



Council of the
European Union

Brussels, 11 October 2022
(OR. en)

13107/22

JAI 1264
COMIX 453

NOTE

From: Presidency
To: Delegations

Subject: Overview of the current legislative proposals under the Czech 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 October 2022.

INFORMATION FROM THE PRESIDENCY ON

CURRENT LEGISLATIVE PROPOSALS

HOME AFFAIRS

Legislative proposals in the area of security

Directive on information exchange between law enforcement authorities

The Commission submitted the proposal on 8 December 2021 with the aim to improve rules on exchange of information in order to prevent and combat crime, in particular by establishing single national contact points, strengthening IT support for data transmission and case management, and shortening time limits for replies. The Council reached a general approach on 10 June 2022.

The European Parliament appointed Ms Lena DÜPONT (EPP, DE) as rapporteur, who presented her draft report at the LIBE Committee meeting on 27 June 2022. Members of the European Parliament tabled their amendments to the rapporteur's draft report, which was presented again at the LIBE Committee meeting on 10 October 2022. The European Parliament is expected to adopt its position in late October and the trilogues should start soon afterwards.

Regulation Prüm II

The Commission submitted the proposal on 8 December 2021. The draft Regulation builds on the 2008 Prüm Decisions by providing for a semi-centralised IT architecture, where databases of Member States and Europol are linked to central routers. The general approach was adopted by the Council on 10 June 2022.

The European Parliament has appointed Mr Paulo Rangel (EPP, PT) as rapporteur. Mr Rangel's draft report was presented at the LIBE Committee meeting on 10 October 2022. The European Parliament is not expected to deliver its opinion before December this year.

Resilience of critical entities

On 16 December 2020, the Commission presented its proposal for a Directive aimed at enhancing the resilience of critical entities that provide services essential for vital societal functions or economic activities in the internal market. The European Parliament adopted its position on 20 October 2021, which was followed by the adoption of a general approach in the Council on 20 December 2021. The political trilogue under the French Presidency was concluded on 28 June 2022, when the political agreement on the final compromise text of the Directive was reached.

Under the Czech Presidency, the wording of all articles and recitals was finalised at the technical meeting with the European Parliament on 1 September 2022. The final compromise text was subsequently discussed by the PROCIV-CER Working Party on 14 September 2022 and subsequently confirmed by Coreper on 21 September 2022. Currently, the text of the Directive is under lawyer-linguist revision and is foreseen to be voted by the LIBE committee on 10 October 2022. After the finalisation of the legal-linguist revision, the final text of the Directive will be submitted for adoption to the EP Plenary and subsequently to the Council. This will be followed by the signature by EP and Council and its publication in the Official Journal, which is expected in December 2022.

Proposal for a regulation laying down rules to prevent and combat child sexual abuse

The Commission presented its proposal for a regulation on 11 May 2022. Chapters I, II and III are under examination by the Law Enforcement Working Party (LEWP). Based on the comments of the Member States, the Presidency tabled a first revision of Chapters I and II. The Presidency plans to conclude the first reading of all Chapters and to present further revisions of Chapters I, II and III.

The Commission prepared a comparative analysis of the proposal with other EU legislation such as the Digital Services Act, the Terrorism Content Online Regulation, the ePrivacy Regulation and the GDPR.

Mr Javier Zarzalejos (EPP, ES) has been appointed as a rapporteur of the European Parliament for this proposal.

Screening Regulation

On 23 September 2020, the Commission presented its proposal for a Regulation introducing a screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817. In the Council, after an examination by the Working Party on Frontiers, and subsequently by the JHA Counsellors under the German, Portuguese, Slovenian and French Presidencies, a negotiating mandate was adopted by Coreper on 22 June 2022 as part of the ‘first step’ of the gradual approach initiated by the French Presidency.

In the European Parliament, the file is currently being negotiated in the LIBE Committee. Rapporteur, Ms Birgit Sippel, (S&D, DE), presented her draft at the LIBE meeting on 30 November 2021. Members of the European Parliament have tabled their amendments to the rapporteur’s draft, which now needs to be presented again to the LIBE Committee.

