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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 8 and 9 June 2023.

INFORMATION FROM THE PRESIDENCY ON
CURRENT LEGISLATIVE PROPOSALS

HOME AFFAIRS

Legislative proposals in the area of security

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 Mr Emil Radev (EPP, BG) as rapporteur. The decision of the Committee on Civil Liberty, Justice, and Home Affairs (LIBE) to enter into interinstitutional negotiations was confirmed by the plenary on 13 February 2023. In the Council, the negotiations began in the Law Enforcement Working Party (LEWP) in January 2023 and continued during spring 2023. Coreper agreed on a common approach on 29 March. Trilogues with the European Parliament began on 3 May and are ongoing, with the objective of being concluded before 1 July 2023.

Regulation Prüm II

The Commission submitted the proposal on 8 December 2021. 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 voted on the rapporteur's report on 23 May 2023. Now that authorisation has been granted by the EP for the opening of interinstitutional negotiations, a first political trilogue is planned for the last week of June.

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.

The responsible committee in the European Parliament is LIBE, and the rapporteur is Ms Birgit Sippel (S&D, DE). The European Parliament endorsed the rapporteur's draft in April 2023 and opened it for interinstitutional negotiations. A first political trilogue took place on 25 April 2023. Since then, a second political trilogue on 25 May and four technical trilogues have been held. A third political trilogue is foreseen at the end of June.

Screening Consequential Amendments Regulation

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) to supplement the European Criminal Records Information System 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 by Coreper on 29 June 2022.

The responsible committee in the European Parliament is LIBE, and the rapporteur is Ms Birgit Sippel (S&D, DE). The European Parliament endorsed the rapporteur's draft in April 2023 and opened it for interinstitutional negotiations. A first political trilogue took place on 25 April 2023. Since then, a second political trilogue was held on 25 May, and a fourth is foreseen at the end of June.

Schengen Borders Code Regulation

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 is tentatively scheduled to take place at the end of June 2023; the vote in plenary would then follow in July 2023.

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. During the Swedish Presidency three trilogues have taken place so far (on 2 March and 13 and 27 April 2023). A fourth trilogue was planned for 1 June but was cancelled. Two more trilogues are planned for 13 June and 28 June.

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. Further discussions on the proposal took place at the informal Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) on 20 April 2023, and the work regarding the Regulation will continue during the remainder of the Swedish Presidency (meeting scheduled for 16 June).

In the European Parliament, rapporteur Mr Juan Fernando López Aguilar (S&D, ES) presented his report to the LIBE Committee on 30 November 2021. In the extraordinary LIBE Committee meeting on 28 March 2023 the Parliament voted on a mandate for the Regulation, and on 20 April 2023 the mandate was approved in plenary.

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 Counsellors level during 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) 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 examining 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, and LIBE is the responsible 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 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. A provisional agreement with the European Parliament was reached based on the amended mandate. 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 is intended 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. A provisional agreement with the European Parliament was reached based on the amended mandate. 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, and LIBE is the responsible committee. 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. A provisional agreement with the European Parliament was reached based on the amended mandate. 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, and LIBE is the responsible committee. 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 examination 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.

In the European Parliament, rapporteur Mr Damian Boeselager (Greens/EFA, DE) presented his report to the LIBE Committee in November 2022, and a negotiating mandate was adopted in April 2023.

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. The LIBE Committee adopted the report by Mr Matjaž Nemeč (S&D, SI) on 8 February 2023. The Council adopted its mandate on 29 March 2023. Inter-institutional negotiations are ongoing. The aim of the co-legislators remains to reach an agreement during the Swedish Presidency. A political trilogue is scheduled to take place on 6 June 2023.

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. Coreper adopted a negotiating mandate on 29 June 2022.

In the European parliament the rapporteur is Mr Erik Markquardt (Verts/ALE, DE). The LIBE Committee adopted a draft report at the beginning of December 2022. The draft amendments also included Ecuador and Oman. The vote was originally planned to be carried out at 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 2022 deciding that the process would be suspended until the circumstances had been clarified. The file has been sent back to the LIBE Committee. The file has not been discussed in the Council during the Swedish Presidency.

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 (IXIM) on 20 December. Both proposals have subsequently been examined on numerous occasions in the IXIM. The Swedish Presidency aims to reach agreement on a negotiating mandate in Coreper before the end of June.

LIBE is the responsible committee in the European Parliament, and the rapporteur is Mr Jan-Cristoph Oetjen (Renew Europe, DE). For the API law enforcement proposal, the rapporteur is Ms Assita Kanko (ECR, BE).

Other legislative proposals

Regulation of the European Parliament and of the Council on the European Union Drugs Agency (EUDA)

The inter-institutional negotiations on the proposal for a Regulation on the European Union Drugs Agency (EUDA), intended to replace the current European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), were concluded on 28 March 2023. The review by the lawyer-linguists is being finalised. Formal adoption by the EP is expected at its June 2023 plenary session, and by the Council at its meeting on 27 June 2023.

