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NOTE

From: Presidency
To: Delegations

Subject: Information on current legislative proposals

Delegations will find attached the state of play of ongoing legislative files in the area of Justice and Home Affairs with a view to the meeting of the Justice and Home Affairs Council on 3 and 4 March 2022.

INFORMATION FROM THE PRESIDENCY

ON CURRENT LEGISLATIVE PROPOSALS

HOME AFFAIRS

Legislative proposals in the area of security

Europol Regulation and SIS

Europol: A provisional agreement was reached with the European Parliament on 1 February on the revision of Europol's mandate, for which the Commission had submitted its proposal on 9 December 2020. Member States supported this agreement at COREPER on 11 February. The LIBE Committee is expected to vote in mid-March. This new Regulation is intended to enable Europol to respond to new technological challenges and to develop cooperation with private parties and third countries to combat serious and organised crime and terrorism more effectively: retention of (present and future) data received by Europol;

management of large volumes of information; decryption and development of innovation projects; cooperation with third countries without an agreement or adequacy decision; removal of illegal online content, in particular that relating to terrorism and child pornography; strengthening Europol's governance. It is worth highlighting the allocation by the Commission of a budget increase of approximately EUR 180 million and additional posts to accompany this new mandate. Revision by the lawyer-linguists has started, and the vote in the European Parliament's plenary session is expected at the end of May, with adoption by the Council and entry into effect taking place before the meeting of Europol's Management Board, which will be held in Lille on 28 and 29 June 2022.

SIS: On 9 December 2020, the Commission presented its proposal for a Regulation setting out the conditions for entering alerts on individuals in the Schengen Information System (SIS) on the basis of information from third countries. The provisional agreement on Europol's mandate reached on 1 February confirms that the Agency will not be able to enter alerts directly into SIS. It was therefore on the basis of Coreper's mandate of 13 October 2021 that the first technical discussions started with Parliament on 16 February 2022 with a view to a political trilogue in mid-March.

Police Cooperation Code

This package of measures, presented by the Commission on 8 December 2021, includes two legislative initiatives, discussions on which have started in the Council.

- Prüm II Regulation

Following a presentation of the proposal by the Commission in the IXIM Working Party under the Slovenian Presidency, the Working Party carried out a first reading of the text and started its examination of a revised text.

- Directive on the exchange of information

Following a presentation of the proposal by the Commission in the IXIM Working Party under the Slovenian Presidency, the Working Party carried out a first reading of the text. It will meet very soon to discuss a revised text.

Resilience of critical entities

On 16 December 2020, the Commission presented its proposal for a Directive aimed at enhancing the resilience of critical entities that provide services essential for vital societal functions or economic activities in the internal market. The European Parliament (rapporteur Michal Šimečka (Renew Europe, SK)) adopted its position on 20 October 2021. The Council's general approach was formally adopted by the Environment Council on 20 December 2021. The first political trilogue took place on 31 January 2022 in the Council. Discussions continue at technical level with a view to the next political trilogue in mid-March (date to be confirmed).

Regulation on the European Union Drugs Agency

On 12 January 2022, the Commission presented its proposal for a Regulation aimed at strengthening the mandate of the European Monitoring Centre for Drugs and Drug Addiction (EMCCDA), transforming it into the European Union Drugs Agency. An initial examination of the first 21 articles was carried out in the context of the discussions of the Horizontal Working Party on Drugs (HDG) on 2 and 3 February 2022.

Legislative proposals in the area of migration

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 examination by the Working Party on Frontiers and the JHA Counsellors under the German, Portuguese and Slovenian Presidencies, work on the text continues in the context of discussions aimed at moving towards agreement in stages.

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

Screening amendment for consistency

On 2 March 2021, the Commission presented a proposal for a Regulation amending Regulation (EU) 2019/816 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) and Regulation (EU) 2019/818 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 for the purpose of introducing a screening of third country nationals at the external borders. After examination by the Working Party on Frontiers and the JHA Counsellors under the Portuguese and Slovenian Presidencies, discussions on the text will continue once the implementation of a gradual approach to the agreement has been defined.

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

EURODAC Regulation

On 23 September 2020, the Commission presented its proposal for a Regulation on the establishment of EURODAC for the comparison of biometric data of third-country nationals (COM (2020) 61). The text is currently being negotiated within the framework of the Council's Asylum Working Party. At its meeting on 21 December 2021, under the Slovenian Presidency, Coreper was informed of the state of play, but a mandate for negotiations with the European Parliament has not yet been agreed. Work on the text continues in the context of discussions on a gradual approach to agreement. In the European Parliament, the draft report, submitted in March 2021 by the rapporteur (Jorge Buxade Villalba (ECR, ES)), has yet to be adopted in LIBE.

Regulation on Asylum and Migration Management

On 23 September 2020, the Commission presented its proposal for a Regulation on Asylum and Migration Management (COM (2020) 610 final). The text is currently being negotiated within the framework of the Council's Asylum Working Party.

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

Common Procedure Regulation

On 23 September 2020, the Commission presented its proposal for a Regulation establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (COM(2020) 611 final) The text is currently being negotiated within the framework of the Council's Asylum Working Party.