Screening amendment for consistency

On 2 March 2021, the Commission presented a proposal for a Regulation amending Regulation (EU) 2019/816 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) and Regulation (EU) 2019/818 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 for the purpose of introducing a screening of third-country nationals at the external borders. After an examination by the Working Party on Frontiers and subsequently by the JHA Counsellors under the Portuguese, Slovenian and French Presidencies, a negotiating mandate was adopted on 29 June 2022.

In the European Parliament, the file is currently being negotiated in the LIBE Committee. Rapporteur, Ms Birgit Sippel, (S&D, DE), presented her draft at the LIBE meeting on 30 November 2021. Members of the European Parliament have tabled their amendments to the rapporteur’s draft, which now needs to be presented again to the LIBE Committee.

Schengen Borders Code

On 14 December 2021 the Commission presented a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).

On 10 June 2022 the Home Affairs Council adopted a general approach on this proposal.

The European Parliament has appointed Ms Sylvie Guillaume (FR, S&D) as rapporteur.

EURODAC Regulation

On 23 September 2020, the Commission presented its amended proposal for a Regulation on the establishment of EURODAC for the comparison of biometric data of third-country nationals. The text is currently being negotiated in the Council's Asylum Working Party. The Council's negotiating mandate was adopted by Coreper on 22 June 2022. The Council is ready to start trilogues as soon as the European Parliament adopts its position.

In the European Parliament, the draft report submitted in March 2021 by rapporteur Mr Jorge Buxade Villalba (ECR, ES), has not yet been approved in the LIBE Committee.

Regulation on Asylum and Migration Management

On 23 September 2020, the Commission presented its proposal for a Regulation on asylum and migration management. The third technical reading was finalised in the Council's Asylum Working Party under the Slovenian Presidency. Since then, the negotiations on the legislative text have been on hold. Recently, the Czech Presidency came up with a new proposal for a permanent solidarity mechanism which was introduced on 16 September 2022 at the JHA Counsellors meeting with a view to preparing a legislative text afterwards.

In the European Parliament, rapporteur Mr Tomas Tobé (EPP, SE) presented his report to the LIBE Committee on 26 October 2021. Members of the European Parliament have tabled their amendments to the rapporteur's draft, which now needs to be presented again to the LIBE Committee.

Asylum Procedure Regulation

On 23 September 2020, the Commission presented its amended proposal for a Regulation establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU. The text is currently being negotiated in the Council's Asylum Working Party under the Czech Presidency with the aim to conclude negotiations on the majority of its provisions.

In the European Parliament, rapporteur Ms Fabienne Keller (Renew Europe, FR) presented her report to the LIBE Committee on 26 October 2021. Members of the European Parliament have tabled their amendments to the rapporteur's draft, which now needs to be presented again to the LIBE Committee.

Regulation on crisis situations

On 23 September 2020, the Commission presented its proposal for a Regulation addressing situations of crisis and force majeure in the field of migration and asylum. The examination of the provisions of the proposal has not yet begun in the Council's Asylum Working Party.

In the European Parliament, rapporteur Mr Juan Fernando Lopez Aguilar (S&D, ES) presented his report to the LIBE Committee on 30 November 2021. Members of the European Parliament have tabled their amendments to the rapporteur's draft, which now needs to be presented again to the LIBE Committee.

Instrumentalisation Regulation

The proposal for a Regulation was presented by the Commission on 14 December 2021 with the aim to counter the growing role of State and non-State actors in artificially creating and facilitating irregular migration. The first presentation of the proposal took place on 15 March 2022 in the Council's Asylum Working Party. The Czech Presidency has begun discussing the proposal in the Asylum Working Party, where the second compromise proposal will be discussed on 11 October 2022. The goal of the Presidency is to finalise the text, with a view to establishing the Council's negotiating mandate.

In the European Parliament, Mr Patryk Jaki (ECR, PL) was appointed rapporteur for the file. His report is yet to be presented to the LIBE Committee.

Resettlement Regulation

On 13 July 2016, the Commission submitted a proposal for a Regulation establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council. The text was discussed in the Council's Asylum Working Party and in the European Parliament's LIBE Committee (rapporteur Ms Malin Björk, (GUE/NGL, SE)). A provisional agreement was achieved with the European Parliament on 13 June 2018 and presented to Coreper on 19 June 2018. However, this provisional agreement was not approved by Coreper and the negotiations have not resumed since May 2019.

