS****Legislative proposals in the area of security****Regulation on enhancing police cooperation in the fight against migrant smuggling and trafficking in human beings**

The Commission proposed a legislative package to counter migrant smuggling on 28 November 2023. This comprises a directive on criminal law and a Regulation, which enhances police cooperation, as well as Europol's support in the area of migrant smuggling and trafficking in human beings, in particular by codifying the establishment of the European Centre Against Migrant Smuggling (EMSC) within Europol and reinforcing Europol's resources. The proposal was discussed at the LEWP-Police meetings on 1 December 2023, 19 January 2024, 16 February, 30 April, 8 May and 3 June.

Following the presentation of Commission's staff working document, serving as a partial substitution for an impact assessment requested by Member States, the Presidency identified several building blocks having majority support from delegations and narrowing down the Commission proposal to a targeted amendment of the Europol Regulation. Some provisions concerning the deployment of guest officers and the information exchange need to be further discussed with the view of finalising a Council's negotiating mandate.

In the European Parliament, LIBE is the lead committee and the rapporteur is Jeroen Lenaers (EPP, NL). No draft report has been tabled yet.

Regulation on situations of instrumentalisation in the field of migration and asylum

On 14 December 2021, the Commission presented its proposal for a Regulation addressing situations of instrumentalisation in the field of migration and asylum. The proposal was discussed in the Council's Asylum Working Party, as well as at JHA Counsellor level in 2022. Coreper did not approve a partial general approach on 7 December 2022. Further discussions on the proposal took place at the informal Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) on 20 April 2023.

In the European Parliament, rapporteur Mr Patryk Jaki (ECR, PL) presented his draft report to the LIBE Committee on 11 September 2023.

Meanwhile, the scope of the Crisis and *force majeure* regulation, which was adopted on 14 May 2024, includes situations of instrumentalisation.

Decision on provisional emergency measures for the benefit of Latvia, Lithuania and Poland

The Commission presented its proposal for a Council Decision on interim emergency measures for Latvia, Lithuania and Poland on 1 December 2021. The Council's Asylum Working Group began examining the proposal in January 2022. The text was discussed in Coreper in February 2022, but the Member States did not reach an agreement. Negotiations have not resumed since.

In the European Parliament, Ms Cornelia Ernst (GUE/NGL, DE) was appointed rapporteur for the file and LIBE is the lead committee.

Return Directive

The proposal for a recast of the Return Directive, submitted by the Commission in September 2018, was discussed in the Council's Working Party on Integration, Migration and Expulsion. A partial general approach was adopted by the Council on 7 June 2019, excluding the article on border return procedures (which was moved by the Commission to the Asylum Procedure Regulation proposed in September 2020 and now is contained in the Regulation 2024/1349 of 14 May 2024 on the border return procedure).

Ms Tineke Strik (Greens/EFA, NL) is rapporteur for the file, and LIBE is the lead committee. The European Parliament has not adopted its negotiating mandate. As a result, no negotiations with the European Parliament took place.

Long-Term Residents Directive

On 27 April 2022, the Commission presented a recast of the Directive concerning the status of third-country nationals who are long-term residents (known as the LTR Directive). The current Long-Term Residents Directive dates back to 2003 (Council Directive 2003/109/EC of 25 November 2003).

After several discussions in the Council's Working Party on Integration, Migration and Expulsion – Admission (IMEX Admission) and by the JHA Counsellors (IMEX – Admission), Coreper adopted a negotiating mandate on 23 November. Two political trilogues took place (30 November 2023 and 16 January). In February 2024, the interinstitutional negotiations were halted.

In the European Parliament, the LIBE Committee voted for the report by rapporteur Mr Damian Boeselager (Greens/EFA, DE) on 28 March 2023, a result confirmed by the Plenary on 19 April 2023.

Regulation amending the Visa Regulation as regards the visa suspension mechanism

On 18 October 2023, the Commission presented a proposal aimed at amending Regulation (EU) 2018/1806 as regards the visa suspension mechanism. On 13 March 2024, Coreper approved the Council mandate.

In the European Parliament, Mr Matjaž Nemec (S&D, SI) was appointed rapporteur and the LIBE Committee is the lead committee. The rapporteur was unable to reach an agreement with the other political groups on a compromise text for a report.

Regulation amending the Visa Regulation as regards holders of Serbian passports issued by the Serbian Coordination Directorate (*Koordinaciona uprava*)

On 16 November 2023, the Commission presented a proposal aimed at amending Regulation (EU) 2018/1806 to grant visa exemptions to holders of Serbian passports issued by the Serbian Coordination Directorate (i.e. Serbs residing in Kosovo), thereby ensuring that all citizens of the Western Balkans region benefit from visa-free travel to the Schengen area. On 14 February 2024, Coreper reached an agreement on the Council mandate, which made no changes to the Commission proposal. On 9 April 2024, the LIBE committee also voted the unaltered Commission proposal. On 10 April 2024, Coreper confirmed the political agreement between the two co-legislators on the text of the Commission proposal. On 23 April 2024, the EP adopted its position at first reading after a partial legal-linguistic finalisation. In the EP the so-called “corrigendum” procedure will apply, and the regulation is expected to be adopted in the autumn after a full legal-linguistic revision.

Regulations on the collection and transfer of advance passenger information (API) for enhancing and facilitating external border controls and for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

On 13 December 2022, the Commission published two proposals for Regulations on API. A presentation of the proposals took place in the Working Party on Frontiers on 19 December 2022 and in the Working Party on JHA Information Exchange (IXIM) on 20 December of that year. Both proposals were examined on numerous occasions in IXIM. A negotiating mandate for both proposals was adopted by Coreper on 21 June 2023.

