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NOTE

From: Presidency
To: Delegations

Subject: Overview of the current legislative proposals under the Czech 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 December 2022.

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 European Parliament appointed Ms Lena DÜPONT (EPP, DE) as rapporteur, who presented her draft report at the LIBE Committee meeting on 27 June 2022. Members of the European Parliament tabled their amendments to the rapporteur's draft report, which was presented again at the LIBE Committee meeting on 10 October 2022. The European Parliament adopted its position on 19 October 2022. Since then, there have been two trilogues, on 26 October and 29 November, and three technical meetings (9, 18 and 22 November). The Presidency and the European Parliament reached a provisional agreement at the trilogue on 29 November 2022. The agreed text is subject to lawyer-linguist revision before it will be adopted.

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. Mr Rangel's draft report was presented at the LIBE Committee meeting on 10 October 2022. The European Parliament is expected to deliver its opinion at the earliest in January or February next year.

Directive on the 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 adopted its position on 20 October 2021, which was followed by the adoption of a general approach in the Council on 20 December 2021. The final political trilogue under the French Presidency took place on 28 June 2022, when political agreement on the final compromise text of the Directive was reached.

Under the Czech Presidency, the wording of all articles and recitals was finalised at the technical meeting with the European Parliament on 1 September 2022. The final compromise text was subsequently approved by the PROCIV-CER Working Party on 14 September 2022 and subsequently confirmed by Coreper on 21 September 2022. The text of the Directive was voted by the LIBE committee on 10 October 2022. After the finalisation of the legal-linguist revision, the final text of the Directive was adopted on 22 November 2022 by the EP Plenary. It will be submitted for the adoption to the JHA Council on 8 December 2022. This will be followed by the signature by the European Parliament and the Council and its publication in the Official Journal of the EU (together with NIS2 and DORA), which is expected still in December 2022.

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, and subsequently by the JHA Counsellors under the German, Portuguese, Slovenian and French Presidencies, 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 now needs to be presented again to the LIBE Committee.

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 now needs to be presented again to the LIBE Committee.

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 (FR, S&D) as rapporteur. She presented the draft report at the LIBE meeting on 17 November 2022.

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.

In the European Parliament, the draft report submitted in March 2021 by rapporteur Mr Jorge Buxade Villalba (ECR, ES) is scheduled for a vote in the LIBE Committee on 12 December. A first trilogue may take place in the same week.

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 new way forward on the reform of 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 should start under the Swedish Presidency.

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, which now needs to be presented again to the LIBE Committee.

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. The text is currently being negotiated in the Council's Asylum Working Party with the aim to conclude negotiations on the majority of its provisions (excluding the provisions related to the border procedures) by the end of the Czech Presidency. The Presidency plans to submit the text to Coreper on 20 December in view of agreement on a partial negotiating mandate.

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.

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. The Czech presidency intends to start the examination of the provisions of the proposal in the Council's Asylum Working Party on 20 December 2022

In the European Parliament, rapporteur Mr Juan Fernando Lopez 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, which now needs to be presented again 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 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 achieved with the European Parliament on 13 June 2018 and presented to Coreper on 19 June 2018. However, this provisional agreement was not approved by Coreper and the negotiations have not resumed since May 2019. Based on the 2018 partial provisional agreement, the Czech presidency intends to have the negotiation mandate amended Coreper on 7 December 2022.

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 Nemec (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 achieved with the European Parliament on 14 June 2018 and presented to Coreper on 19 June 2018. However, this provisional agreement was not approved by Coreper. Based on the 2018 partial provisional agreement, the Czech presidency intends to have the negotiation mandate amended in Coreper on 7 December 2022.

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 achieved with the European Parliament 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. Based on the 2018 partial provisional agreement, the Czech presidency intends to have the negotiation mandate amended in Coreper on 7 December 2022.

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). At the meeting of the Working Party on Integration, Migration and Expulsion (IMEX-Admission) on 14 September 2022, the Presidency began the first reading of the proposal for a recast of the LTR Directive, examining the proposal from Article 1 to 14. The Presidency has completed the first reading of the proposal at the IMEX-Admission Working Party meeting on 30 November 2022.

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. On 22 July 2022, the first reading of the proposal was completed by the IMEX (Admission) Working Party. The compromise proposal presented by the Czech Presidency was discussed at the meeting of the working party on 9 November 2022.

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

On 27 April 2022, the Commission presented a proposal for a Regulation amending a number of acts as regards the digitalisation of the visa procedure. Within the Council, the Visa Working Party had its first exchanges of views on the legislative proposal and the impact assessment under the French Presidency. The Czech Presidency started the examination of the proposal and the Working Party completed the first reading. The Czech Presidency is currently working on a compromise proposal which will be discussed at the December Visa Working Party meeting.