Qualification Regulation

On 13 July 2016, the Commission presented its proposal for a Regulation on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents. The proposed Regulation intends to replace the Qualification Directive. The text was discussed in the Council's Asylum Working Party and in the European Parliament's LIBE Committee (rapporteur Ms Tanja Fajon (S&D, SI), temporarily replaced by Matjaž Nemeč (S&D, SI)). A partial mandate for negotiations with the European Parliament was reached in Coreper on 19 July 2017 and was extended several times in 2017 and 2018.

A provisional agreement was achieved with the European Parliament on 14 June 2018 and presented to Coreper on 19 June 2018. However, this provisional agreement was not approved by Coreper and negotiations have not resumed since.

Reception Conditions Directive

On 13 July 2016, the Commission presented its proposal for a Directive laying down standards for the reception of applicants for international protection (recast). The text was discussed in the Council's Asylum Working Party. The Council's negotiating mandate was adopted by Coreper on 29 November 2017. Ms Sophia in 't Veld (Renew Europe, NL) has been appointed as a rapporteur of the European Parliament for this proposal. A provisional agreement was achieved with the European Parliament on 14 June 2018 and presented to Coreper on 19 June 2018. However, this provisional agreement was not approved by Coreper and negotiations have not resumed since.

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). Ms Tineke Strik (Greens/EFA, NL) has been appointed rapporteur for the file. The European Parliament has not yet adopted its negotiating mandate. As a result, discussions with the European Parliament have not yet begun.

Long-term residents Directive

On 27 April 2022 the Commission presented the Directive concerning the status of third-country nationals who are long-term residents (known as the LTR Directive). At the meeting of the Working Party on Integration, Migration and Expulsion (IMEX-Admission) on 14 September 2022, the Presidency began the first reading of the proposal for a recast of the LTR Directive, examining the proposal from Article 1 to 14. The Presidency intends to complete the first reading of the proposal at the IMEX-Admission Working Party meeting on 30 November 2022.

In the European Parliament, rapporteur Mr Damian Boeselager (Greens/EFA, DE) is expected to present his report to the LIBE Committee in the upcoming months.

Single Permit Directive

On 27 April 2022 the Commission presented its proposal for a recast of the Single Permit Directive. On 22 July 2022, the first reading of the proposal was completed by the IMEX (Admission) Working Party. The Czech Presidency is currently working on a set of compromise proposals which should be discussed by the working party at the beginning of November.

In the European Parliament, Mr Javier Moreno Sánchez (S&D, ES) was appointed rapporteur for the file. His report is yet to be presented to the LIBE Committee.

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

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

Regulation on the digitalisation of the visa procedure

On 27 April 2022, the Commission presented a proposal for a Regulation amending a number of acts as regards the digitalisation of the visa procedure. Within the Council, the Visa Working Party had its first exchanges of views on the legislative proposal and the impact assessment under the French Presidency. The Czech Presidency finished the reading of the amendments relating to the Visa Code and presented its revised text at the October meeting of the Visa Working Party, while continuing in parallel the first examination of the amendments to the Visa Information System Regulation.

In the European Parliament, rapporteur Mr Matjaž NEMEC (S&D, SI) is expected to present his report to the LIBE Committee on 25 October 2022.

Regulation on visa liberalisation for Qatar and Kuwait

On 27 April 2022, the Commission presented a proposal for a short-stay visa waiver for nationals of Qatar and Kuwait. The Council's Visa Working Party held a preliminary exchange on the proposal on 5 May 2022, followed by bilateral consultations led by the French Presidency. After reaching a consensus in the Visa Working Party, Coreper adopted a negotiating mandate on 29 June 2022.

In the European Parliament, rapporteur Mr Erik MARQUARDT (Greens, DE) presented his report to the LIBE Committee on 10 October. The Presidency is ready to start trilogues as soon as the EP adopts its position.

Decision on the non-acceptance of Russian travel documents issued in Ukraine and Georgia

The issue of non-acceptance of Russian travel documents issued in Ukraine and Georgia was discussed in the Council's Visa Working Party on 13 July 2022. On 6 September 2022, the Commission submitted a proposal for a Decision on the non-recognition of Russian travel documents issued in occupied foreign regions. The proposal was presented at the JHA Counsellors' meeting on 8 September 2022. In the light, inter alia, of legal issues concerning the proposal and questions raised by Member States, a Presidency compromise proposal was discussed by the JHA Counsellors on 29 September 2022. Following the discussion at the JHA Counsellors meeting, a second Presidency compromise text was issued on 3 October 2022. On 12 October 2022, Coreper will be asked to agree on a mandate for interinstitutional negotiations and will also invite the European Parliament to follow an urgency procedure.

