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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 7/8 March 2019.

Information from the Presidency on current legislative proposals

Interoperability Package

As interoperability of EU information systems in the area of Justice and Home Affairs has been a priority at the highest political level for the past few years, the Commission presented two legislative proposals on (i) borders and visa and (ii) police and judicial cooperation, asylum and migration on 12 December 2017, during the EE Presidency. The mandate for negotiations was agreed on by COREPER during the Bulgarian Presidency in June 2018, and was revised in September 2018 during the Austrian Presidency. Following the adoption of its report by the EP's LIBE Committee on 15 October 2018, negotiations under the Austrian Presidency took place until mid-December, when COREPER endorsed important political issues agreed during the fourth trilogue.

Starting with January 2019 the work of the Romanian Presidency focused on finding the right balance between the Council position and EP position on the remaining very complex provisions of the file.

The political agreement on the entire interoperability package was reached on 5th of February 2019.

The compromise text was approved by COREPER on 13 February 2019 and followed by a positive vote in LIBE on 19 February 2019.

Following the ongoing revision of the texts by the lawyer-linguists, they will have to be adopted by the European Parliament and the Council. The EP vote is expected to take place during the last plenary in April 2019, while the adoption by the Council is scheduled for mid-May.

Law enforcement access to financial information

On 17 April 2018, the Commission proposed a new Directive which provides for direct access by designated competent authorities, including Asset Recovery Offices to bank account information contained in national, centralised registries.

The examination of the proposal started during the last month of the Bulgarian Presidency and continued under the Austrian Presidency. After the sixth reading of the text, COREPER adopted the mandate for interinstitutional negotiations on 21 November 2018. Four trilogues have been held: on 12 December 2018, on 15 and 31 January 2019 and finally on 12 February 2019. During the last trilogue on 12 February 2019, the Presidency and the representatives of the European Parliament reached a provisional political agreement corresponding to the renewed mandate agreed by COREPER on 6 February 2019. The agreement was confirmed by COREPER on 20 February 2019.

ID Cards security

On 17 April 2018, the Commission submitted a proposal for a 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.

The examination of the proposal commenced in May 2018 under the Bulgarian Presidency. The mandate to start negotiations with the European Parliament was obtained by the Austrian Presidency on 14 November 2018 and the LIBE Committee of the European Parliament adopted its report on 3 December 2018. Three trilogues were held under the Romanian Presidency on 24 January, 14 February, and on 19 February 2019. At the last trilogue an agreement was reached, endorsed by COREPER on 27th of February. LIBE Committee is expected to vote this agreement on 11 of March 2019. The EP vote is expected to take place during the last plenary in April 2019.

Visa Code Regulation

The proposal for a Regulation amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code) was presented by the Commission on 14 March 2018.

The Council mandate was adopted by COREPER on 19 June 2018, under the Bulgarian Presidency.

The negotiations started on 13 December 2018. Three political trilogues were held between 13 December 2018 and 29 January 2019. Technical negotiations continued after that, and on 20 February 2019, COREPER confirmed the political agreement. On 26 February 2019, the LIBE Committee also confirmed the political agreement. As regards the next steps, the vote is expected to take place during the last EP plenary in April. The Regulation amending the Visa Code will be signed in May 2019.

Visa Information System

A proposal amending 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 the VIS to also 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 Austrian Presidency and a mandate for interinstitutional negotiations was adopted by COREPER on 19 December 2018. In the EP a draft report was presented to the LIBE Committee on 5 November 2018. The LIBE Committee voted on 4 February 2019 on the draft report, and the EP Plenary will vote during the March I part-session. Taking into account that the actual EP legislature will finalize in April, there will not be enough time to start the interinstitutional negotiations. The Romanian Presidency intends to start to examine the EP amendments in the Visa WP framework with a view to preparing 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. A first discussion on the proposal took place at working party level on 28 November 2018. Four trilogues took place: on 6, 12, 20 and 26 February 2019. The 5th trilogue is expected to take place at the beginning of March. Presidency is determined to make rapid progress on this file to ensure the entry into force of the Regulation on 30 March 2019.

European network of immigration liaison officers (ILO)

On 17 May 2018, the Commission submitted a proposal for a Regulation on the creation of a European network of immigration liaison officers (recast). The aim of the proposal is to ensure a better coordination and cooperation of liaison officers deployed by Member States, the Commission and Union Agencies to third countries and dealing with immigration-related issues.

On 14 November 2018, COREPER adopted a mandate to start negotiations with the European Parliament. The LIBE Committee of the European Parliament adopted its report on 23 January 2019. Given the very limited time available to co-legislators to adopt the file before the end of this parliamentary term, the Council and the EP engaged in intense negotiations. The provisional compromise that resulted from these negotiations was confirmed by COREPER on the 27th of February 2019. LIBE Committee is expected to vote this compromise on 11 of March 2019. The EP vote is expected to take place during the last plenary in April 2019.