In the European Parliament, rapporteur Mr Matjaž NEMEC (S&D, SI) is expected to present his report to the LIBE Committee. The vote in the LIBE Committee is scheduled for 12 January 2023.

Regulation on visa liberalisation for Qatar and Kuwait

On 27 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.

In the European Parliament, rapporteur Mr Erik MARQUARDT (Greens, DE) presented his report to the LIBE Committee on 10 October. The vote in the LIBE Committee, scheduled for 17 November 2022, has been postponed to the LIBE meeting of 1 December 2022. The Members of the European Parliament supported the proposal. The draft legislation will now have to be endorsed by the EP plenary. The Presidency is ready to start trilogues as soon as the European Parliament adopts its position.

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. The Commission proposed the visa liberalisation of Kosovo after concluding that all but two liberalisation requirements were fulfilled. The proposal was discussed at the Council's Visa Working Party, however did not receive sufficient support from the Member States. In 2018, the Commission concluded that Kosovo met also the outstanding visa liberalisation requirements. The file was brought again at 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 first political trilogue is expected to take place in the week of 12 December 2022.

Decision on the non-recognition of Russian travel documents issued in occupied foreign regions

The issue of non-acceptance of Russian travel documents issued in Ukraine and Georgia was discussed in the Council's Visa Working Party on 13 July 2022. On 6 September 2022, the Commission submitted a proposal for a Decision on the non-recognition of Russian travel documents issued in occupied foreign regions. The proposal was presented at the JHA Counsellors' meeting on 8 September 2022.

In the light, inter alia, of legal issues concerning the proposal and questions raised by the Member States, a compromise proposal of the Presidency was discussed by the JHA Counsellors on 29 September 2022. Following the discussion at the JHA Counsellors' meeting, a second compromise text of the Presidency was issued on 3 October 2022. On 12 October 2022, Coreper agreed on a mandate for interinstitutional negotiations and invited the European Parliament to follow the urgency procedure.

The European Parliament adopted its position on 20 October 2022. The interinstitutional negotiations were concluded by a political agreement on the final compromise text of the Decision on 10 November 2022.

The text of the Decision underwent legal-linguist revision. The final text of the Decision was adopted by the European Parliament on 24 November 2022. The adoption of the legislative act by the Council is expected to take place on 8 December 2022.

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. Following the negotiations at the Horizontal Working Party on Drugs under the French Presidency, the 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 vote in the LIBE Committee took place on 1 December 2022. The Members of the European Parliament supported the creation of the new EU agency. The draft legislation will now have to be endorsed by the EP plenary. The Presidency is ready to start trilogues as soon as the European Parliament adopts its position.

JUSTICE AFFAIRS

Regulation on the digital information exchange in terrorism cases

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. The plan is to reach an agreement at the political trilogue on 14 December 2022. The position of the European Parliament does not substantially divert from the position of the Council, so the Presidency is quite optimistic that the agreement might be reached within this period. There are nevertheless several issues where the proposals of the Parliament create difficulties for Member States.

Regulation establishing a collaboration platform to support the functioning of Joint Investigation Teams

The proposal is a common priority for the Council and the European Parliament. 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. The aim is to reach an agreement by 13 December 2022, when a closing political trilogue is planned. A provisional agreement already exists on the vast majority of the provisions. Intense negotiations are still ongoing, in order to reach a common understanding on the two issues which are still under consideration (extension of the scope of the Regulation to specialized JITs established under Naples II Convention and the possibility/obligation to connect the platform to SIENA).

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. The first reading showed the complexity and level of detail of the proposal. On 23 November 2022, the Czech Presidency organised a discussion in the COPEN Working Party on the legal questions related to the proposal altogether, having regard to the opinion of the Council Legal Service, which has provided a valuable contribution to pursue work at technical level.

Directive on violation of Union restrictive measures

On 28 November 2022, the Council adopted Decision 2022/2332 on identifying the violation of Union restrictive measures as an area of crime that meets the criteria specified in Article 83(1) of the Treaty on the Functioning of the European Union. On that basis, the Commission presented on 2 December 2022 a proposal for a Directive on the definition of criminal offences and penalties for the violation of Union restrictive measures. The Presidency intends to start discussions on the new proposal at technical level as soon as possible and work in close cooperation with the incoming Swedish Presidency so as to ensure that progress can be made rapidly on this instrument which is of the utmost importance for the EU efforts to ensure effectiveness of Union restrictive measures, in particular in relation to the situation in Ukraine.

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

Although the Czech Presidency was prepared to continue with the inter-institutional negotiations started under the Slovenian Presidency, the negotiations have not been renewed since 8 March 2022 when the last technical meeting on this file under the French Presidency took place. The Czech Presidency has recently addressed a letter, signed by the Minister of Justice, to the Chair of the JURI Committee of the European Parliament inquiring about the possible resumption of negotiations. 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: revision of the 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 at its meeting on 1 and 2 December.