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NOTE

From:	Presidency
To:	Delegations
Subject:	Overview of the current legislative proposals under the Swedish 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 9 and 10 March 2023.

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 Presidency and the European Parliament reached a provisional agreement at the trilogue on 29 November 2022. The agreed text is subject to revision by the lawyer-linguists before it is adopted in May 2023.

Revision of Directive on financial information (access of competent authorities to centralised bank account registries)

The Commission submitted the proposal in July 2021. The European Parliament appointed Emil Radev (EPP, BG) as rapporteur. The decision of the LIBE Committee to enter into interinstitutional negotiations was confirmed by the plenary on 13 February 2023. In the Council, the negotiations started in the Law Enforcement Working Party (LEWP) in January 2023 and will continue during the spring with the aim to reach a general approach in June.

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. The LIBE Committee meeting is expected to vote on the rapporteur's report at the end of March 2023. The EP plenary session in the third week of April 2023 would subsequently authorise the opening of interinstitutional negotiations.

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

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 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. The 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 is expected to be voted on in the LIBE Committee at the end of March. The EP plenary session in the third week of April 2023 would subsequently endorse the decision to open negotiations.

Screening Consequential Amendments

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. Its 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 is expected to be voted on in the LIBE Committee at the end of March. The EP plenary session in the third week of April 2023 would subsequently authorise the opening of interinstitutional negotiations.

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 (S&D, FR) as rapporteur. She presented the draft report at the LIBE meeting on 17 November 2022. The LIBE Committee's vote on the report is scheduled to take place on 13 April 2023. The EP plenary session in May 2023 would subsequently authorise the opening of interinstitutional negotiations.

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 Council's negotiating mandate was adopted by Coreper on 22 June 2022.

The LIBE Committee voted on 12 December 2022, adopting the European Parliament's negotiating mandate. The rapporteur is Mr Jorge Buxade Villalba (ECR, ES). Interinstitutional negotiations are ongoing. A second trilogue took place on 2 March 2023.

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. The Czech Presidency proposed a concept for a new way forward on the reform of the EU asylum system based on balanced solidarity and responsibility, which was introduced on 16 September 2022 at the JHA Counsellors meeting and further discussed at technical, strategic and political levels. Based on the proposed way forward, work on the legislative text has started under the Swedish Presidency. The legislative text has been discussed in the Council's Asylum Working Party on 18–19 January, 10 February and 28 February to 1 March 2023.

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 report, which is expected to be voted on in the LIBE Committee at the end of March. The EP plenary session in the third week of April 2023 would subsequently authorise the opening of interinstitutional negotiations.

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. During the Czech Presidency, negotiations on major parts of the text were concluded in the Council's Asylum Working Party (excluding, inter alia, the provisions related to the border procedures). On 20 December, a partial negotiating mandate was agreed by Coreper. Building on the concept developed during the Czech Presidency, the Swedish Presidency presented a concept paper to SCIFA on 16 February 2023 on the way forward on the border procedures. The Swedish Presidency is currently translating the outcome of the discussions in SCIFA on the border procedure into a new compromise legislative text for the Asylum Procedures Regulation, which will be discussed at the JHA Counsellors on 15 March. 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. A vote on the new report in the LIBE Committee is expected to take place at the end of March.

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. A first examination of the proposal took place during the Czech presidency in the Council's Asylum Working Party on 20 December 2022. The work regarding the Regulation will continue during the Swedish Presidency,

In the European Parliament, rapporteur Mr Juan Fernando López 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. The LIBE Committee is expected to vote on the rapporteur's report at the end of March. The EP plenary session in the third week of April 2023 would subsequently authorise the opening of interinstitutional negotiations.

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 has been discussed in the Council's Asylum Working Party as well as at JHA Counsellors level. Coreper did not approve a partial general approach on 7 December 2022. Discussions will continue during the Swedish Presidency.

In the European Parliament, rapporteur Mr Patryk Jaki (ECR, PL) has yet to present his report to the LIBE Committee.

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 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.