LIBE is the lead committee in the European Parliament. The rapporteur for the border management proposal is Mr Jan-Christoph Oetjen (Renew Europe, DE), and the rapporteur for the law enforcement proposal is Ms Assita Kanko (ECR, BE). The European Parliament adopted its negotiating position in December 2023.

Following successful trilogue negotiations under Belgian Presidency, Coreper confirmed the final compromise text on 13 March 2024 and the European Parliament voted on its first position reading in their final Plenary in April. The file is currently undergoing legal linguistic revision and is expected to be voted by the European Parliament in the autumn in the so-called “corrigendum” procedure .

Regulation amending the Visa Regulation as regards Vanuatu

On 31 May 2024, the Commission submitted a proposal for a Regulation amending Regulation 2018/1806 as regards Vanuatu, together with a report on the suspension of the visa exemption for nationals of Vanuatu as well as a Commission Delegated Regulation amending Regulation 2018/1806 as regards the extension of the temporary suspension of the visa exemption for nationals of Vanuatu. The purpose of the proposal is to transfer the reference to Vanuatu from Annex II to Annex I, thereby reintroducing permanently the visa requirement for nationals of Vanuatu. The proposal will be discussed by the JHA Counsellors on 10 June 2024.

JUSTICE

Regulation on the law applicable to the third-party effects of assignments of claims

The proposal for a Regulation on the law applicable to the third-party effects of assignments of claims was submitted by the Commission on 12 March 2018.

The objective of the proposal is to increase cross-border transactions in claims and, thereby, facilitate access to finance by ensuring greater legal certainty for investors when dealing with cross-border transactions of claims.

The proposal is being dealt with by the Working Party on Civil Law Matters.

The Council reached a general approach on 7 June 2021. Interinstitutional negotiations started under the Slovenian Presidency but have been halted since 8 March 2022, when the last technical meeting took place. Letters were subsequently exchanged to find a way forward. JHA Counsellors discussed the file on 14 May. Discussions with the Parliament will resume after the elections.

Directive on liability for defective products

On 28 September 2022, the Commission presented a proposal for a revised Product Liability Directive.

The objective of the proposal is to adapt the liability regime established through the Product Liability Directive of 1985 to the digital age, the circular economy and the impact of global value chains.

The proposal was dealt with in the Working Party on Civil Law Matters.

A mandate for negotiations was approved in Coreper on 14 June 2023.

The European Parliament adopted its position in Plenary on 18 October.

A provisional agreement was reached at the trilogue of 14 December 2023.

Coreper confirmed agreement on the final compromise text on 24 January 2024.

The European Parliament adopted its position at first reading on 12 March 2024.

The file is currently undergoing legal linguistic revision and is expected to be voted by the European Parliament in the autumn in the so-called “corrigendum” procedure .

AI Liability Directive

On 28 September 2022, the Commission presented a proposal for a Directive on adapting non-contractual civil liability rules to artificial intelligence (AI Liability Directive).

The objective of the proposal is a minimum harmonisation of selected aspects of national rules on non-contractual civil liability for AI in order to make it easier for victims of AI-related damage to receive compensation.

The proposal is being dealt with in the Working Party on Civil Law Matters. Discussions on that file were on hold since January 2023, pending an agreement on the closely linked AI Act. The Presidency held a Working Party meeting on 17 May to discuss the impact of the now finalised AI Act and Product Liability Directive on the proposal for an AI Liability Directive and to have an exchange of views.

Regulation on the transfer of proceedings in criminal matters

On 5 April 2023, the Commission submitted a proposal for a regulation on the transfer of proceedings in criminal matters. The proposal establishes common rules for the transfer of criminal proceedings from one Member State to another.

The proposal was dealt with in the Working Party on Judicial Cooperation in Criminal Matters (COPEN).

A general approach was approved in the Council on 4 Decembre 2023.

A provisional agreement was reached at the trilogue of 6 March 2024.

Coreper confirmed agreement on the final compromise text on 20 March 2024.

The European Parliament adopted its position at first reading on 23 April 2024.

The file is currently undergoing legal linguistic revision and is expected to be voted by the European Parliament in the autumn in the so-called “corrigendum” procedure.

Regulation on the protection of adults

On 31 May 2023, the Commission submitted a proposal for a Regulation on jurisdiction, applicable law, recognition and enforcement of measures and cooperation in matters relating to the protection of adults.

The main objective of the proposal is to protect the rights, including fundamental rights, of vulnerable adults. This would be achieved by increasing legal certainty for the general public and public authorities involved, facilitating the cross-border recognition of protection measures and powers of representation, making proceedings faster and less expensive. The proposal is linked to a Council decision authorising Member States to become or remain parties, in the interest of the European Union, to the Convention of 13 January 2000 on the International Protection of Adults.

The proposal was presented in June in the Working Party on Civil Law Matters under the Swedish Presidency. The first technical examination of the Regulation remains ongoing in the Working Party.

Directive on minimum rules to prevent migrant smuggling

On 28 November 2023, the Commission submitted a proposal for a Directive laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council Directive 2002/90/EC and Council Framework Decision 2002/946 JHA

The objective of the proposal is to clearly define and effectively sanction the offence of migrant smuggling, in line with the UN Protocol against the Smuggling of Migrants by Land, Sea and Air. It aims, in particular, to ensure the effective investigation, prosecution and sanctioning of organised criminal networks responsible for migrant smuggling, provide more harmonised penalties that take account of the seriousness of the offence, improve the jurisdictional reach and reinforce Member States' resources to tackle and prevent migrant smuggling.

The proposal is being dealt with in the Working Party on Judicial Cooperation in Criminal Matters (COPEN).