Removal of Terrorist Content Online

On 12 September 2018, the Commission presented a legislative proposal for a Regulation on preventing the dissemination of terrorist content online. This proposal includes the obligatory removal of illegal terrorist content within one hour after it appears online, a duty of care obligation for all platforms to ensure they are not misused for the dissemination of terrorist content online and to take proactive measures to better protect their platforms and their users from terrorist abuse.

The Council adopted its general approach in December 2018. The EP is still debating its position, with three committees involved in the process. The EP report is due to be voted in the LIBE Committee on 21 March and the vote in the Plenary could take place end of March, at the earliest. The Presidency aims at starting the negotiations with the Parliament as soon as the latter has adopted its position.

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 Council's negotiation mandate was adopted by COREPER on 19 June 2018, while the European Parliament (EP) adopted its position on 29 November 2018. The first trilogue took place on 12 December 2018. After the second trilogue, which took place on 30 January 2019, the package deal tentatively proposed by the Rapporteur was presented in COREPER on 6 February 2019, but the possible compromise solutions were not supported by the Member States. No further trilogues are scheduled. EP intends to adopt its position in first reading.

ETIAS consequential amendments

On 7 January 2019, the Commission presented two proposals including consequential amendments to ETIAS. The aim of these proposals is to set out the technical amendments necessary to establish the ETIAS system by amending the legislative acts of the EU information systems queried by ETIAS. The proposals therefore include the relevant provisions and amend the ETIAS Regulation accordingly. A general presentation of these proposals by the Commission took place at the Working Party on Frontiers on 9 January 2019 and the first examination of both proposals took place on 23 January 2019. In view of the misgivings of several delegations regarding the inclusion of amendments to the ECRIS TCN draft Regulation, COREPER was invited on 13 February 2019 to take note that the ETIAS Central System will query the ECRIS-TCN for the purpose of assessing visa-exempt third-country nationals' applications for a travel authorisation in order to identify past convictions related to terrorist offences or other serious criminal offences. A second examination of the proposals in the Working Party on Frontiers took place on 26th of February 2019. The Presidency intends to reach a mandate on this file by the end of June.

Return Directive

On 12 September 2018, the Commission submitted a proposal for a Directive on common standards and procedures in Member States for returning illegally staying third-country nationals (recast).

The discussions in the Council continued during the Romanian Presidency at Working Party level. The next negotiations in this format will take place on the 11th of March 2019 and will be followed at Counsellors level. The Presidency aims to obtain a general approach during its term.

Blue Card Directive

A reform of the current Blue Card Directive (2009/50) was presented by the Commission on 7 June 2016. A mandate for interinstitutional negotiations was adopted under Estonian Presidency on 26 July 2017, a first trilogue was held in September 2017. Negotiations proved difficult due to controversial positions by Council and Parliament and resulted in a stalemate at the end of 2017. A new compromise proposal was presented to Member States in the beginning of 2018 by the Bulgarian Presidency but didn't reach a majority. In June 2018 the Bulgarian Presidency started bilateral negotiations with all Member States that were continued under Austrian Presidency in July 2018. Positions within the Council continue to be divided. On 11 January 2019, Romanian Presidency presented a compromise package with a view to continue negotiations on the proposal. The Presidency's compromise proposal was in general supported by Member States and it was presented to the European Parliament. Subsequently, the European Parliament informed the Presidency that the compromise package had been discussed at a Shadows' meeting where it was concluded that substantial negotiations on the proposal could not take place on the basis of that compromise package.

JHA Funds: Asylum and Migration Fund, Internal Security Fund, Border Management and Visa Instrument Fund

The Commission presented their proposals on the Home Affairs Funds on 12 and 13 June 2018. The examination of the proposals started in July 2018 under the Austrian Presidency. The Romanian Presidency took over the negotiations and presented two new compromises focusing on minimizing the divisive points to achieve the progress needed towards reaching a PGA. The draft reports were voted by the LIBE Committee in the EP on the 19th of February 2019. A vote in the EP plenary is scheduled for 13th of March 2019.

MFF Justice Programme

Trilogues have started with the European Parliament (EP) in the second half of February 2019. Several meetings took place both within the Council and with the EP, with a view to reaching a common understanding or advance the file as much as possible during the current legislature of the EP.

MFF Rights and Values

Trilogues have started with the EP in January 2019. Several meetings took place both within the Council and with the EP. An extension of the mandate was agreed by COREPER on 20 February 2019, with a view to reaching a common understanding during the current legislature of the EP.

Directive on non-cash payment fraud

The directive is currently under linguistic revision by lawyer-linguists and is to be formally adopted by the Council and the EP during the current legislature of the EP.

Regulation on European Production and Preservation Orders (E-evidence Regulation)

Following the General approach at the JHA Council on 7 December 2018, and taking into account that the European Parliament has not adopted its position, the Romanian Presidency aims to contribute to the improvement of the certificates (forms) from the Annexes to this Regulation, in order to facilitate its application in the future. To this end, at the COPEN meeting on 1 March 2019, representatives of the European Judicial Network (EJN), European Judicial Cybercrime Network (EJCN), as well as of Eurojust were invited to present their views on the certificates, from a practitioner perspective. On this basis, delegations discussed possible ways to improving the wording of the certificates during the next stage of the ordinary legislative procedure.