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 of 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 reached with the European Parliament on 13 June 2018 and presented to Coreper on 19 June 2018. However, Coreper did not approve this provisional agreement. Based on the 2018 provisional agreement, the negotiation mandate was amended in Coreper on 7 and 20 December 2022. The final adoption of this file is dependent on progress in other asylum files.

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 reached with the European Parliament on 14 June 2018 and presented to Coreper on 19 June 2018. However, Coreper did not approve this provisional agreement. Based on the 2018 provisional agreement, the negotiation mandate was amended in Coreper on 7 December and on 20 December 2022. The final adoption of this file is dependent on progress in other asylum files.

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 reached with the European Parliament on 14 June 2018 and presented to Coreper on 19 June 2018. However, Coreper did not approve this provisional agreement. Based on the 2018 provisional agreement, the negotiation mandate was amended in Coreper on 7 December and on 20 December 2022. The final adoption of this file is dependent on progress in other asylum files.

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). A first reading of the proposal was completed in the Council's Working Party on Integration, Migration and Expulsion (IMEX-Admission) during the Czech Presidency. Discussions continue in IMEX-Admission during the Swedish Presidency, which plans on presenting a first compromise text on the proposal at the IMEX Working Party of 28 March 2023.

In the European Parliament, rapporteur Mr Damian Boeselager (Greens/EFA, DE) presented his report to the LIBE Committee on 8 November 2022.

Single Permit Directive

On 27 April 2022, the Commission presented its proposal for a recast of the Single Permit Directive. In July 2022, the first reading of the proposal was completed by the Council's Working Party on Integration, Migration and Expulsion (IMEX-Admission). A compromise proposal presented by the Czech Presidency was discussed in the working party in November 2022. In 2023, discussions in the working party continued based on compromise proposals presented by the Swedish Presidency. In the European Parliament, Mr Javier Moreno Sánchez (S&D, ES) presented his report to the LIBE Committee on 8 November 2022.

Regulation on the digitalisation of the visa procedure

In April 2022, the Commission presented a proposal for a Regulation amending a number of acts as regards the digitalisation of the visa procedure. In the Council, the Visa Working Party held its first exchanges of views on the legislative proposal and the impact assessment under the French Presidency. The proposal was examined in-depth during the Czech Presidency as two readings were completed. A technical seminar was carried out together with eu-LISA in November 2022. The Swedish Presidency has focused negotiations on the remaining key questions in the proposal and presented a compromise text. The LIBE Committee adopted the report by Mr Matjaž NEMEC (S&D, SI) on 8 February 2023. On 15 February 2023, the EP plenary authorised the opening of interinstitutional negotiations.

Regulation on visa liberalisation for Qatar and Kuwait

In 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.

LIBE adopted a draft report in the beginning of December 2022. The draft amendments also included Ecuador and Oman. The vote was originally planned to be carried out in the end of December but was postponed due to accusations of corruption between Qatar and members of the EP. A resolution was adopted on 15 December deciding that the process will be suspended until the circumstances have been made clear. The file has been sent back to the LIBE Committee.

Regulation on visa liberalisation for Kosovo*

In May 2016, the Commission presented a proposal for a short-stay visa waiver for holders of Kosovo passports. In 2018, the Commission concluded that Kosovo met the visa liberalisation requirements. The file was brought to the table in the Visa Working Party by the German Presidency in 2020, but the Member States did not manage to reach an agreement.

The Czech Presidency opened a discussion on Kosovo liberalisation at the Visa Working Party in October 2022, followed by bilateral consultations. After reaching a consensus at the JHA Counsellors meeting on 22 November 2022, Coreper adopted a mandate for negotiations with the European Parliament on 30 November 2022. A political trilogue took place 14 December and a political agreement was reached. The Regulation will be adopted under the Swedish Presidency following the finalisation by the lawyer-linguists.

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 and in the Working Party on JHA Information Exchange on 20 December. An article-by-article examination of the proposal which aims at enhancing and facilitating external border controls took place on 11–12 January, 8 February and 1–2 March 2023 in the Working Party on JHA Information Exchange.

Other legislative proposals

Regulation on European Union Drugs Agency

The Commission presented its proposal for a Regulation on the European Union Drugs Agency, meant to replace the current European Monitoring Centre for Drugs and Drugs Addiction (EMCDDA) on 12 January 2022. A general approach on this Regulation was reached at the JHA Council on 9–10 June 2022.