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

In May 2022, the Commission adopted the above proposal, which is intended to effectively address the use of online services for the purpose of CSA. A progress report was presented at the JHA Council meeting in December 2022. The Swedish Presidency has pursued the examination of the file in the Law Enforcement Working Party at an accelerated pace, and has presented compromise proposals on the entire text, except for the detection orders. The Council Legal Service has issued a written opinion in which it considers that the draft Regulation presents serious legal risks, notably in connection with detection obligations in private communications and fundamental rights. The Commission services have commented on the opinion of the CLS, underlining the need to balance all of the fundamental rights that are at stake.

In the European Parliament, LIBE is the lead committee, and the rapporteur is Mr Javier Zarzalejos (EPP, ES). In April the European Parliament Research Service presented a complementary impact assessment covering a wide range of issues linked to fundamental rights and proportionality issues. The Rapporteur's draft report was presented in LIBE at the end of April. The vote in LIBE is planned to take place in September, to be followed by a vote in plenary in October 2023, allowing trilogues to begin in mid-October.

Decision amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism

On 14 April 2023 the Commission presented its proposal to amend Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism, under which the European Union supports, coordinates and supplements the actions of Member States in the field of civil protection to prevent, prepare for and respond to natural and man-made disasters within and outside the Union.

The proposal is limited (1 article), and the sole purpose of the proposed change is to ensure that the Union can continue providing emergency support to Member States in fighting wildfires through the capacities developed under the ‘rescEU transition’. The transitional provisions that are currently in place are set to expire on 31 December 2024 but, due to delays in the production of the permanent amphibious planes, the proposal contains an extension of this period until 31 December 2027 (aligned with the end of the current MFF).

Agreement on the text was reached at Working Party level on 24 May 2023, and the Presidency aims to have a general approach adopted by the Council by the end of June.

In the European Parliament, the Committee on Environment, Public Health and Food Safety (ENVI) is the responsible committee, and the rapporteur is Ms Sara Cerdas (S&D, PT).

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 on 7 December 2018 and a general approach on the Annexes to the Regulation on 6 June 2019. The general approach on 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. Final adoption is expected in June 2023.

Regulation and Directive on the digitalisation of judicial cooperation

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

In the Council, the proposals were 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 LIBE Committee are dealing jointly with the proposals. The JURI and LIBE Committees adopted their reports on 1 March 2023.

Interinstitutional negotiations started on 27 March 2023 and are ongoing. The Presidency is working to secure a provisional agreement with the Parliament, if possible, in June 2023. Final adoption is expected during the second half of 2023.

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

On 1 December 2021, the Commission submitted a proposal for a 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. Interinstitutional negotiations started on 23 November 2022. A provisional agreement was reached on 14 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. Final adoption is expected during the first half of 2023.

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 Council, the proposal was examined by the Working Party on Judicial Cooperation in Criminal Matters (COPEN). On 19 April 2023, Coreper gave a mandate to initiate negotiations with the European Parliament. In the European Parliament, the LIBE Committee is dealing with the proposal, and the rapporteur is Mr Patryk Jaki (ECS, PL). During a political trilogue on 25 May, a provisional agreement was reached. The agreement was confirmed in Coreper on 31 May. Final adoption is expected in June 2023.

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

Interinstitutional negotiations started under the Slovenian Presidency but have been halted since 8 March 2022, when the last technical meeting took place. In November 2022, the Czech Presidency wrote to the Chair of the JURI Committee of the European Parliament inquiring about the possible resumption of negotiations and the Swedish Presidency received an answer in March 2023. The Presidency is assessing the state of play and will inform Member States when further steps are taken in relation to the European Parliament.

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 completing the first examination of the articles of the AI Liability Directive on 12 January 2023, 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 focused its work on the revision of the Product Liability Directive. The Presidency has presented several compromise drafts, which have been discussed at Working Party meetings.

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 in December 2022. The Swedish Presidency has organised around one Council Working Party meeting per month. The first technical examination of the proposal is ongoing, and discussions are constructive.

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. Since January, three more Working Party meetings have been held, on 7 March, 21 April and 10 May. During these meetings, the Working Party started examining the individual articles. There will be one more meeting in June.

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. Following the adoption by the JURI Committee of its opinion, interinstitutional negotiations are ongoing. The first political trilogue took place on 4 May 2023.

Regulation on the transfer of proceedings in criminal matters

On 5 April 2023, the Commission presented its 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 first presentation of the proposal, followed by a general exchange of views and an examination of the first articles, took place on 2 May in the Working Party on Judicial Cooperation in Criminal Matters (COPEN). The first examination of the proposal was finalised on 8 May. Based on the comments and written contributions of Member States, a revised text will be examined by the Working Party on 19-20 June. In the European Parliament, the LIBE Committee is responsible for the proposal.

Directive on combating corruption

The Commission submitted its proposal for a Directive on combating corruption on 3 May 2023. The proposal will be presented, and the first examination will begin in June 2023, in the Working Party on Judicial Cooperation in Criminal Matters (COPEN).

Regulation on the cross-border protection of vulnerable adults

The proposal was presented by the Commission on 31 May. The proposal will be presented in June in the Working Party on Civil Law Matters.