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NOTE

From:	Presidency
To:	Delegations
Subject:	Overview of the current legislative proposals under the Hungarian 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 10 and 11 October 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 several LEWP-Police meetings.

The Presidency identified several building blocks having majority support from delegations and narrowed down the Commission proposal to a targeted amendment of the Europol Regulation. On 19 June 2024, Coreper endorsed a negotiating mandate with the European Parliament.

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

Legislative proposals in the area of asylum, migration, borders and visa

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, but the LIBE Committee did not adopt a report. In the new Parliament Mr Jaki is no longer a member of the LIBE Committee.

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. In the new Parliament Ms Ernst is no longer a member of the LIBE 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) was rapporteur for the file, and LIBE is the lead committee. The European Parliament has not adopted its negotiating mandate during the last Parliament term. As a result, no negotiations with the European Parliament took place. Ms Tineke Strik has been re-elected to the new Parliament and renominated the rapporteur for this file, pending a formal resumption of unfinished business which is expected in October 2024.

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 2023. Two political trilogues took place (30 November 2023 and 16 January 2024). In early March 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. In the new Parliament, Ms Anna Strolenberg (Greens/EFA, NL) has been appointed as the new Rapporteur for this file.

Regulation establishing an EU Talent Pool

The proposal for a Regulation establishing an EU Talent Pool was presented by the Commission on 15 November 2023 as part of the Skills and Talent Mobility package. Under the Spanish and Belgian Presidencies, the Working Party on Integration, Migration and Expulsion (Admission) discussed the proposal from December 2023 until May 2024. JHA Counsellors (IMEX Admission) discussed the proposal on 30 May 2024 and expressed broad support to the Presidency compromise text. On 13 June 2024, the Council, at its JHA formation, reached a General Approach.

In the European Parliament, Ms Abir Al-Sahlani (Renew, SE) 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 by the end of the past parliamentary term. Ms Al-Sahlani has been re-elected and she will resume his work on this file in the LIBE committee. The interinstitutional negotiations will start as soon as the EP has adopted its mandate.

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 Nemeč (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 by the end of the past parliamentary term. As a result, no negotiations with the European Parliament took place. Mr Nemeč has been re-elected and he will resume his work on this file in the LIBE committee.

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. LIBE is the lead committee in the European Parliament. The rapporteur is Mr Paolo Cunha (EPP, PT). The interinstitutional negotiations will start as soon as the EP has adopted its mandate.

Regulation on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement

On 24 July 2024, the Commission submitted its proposal for a Regulation on strengthening the security of identity cards. The proposal essentially reproduces the text of Regulation (EU) 2019/1157 as adopted by the Parliament and the Council, which was declared invalid by the Court of Justice in C-61/22, Landesgericht Wiesbaden, due to it having been adopted on an incorrect legal basis. The correct legal basis according to the Court was Article 77(3) TFEU. This means that it should have been adopted through the special legislative procedure, which requires unanimity in the Council and consultation of the EP. The EP has been requested to give its opinion by 12 November 2024. In the meantime the discussions in the Frontiers Working Party are ongoing and the Presidency intends to reach a negotiation mandate on this proposal in the weeks to come.

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 European Parliament adopted its position at first reading on 13 February 2019.

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 2024. Discussions with the Parliament will resume as soon as possible.

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. A discussion on the impact of the now finalised AI Act and Product Liability Directive on the proposal for an AI Liability Directive took place at Working Party level under Belgian Presidency.

The Hungarian Presidency will begin work towards a first redraft of the proposal.

Regulation on the cross-border recognition of parenthood

On 7 December 2022, the Commission submitted a proposal for a Regulation on jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in matters of parenthood and on the creation of a European Certificate of Parenthood.

The objective of the proposal is to facilitate the cross-border recognition of parenthood within the EU.

The proposal is being dealt with by the Working Party on Civil Law Matters. The Council held an exchange of view on some aspects of the proposal during its meeting of 14 June 2024. Discussions are continuing in the Working Party under Hungarian Presidency.

Directive harmonising certain aspects of insolvency law

On 7 December 2022, the Commission submitted a proposal for a Directive harmonising certain aspects of insolvency law. The objective of the proposal is to harmonise targeted aspects of Member States' insolvency laws to improve the recovery of assets from the liquidated insolvency estate, ensure their fair and predictable distribution and improve the overall efficiency of insolvency proceedings. This should facilitate cross-border investments within the EU. The proposal is being dealt with in the Working Party on Civil Law Matters.