In the European Parliament, rapporteur Ms Isabel Santos (S&D, PT) presented the report to the LIBE Committee on 5 September 2022. The European Parliament adopted its position on 14 December 2022. The inter-institutional negotiations started on 10 January 2023. The Presidency aims to reach a political agreement during the spring.

Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse (CSA)

On 11 May 2022, the Commission adopted the above proposal. It intends to effectively address the use of online services for the purpose of CSA.

In the Council, a first reading of the articles of the proposal was completed in December 2022. A state-of-play of the file was presented at the JHA Council meeting on 8 December. The Swedish Presidency has pursued the examination of the file in the Law Enforcement Working Party on 19–20 January and 24 February. During spring 2023, work will continue in the working party based on compromise proposals presented by the Swedish Presidency.

In the European Parliament, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) is the lead committee for the negotiations on the proposal. The rapporteur is MEP Javier Zarzalejos (EPP, ES). Four other Committees are involved in the process (IMCO, BUDG, FEMM and CULT). According to the EP's tentative planning, the internal impact assessment will be available at the end of March 2023. The deadline for tabling amendments will be in May 2023 and the vote in the EP plenary could take place in October 2023.

JUSTICE AFFAIRS

E-evidence Regulation and Directive on the designation of designated establishments and the appointment of legal representatives

The Council reached a general approach on the draft text of the Regulation at its meeting on 7 December 2018 and a general approach on the Annexes to the Regulation on 6 June 2019. The general approach to a draft text of the Directive was reached on 8 March 2019. The Portuguese, Slovenian, French, Czech and Swedish Presidencies of the Council conducted negotiations with the European Parliament with a view to reaching a first reading agreement. On 29 November 2022, a provisional agreement was reached, which, after some complementary work at technical level, resulted in a final compromise text confirmed by Coreper on 25 January 2023. The LIBE Committee confirmed the agreement on 31 January 2023. Review by the lawyer-linguists is currently underway. The final adoption is expected during the first half of 2023.

Proposal for a Regulation and Directive on digitalisation of judicial cooperation

In December 2021, the European Commission submitted a proposal for a horizontal regulation on digitalisation of judicial cooperation and access to justice, intended to apply to both civil, commercial, and criminal proceedings. In addition, the Commission presented a proposal for a Directive on digitalisation of justice.

In the Council, the proposals have been examined by the Working Party on e-Justice. On 9 December 2022 the Justice and Home Affairs Council reached general approaches on the proposals. In the European Parliament, the Committee on Legal Affairs (JURI) and the Committee on Civil Liberty, Justice, and Home Affairs (LIBE) are jointly dealing with the proposals. A draft report was presented by the co-rapporteurs on 14 October 2022. The JURI and LIBE Committees adopted the reports on 1 March 2023. A political trilogue can be expected in spring 2023.

Regulation on the digital information exchange in terrorism cases (CTR)

At its meeting on 9 June 2022, the Justice and Home Affairs Council reached a general approach on the proposal. The inter-institutional negotiations started on 23 November 2022 by an opening political trilogue, followed by technical meetings. A provisional agreement was reached on 14 December and later confirmed by Coreper on 22 December 2022. The LIBE Committee confirmed the agreement on 11 January 2023. Review by the lawyer-linguists is currently underway. The final adoption is expected during the first half of 2023, probably at the same time as the below-mentioned Directive amending Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data.

Proposal for a Directive amending Council Decision 2005/671/JHA, as regards its alignment with Union rules on the protection of personal data

On 1 December 2021, the Commission adopted a proposal for a Directive of the European Parliament and of the Council amending Council Decision 2005/671/JHA on the exchange of information and cooperation concerning terrorist offences. In the CTR-proposal, certain provisions of the Council Decision are being revised where all references to Eurojust are being removed. The proposal aims to align the remaining provisions of the Council Decision referring to Europol with Union rules on data protection in the Data Protection Law Enforcement Directive. In the European Parliament, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) is the lead committee for the negotiations on the proposal, the rapporteur is MEP Patryk Jaki (ECS, PL). In the Council a first discussion on the proposal was held in the COPEN Working Party on 30 January 2023. The work will continue with the aim of reaching a general approach and to initiate a political trilogue during spring 2023.