Directive on the Supply of Digital Content

In 2015, the Commission submitted a proposal for a Directive on certain aspects concerning contracts for the supply of digital content and digital services. The Council reached a general approach on the draft text in 2017. Starting with December 2017, Estonian, Bulgarian and Austrian Presidencies of the Council have conducted negotiations with the European Parliament and the Commission with a view to a first reading agreement. On 22 January 2019, under the Romanian Presidency, a provisional agreement was reached, which was endorsed by COREPER on 6 February 2019. The directive is currently under linguistic revision by lawyer-linguists and is to be formally adopted by the Council and the EP during the current legislature of the EP.

Amended Directive on the sales of goods

In 2015, the Commission submitted a proposal for a Directive on certain aspects concerning contracts for the sales of goods. The proposal is a key deliverable under the 'Digital Single Market Strategy for Europe', alongside the closely related proposal for a Directive on certain aspects concerning contracts for the supply of digital content and digital services. In 2017, the Commission amended its proposal. Under the Austrian Presidency, the Council reached a general approach on the draft text at its meeting on 6-7 December 2018. During January 2019, intense negotiations with the European Parliament and the Commission with a view to a first reading agreement were conducted. On 29 January 2019, a provisional agreement was reached, which was endorsed by COREPER on 6 February 2019. The directive is currently under linguistic revision by lawyer-linguists and is to be formally adopted by the Council and the EP during the current legislature of the EP.

Recast of the Brussels IIa Regulation

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') was submitted by the European Commission on 30 June 2016. 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. After more than two years of negotiations, at its meeting on 6-7 December 2018, the Council reached a general approach on the operative part of the text, including the main recitals linked to the articles. The text of the general approach agreed by the Council can be found in doc.15401/18.

The European Parliament delivered its opinion on the Commission proposal on 18 January 2018. COREPER decided at its meeting on 19th December 2018 that the European Parliament is to be re-consulted by the Council before the Council adopts the final text. In view of the urgency of the file and the end of the Parliament's legislature, the Council invited the European Parliament to issue its opinion on the Council text as soon as possible and in any event not later than 15 March 2019. The European Parliament responded swiftly to the re-consultation initiated by the Council and a debate took place in the JURI Committee on the 23rd January 2019. Another debate is foreseen for the plenary meeting on the 13th March 2019.

After the general approach in December 2018, work continued intensively under the Romanian Presidency with regard to the finalisation, at technical level, of the recitals and the nine certificates that will be annexed to the Regulation. It is expected that these will be finalised soon, with a view to the final adoption of the recast by the Council in June 2019.

Revision of the Regulation on the service of documents

The proposal for a revision of the Regulation on the service in the Member States of judicial and extra-judicial documents in civil or commercial matters (service of documents) was submitted by the Commission on 31 May 2018. The objective of the proposal is to modernise and digitalise judicial cooperation for cross-border civil and commercial cases throughout the EU. It aims to make access to civil justice cheaper, more efficient and more accessible to citizens and businesses. The proposal institutes an obligation for courts to exchange documents electronically. During the Romanian Presidency the first article by article analysis was finalised by the Working Party on civil law matters. Work will continue with a view to further clarify the digitalisation aspects related to this proposal and the proposal on the taking of evidence and to identify possible compromise solutions.

The European Parliament, in its plenary sitting on 13 February 2019, adopted its first reading position which can be found in document 6219/19.

Revision of the Regulation on taking of evidence in civil or commercial matters

The proposal for a revision of the Regulation on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters was submitted by the Commission on 31 May 2018. The objective of the proposal is to modernise and digitalise judicial cooperation for cross-border civil and commercial cases throughout the EU. It aims to make access to civil justice cheaper, more efficient and more accessible to citizens and businesses. The proposal aims at establishing an EU system for the direct and rapid electronic transmission of requests for the taking and execution of evidence between courts and promotes the use of videoconferencing in cross border proceedings. During the Romanian Presidency the first article by article analysis was carried out in the Working Party on civil law matters. Work will continue with a view to further clarify the digitalisation aspects related to this proposal and the proposal on the service of documents and to identify possible compromise solutions.

The European Parliament, in its plenary sitting on 13 February 2019, adopted its first reading position which can be found in document 6218/19.

Regulation on the 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. Since January 2019, the Romanian Presidency has organised two meetings of the Working Party on civil law matters (on 28 of January and 20th of February) on this proposal and will continue its examination during the next scheduled meetings.

The European Parliament, in its plenary sitting on 13 February 2019, adopted its first reading position which can be found in document 6217/19.

Insolvency Directive

The directive is currently under linguistic revision by lawyer-linguists and is to be formally adopted by the Council and the EP during the current legislature of the EP.