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

Regulation on crisis situations

On 23 September 2020, the Commission presented its proposal for a Regulation addressing situations of crisis and force majeure in the field of migration and asylum (COM (2020) 613 final). The examination of the provisions of the proposal has not yet started in the Council's Working Party on Asylum.

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

Resettlement Regulation

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

Qualification Regulation

On 13 July 2016, the Commission presented its proposal for a Regulation on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents. The proposed Regulation replaces the Qualification Directive. The text was discussed in the Council's Working Party on Asylum and in the European Parliament's LIBE Committee (rapporteur Tanja Fajon (S&D, SI)). A partial mandate for negotiations with the European Parliament was approved in Coreper on 19 July 2017 and was extended several times in 2017 and 2018. A provisional agreement was achieved with the European Parliament on both texts on 14 June 2018 and presented to Coreper on 19 June 2018. However, this provisional agreement was not approved by Coreper and negotiations have not resumed since.

Reception 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 Working Party on Asylum. Coreper granted a mandate to start negotiations with the European Parliament on 29 November 2017. The Parliament's rapporteur is Sophia in 't Veld (Renew Europe, NL). A provisional agreement was achieved with the European Parliament on both texts on 14 June 2018 and presented to Coreper on 19 June 2018. However, this provisional agreement was not approved by Coreper and negotiations have not resumed since.

Return Directive

The proposal for a recast of the Return Directive, submitted by the Commission in September 2018, was discussed in the Council's Working Party on Integration, Migration and Expulsion. A partial general approach was adopted by the Council in June 2019, excluding the article on border return procedures (moved to the Common Procedure Regulation proposed in September 2020). The rapporteur for this text in Parliament is Tineke Strik (Greens/EFA, NL). Parliament has not adopted a negotiating mandate at this stage. As a result, more than three years after the submission of the proposal, discussions with the Parliament have not begun.

JUSTICE

Directive on the protection of the environment through criminal law

The Commission submitted its proposal for a revision of Directive 2008/99/EC on 15 December 2021. The French Presidency carried out an initial examination of this proposal in the COPEN Working Party. The proposal was also the subject of a policy debate in CATS on 8 February 2022, highlighting the operational challenges of this crime.

Digitalisation of justice package

This legislative package, presented by the Commission on 1 December 2021, consists of several texts the discussion of which has begun in the Council.

- Regulation on the collaboration platform for Joint Investigation Teams

An initial examination of the proposal has just been concluded under the French Presidency in the COPEN Working Party.

- **Regulation on information sharing in terrorism cases**

Following a presentation of the proposal by the Commission in the COPEN Working Party under the Slovenian Presidency, the Working Party carried out a first reading of the text. It will meet very soon to discuss a revised text.

- **Regulation on the digitalisation of judicial cooperation and access to justice**

Following a presentation of the proposal by the Commission in the e-Justice Working Party under the Slovenian Presidency, the Working Party carried out a first reading of the text. Once the question of the scope of the Regulation has been clarified, it will be possible to continue examination of the rest of the text.

Alignment of EU instruments in the field of criminal law with EU rules on the protection of personal data:

- a) **Proposal for a Directive of the European Parliament and of the Council amending Council Framework Decision 2002/465/JHA as regards its alignment with EU rules on the protection of personal data**
- b) **Proposal for a Directive of the European Parliament and of the Council amending Directive 2014/41/EU, as regards its alignment with EU rules on the protection of personal data**

On 20 January 2021, the Commission presented two proposals for Directives amending two Union instruments in the field of criminal law — Framework Decision 2002/465/JHA on joint investigation teams and Directive 2014/41/EU on the European Investigation Order — in order to ensure their alignment with Union data protection rules, namely the principles and provisions set out in Directive (EU) 2016/680/EU. The co-legislators reached agreement on the text of the two files at the political trilogue on 11 November 2021. When it voted on 14 December 2021, the plenary of the European Parliament adopted the two compromise texts. On the Council's side, the adoption of these two directives was entered as an 'A' item at the Council (General Affairs) on 25 January 2022.

E-CODEX Regulation

Political agreement was reached with Parliament on the proposal for a Regulation on e-CODEX under the Slovenian Presidency. The revision of the text by the lawyer-linguists started in January and the Working Party of Legal/Linguistic Experts met on 16 February. Once the text has been finalised, it can be formally adopted.

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

After a first trilogue on 1 December 2021, several technical meetings took place with the Parliament. They revealed significant disagreement on the main article of the Regulation, which determines the applicable law. Council and Parliament agree on a principle of application of the law of habitual residence of the assignor, with exceptions in favour of the law of the assigned claim. There is disagreement on, in particular, the exceptions providing for the application of the law of the assigned claim. Discussions will continue at technical level before a second trilogue is held.

Revision of the founding regulation of the Fundamental Rights Agency

The Council adopted its general approach on 7 June 2021. The European Parliament adopted its resolution approving the proposal for a Council Regulation on 6 July 2021. The formal adoption of the Regulation, which has been suspended until the completion of internal parliamentary procedures in a Member State, is expected to take place in the coming weeks.