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 inter-institutional negotiations started on 14 November 2022 by an opening political trilogue. A provisional agreement was reached between the Czech Presidency and the Rapporteur in December and then confirmed by Coreper on 22 December 2022. The LIBE Committee confirmed the agreement on 11 January 2023. Review by the lawyer-linguists is currently underway. The final adoption is expected during the first half of 2023.

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. The first reading of the text was finalised on 27 October 2022 and a discussion on legal questions related to the proposal was held, having regard to the opinion of the Council Legal Service, in the COPEN Working Party on 23 November 2022. The Presidency presented compromise texts on the proposed act, which were discussed in COPEN Working Party meetings on 13 and 31 January, 13–14 February and 7 March. Good progress has been made, but there are still issues that need further discussions. The work will continue with the aim to reach, if possible, a general approach in June.

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

The inter-institutional negotiations started under the Slovenian Presidency but have been halted since 8 March 2022, when the last technical meeting took place. In November, the Czech Presidency addressed a letter to the Chair of the JURI Committee of the European Parliament inquiring about the possible resumption of negotiations. If the negotiations are resumed, the Swedish Presidency intends to continue the technical meetings. The Presidency will inform Member States in case of any further news.

Civil liability – adapting liability rules to the digital age and artificial intelligence

On 28 September 2022, the Commission presented a package of two draft Directives: a revised Product Liability Directive and new rules on civil liability for artificial intelligence. The first presentation of the two proposals followed by the first general exchange of views took place at the meeting of the Working Party on Civil Law Matters on 28 October 2022. The Working Party started the examination of individual articles of the two files at its meeting on 1 and 2 December. After having finished the first examination of the articles of the AI Liability Directive on 12 January 2023 the discussions on that file will be taken up again at a later stage following the progress of the negotiations on the closely linked AI Act. The Working Party instead focuses its work on the revision of the Product Liability Directive. A first Presidency compromise draft was discussed at a Working Party meeting on 15 February 2023.

Regulation on mutual recognition of parenthood

On 7 December 2022, the Commission presented 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 first presentation of the proposal followed by a general exchange of views took place at the meeting of the Working Party on Civil Law Matters on 19 December 2022. The Working Party then started the examination of individual articles at its meetings on 13 January and 8 February.

Directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (anti-SLAPP Directive)

The proposal for a Directive was presented on 27 April 2022. A policy debate was held at the JHA Council on 9 December 2022, focusing on the issue of striking a balance between adequate safeguards against the abuse of court proceedings and the right to effective access to justice. So far ten meetings have been held in the Working Party on Civil Law Matters (SLAPP). Considerable progress has been made on many substantial and technical issues, but there are still some issues that need further discussions. The aim is, if possible, to reach a general approach on the proposal in June.

Directive on harmonising certain aspects of insolvency law

On 7 December 2022, the Commission presented a proposal for a Directive on harmonising certain aspects of insolvency law. The first presentation of the proposal followed by a general exchange of views took place at the meeting of the Working Party on Civil Law Matters (Insolvency) on 18 January 2023. At the following meetings, the Working Party will examine the individual articles.

Directive amending the Directive on preventing and combating trafficking in human beings and protecting its victims

On 19 December 2022, the Commission presented its proposal for a Directive amending the Anti-trafficking Directive. A presentation of the proposal and the first examination of the full text took place in the Working Party on Judicial Cooperation in Criminal Matters (COPEN) on 18–19 January. The examination of the proposal continued on 17 February 2023, where some preliminary redrafts were also discussed. A general approach in June appears possible to reach.

Directive on the protection of the environment through criminal law and replacing Directive 2008/99/EC

On 15 December 2021, the Commission presented its proposal for a Directive replacing the Directive on the protection of the environment through criminal law. At its meeting on 9 December 2022, the Justice and Home Affairs Council reached a general approach on the proposal. A political trilogue can be expected in spring 2023 as soon as the European Parliament has adopted its position.