The Council held a policy debate on this file on 20 October 2023. The conclusions of the European Council of 17-18 April 2024 called for an advancement of the work without delay on measures important for the further integration of the Capital Markets Union, including the harmonisation of insolvency regimes. Coreper had a debate on the proposal during its meeting of 22 May 2024 discussing the principles that should guide the future work and the concerns Member States may have, with a view to reaching a general approach in the Council without delay.

Discussions are continuing in the Working Party. The objective is to reach a partial general approach by the end of the Hungarian Presidency.

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 December 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 has recently undergone legal-linguistic revision and is expected to be adopted in the autumn following the so-called “corrigendum” procedure.

Directive on combating corruption

The Commission submitted its proposal for a Directive on combating corruption on 3 May 2023. The objective of the proposal is to update and harmonise EU rules on the definitions of and penalties for corruption offences, in both the public and private sectors, and includes preventive measures. The proposal is dealt with in the Working Party on Judicial Cooperation in Criminal Matters (COPEN).

In the European Parliament, the LIBE Committee adopted the report on 31 January 2024. The Committee decision to enter into interinstitutional negotiations was confirmed by plenary on 27 February 2024.

The Council reached a general approach on this proposal during its meeting of 14 June 2024.

Negotiations with the European Parliament should start soon.

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 proposal establishes provisions concerning adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their own interests. The main objective of the proposal is to enhance the protection of their rights - including access to justice, individual autonomy, the right to property and to free movement -, as well as to improve the effectiveness of judicial and administrative proceedings, thereby strengthening legal certainty and predictability. The proposal was submitted together with a draft 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 2023 in the Working Party on Civil Law Matters. The first technical examination of the Regulation is in its final stages and approaching completion within the Working Party.

Regulation on enforcement procedures of the General Data Protection Regulation

On 4 July 2023, the Commission submitted a proposal for a Regulation laying down additional procedural rules relating to the enforcement of Regulation (EU) 2016/679. The objective of the proposal is to clarify and complement existing procedural rules under the GDPR applicable to cooperation between data protection authorities, in order to streamline and speed up enforcement proceedings in cross-border cases. In particular, the proposal provides for the targeted harmonisation of rules in relation to the submission and handling of complaints, the role of the complainant in the procedure, the procedural steps and tools for Data Protection Authorities to reach consensus at an early stage, and the facilitation of dispute resolution proceedings in the European Data Protection Board (EDPB).

The proposal is being dealt with in the Working Party on Data Protection.

The Council reached a general approach on this proposal on 14 June 2024.

The LIBE Committee adopted the draft report on 20 February 2024. The European Parliament adopted its position at first reading on 10 April 2024.

Negotiations with the European Parliament should start soon.

Directive amending Directive 2012/29/EU on the rights of victims

On 12 July 2023, the Commission submitted its proposal to amend Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. The objective of the proposal is to address specific shortcomings identified in the existing framework, which require targeted improvements in relation to the exercise of victim's rights, especially as regards: the right to information; protection and specialist support, victims' participation in criminal proceedings and victims' access to compensation.

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

The Council held an exchange of views on the proposal during its meeting of 4 December 2023 and reached a general approach on 14 June 2024.

The LIBE and FEMM Committees adopted a draft position on the file on 14 March 2024. The decision to enter interinstitutional negotiations with the Council was confirmed in plenary, on 11 April 2024. The rapporteurs are Javier Zarzalejos (EPP, ES) and Lucia Yar (Renew, SK).

Negotiations with the European Parliament should start soon.

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).

The Council held an exchange of views on some aspects of the proposal during its meeting of 5 March 2024. The objective is to reach a general approach by the end of the Hungarian Presidency.

Directive on child sexual abuse and exploitation

On 6 February 2024, the Commission submitted a proposal for a Directive on combating the sexual abuse and sexual exploitation of children and child sexual abuse material and replacing Council Framework Decision 2004/68/JHA (recast). The revised rules aim to expand the definitions of offences and to ensure more effective investigation and prosecution and strengthen both prevention of child sexual abuse and sexual exploitation and assistance to victims.

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

The Council held an exchange of views on some aspects of the proposal during its meeting of 14 June 2024. The objective is to reach a general approach by the end of the Hungarian Presidency.