JUSTICE AFFAIRS

Regulation on the digitalisation of judicial cooperation and access to justice

Directive aligning the existing rules on communication with the rules of the proposed Regulation

The Presidency has finished the first reading of the whole text of the proposed Regulation on digitalisation of judicial cooperation and access to justice. Based on the results of the discussions at the meetings as well as the written contributions sent by delegations, the Presidency has redrafted Articles 16 to 25, complementing the redraft text by the French Presidency on Articles 1 to 15. The compiled redrafted text has been discussed at the e-Justice Working Party, completing the second reading of the Articles of the proposed Regulation. The Presidency has also finished the second reading of the Directive.

The Presidency hopes for fruitful final discussions in the e-Justice Working Party in order for the general approach as regards both proposals to be approved by the Council in December 2022.

Regulation on the digital information exchange in terrorism cases

At its meeting on 9 June 2022, the Justice and Home Affairs Council reached a general approach on the proposal. The Presidency is looking forward to starting negotiations with the European Parliament as soon as possible. The Presidency intends to work with the European Parliament in close and efficient cooperation, with a view to reaching an agreement on this important file.

Regulation establishing a collaboration platform to support the functioning of Joint Investigation Teams

At its meeting on 9 June 2022, the Justice and Home Affairs Council reached a general approach on the proposal. The proposal is a common priority for the Council and the European Parliament. Therefore, the Presidency plans to start negotiations on this file with the European Parliament at the earliest opportunity with the objective of rapidly achieving progress and reaching a political agreement.

E-evidence: Proposal for a Regulation and a Directive

The Presidency aims to finalise the work and reach an agreement with the European Parliament in the upcoming weeks. Trilogue negotiations with the European Parliament began back in February 2021 but proved to be challenging. As from May 2022, both legislators have begun to move towards a global compromise package. The 7th political trilogue held on 28 June 2022 marked a real breakthrough in the negotiations, and after a number of technical meetings during the first weeks of the Czech Presidency of the Council, the co-legislators are now close to finding an agreement on the remaining outstanding issues.

Directive on asset recovery and confiscation

On 25 May 2022, the Commission presented its proposal for a Directive on asset recovery and confiscation, which will replace several existing EU instruments in this area. Examination at technical level began during the French Presidency. The first reading of the text is ongoing and will be completed by the Czech Presidency, which aims to identify possible difficulties, discuss them at political level, and propose initial drafting suggestions with a view to preparing a solid basis for continuing work under the Swedish Presidency.

Directive on combating violence against women and domestic violence

The proposal for a Directive on combating violence against women and domestic violence was presented on 8 March 2022. Due to its extent and complexity, the first reading of the text is still ongoing. A number of legal issues concerning the proposal, raised at technical level, still need to be considered. The Czech Presidency intends to complete the first reading of the text and clarify legal issues related to the proposal, which will be followed by possible discussion at political level.

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

The last technical meeting with the Parliament, the Council and the Commission on this file took place on 8 March 2022 under the French Presidency. Shortly afterwards, negotiations were suspended and the situation has remained the same under the Czech Presidency. Resuming the discussions with the European Parliament depends on the result of legal consultations that the European Parliament has decided to carry out on its side. These consultations would focus on understanding the concept of “the law of the assigned claim”. Until now, the consultations did not lead to progress in finding a compromise on this legal question. The Czech Presidency is trying to clarify with the Parliament when it intends to resume inter-institutional negotiations.

Directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (‘Strategic lawsuits against public participation’)

On 27 April 2022, the Commission submitted its proposal for a Directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (‘Strategic lawsuits against public participation’, or ‘SLAPP’). The first reading began during the French Presidency and was completed under the Czech Presidency in July 2022. The Working Party set out to examine the compromised text of Chapters I and II on 10 October 2022. The Czech Presidency intends to advance the discussions at technical level and conduct possible discussion at political level at the JHA Council in December 2022.