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NOTE

From: Presidency
To: Delegations

Subject: Overview of the current legislative proposals under the Spanish 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 19 and 20 October 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. A political agreement was reached on 6 June between the Council and the European Parliament. The formal agreement was conditional upon, and will occur when, political commitment to the package of legislative proposals to strengthen EU anti-money-laundering rules and rules on combating the financing of terrorism (AML/CFT) is reached (intended for December 2023).

Prüm II Regulation

The Commission submitted the proposal on 8 December 2021. The general approach was adopted by the Council on 10 June 2022.

The European Parliament appointed Mr Paulo Rangel (EPP, PT) as rapporteur. The LIBE Committee meeting voted on the rapporteur's report on 23 May 2023. Following the confirmation by the European Parliament of the decision to enter into interinstitutional negotiations on 12 June, two political trilogues took place on 27 June and 19 September, together with a series of technical meetings. An additional political trilogue is planned for 20 November, with the objective of reaching a political agreement with the European Parliament before the end of the year.

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

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, and LIBE is the responsible committee. She presented the draft report at the LIBE meeting on 17 November 2022. The LIBE Committee finally voted on the report on 20 September 2023. On 5 October the mandate was approved in Plenary, allowing the interinstitutional negotiations to start. A first political trilogue is scheduled for 7 November 2023.

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) presented his draft report to the LIBE Committee on 11 September 2023.

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 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, where the rapporteur is Ms Malin Björk (GUE/NGL, SE). A provisional agreement was reached with the European Parliament on 13 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 with 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, where the rapporteur is 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. 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 with 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) is the 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. However, Coreper did not approve this provisional agreement. On the basis of the 2018 provisional agreement, the negotiating 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 with 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) is the 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). The current Long-Term Residents Directive dates back to 2003 (Council Directive 2003/109/EC of 25 November 2003).

After several discussions in the Council's Working Party on Integration, Migration and Expulsion – Admission (IMEX Admission), the Spanish Presidency aims to reach a negotiating mandate within the Council as soon as possible, so that interinstitutional negotiations can start shortly after.

In the European Parliament, the LIBE Committee voted on the report by rapporteur Mr Damian Boeselager (Greens/EFA, DE) on 28 March 2023, which was confirmed by the Plenary on 19 April 2023.

Single Permit Directive

On 27 April 2022 the Commission presented the Directive on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (known as the SPD Directive). The current Single Permit Directive dates back to 2011 (Directive 2011/98/EU).

After several discussions in the IMEX Admission Working Party, the Council reached a general approach on 8 June 2023 under the Swedish Presidency, holding a first trilogue on 13 June. The second and third trilogues were held on 18 September and 12 October under the Spanish Presidency. A fourth trilogue is scheduled for November, with the objective of reaching a political agreement with the European Parliament before the end of the year.

In the European Parliament, the LIBE Committee voted on the report by rapporteur Javier Moreno (S&D, ES) on 23 March 2023, which was confirmed by the Plenary on 19 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 interinstitutional negotiations were conducted under the Swedish Presidency and a political agreement was reached on 11 June 2023. The two Regulations are scheduled to be adopted by the EP at the October second session, and by the Council on 13 November. The signing will take place on 22 November, followed by publication in the Official Journal.

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 2022. Both proposals have subsequently been examined on numerous occasions in the IXIM. A negotiating mandate for both proposals was adopted by Coreper on 21 June 2023.

LIBE is the responsible committee in the European Parliament, and the rapporteur is Mr Jan-Cristoph Oetjen (Renew Europe, DE), who presented the draft report on 5 July 2023. For the API law enforcement proposal, the rapporteur is Ms Assita Kanko (ECR, BE), who presented the draft report on 4 July 2023.

JUSTICE AFFAIRS

Digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, Regulation and Directive

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

On 9 December 2022 the Justice and Home Affairs Council reached general approaches on the proposals. In the European Parliament, the JURI and LIBE Committees adopted their reports on 1 March 2023.

Interinstitutional negotiations started on 27 March 2023. The co-legislators reached a provisional political agreement on 28 June 2023. The provisional agreement was submitted to COREPER on 19 July. Review by the lawyer-linguists is currently under way.

The European Parliament's JURI and LIBE Committees voted on the provisional agreement on 20 September, with adoption by the Plenary scheduled for the 20-23 November session.

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

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 the Council and the European Parliament reached a provisional agreement, which resulted in a final compromise text, confirmed by Coreper on 25 January 2023. The LIBE Committee confirmed the agreement on 31 January 2023. On 13 June 2023 the European Parliament adopted the texts in its Plenary session. Regulation (EU) 2023/1543 and Directive (EU) 2023/1544 were published in the Official Journal on 28 July 2023. Both the e-evidence Regulation and the Directive entered into force on 19 August 2023.

Regulation on digital information exchange in terrorism cases (CTR)

On 1 December 2021 the Commission submitted a proposal for a Regulation on digital information exchange in terrorism cases (CTR). 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. The Council adopted the Regulation on 18 September 2023. The Regulation was published in the Official Journal on 11 October 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. During a political trilogue on 25 May, a provisional agreement was reached. The agreement was confirmed in Coreper on 31 May. Final adoption by the Parliament took place on 12 July 2023. The Directive was published in the Official Journal on 11 October 2023.

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

The proposal for a Regulation on the law applicable to the third-party effects of assignments of claims was proposed by the Commission on 12 March 2018. The Council reached a general approach on 7 June 2021.

Interinstitutional negotiations started under the Slovenian Presidency but have been halted since 8 March 2022, when the last technical meeting took place. Letters were subsequently exchanged to find a way forward. On 25 September 2023 the Presidency received a letter from the EP JURI Committee in which the European Parliament provides some explanations of their position and proposes a possible political compromise. The Presidency plans to discuss the next steps at a JHA Counsellors meeting.

Directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (‘Strategic lawsuits against public participation’)

On 27 April 2022 the Commission submitted the proposal for a Directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (‘Strategic lawsuits against public participation’). The Council reached a general approach at the JHA Council on 9 June 2023. The European Parliament voted on its report on the Commission proposal in the Plenary on 11 July 2023. The first trilogue took place the next day, on 12 July 2023. A second political trilogue took place on 9 October 2023. The aim is to come to an agreement on the file by the end of the Spanish Presidency.

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. Following completion of 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 Council agreed on a mandate for negotiations on the Product Liability Directive in Coreper on 14 June 2023. As soon as the European Parliament adopts its position in Plenary, expected on 16 October, the negotiations in trilogues will start with the aim of coming to an agreement on the Directive under the Spanish Presidency.

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 Working Party has since met regularly to examine the proposal. The Spanish Presidency aims to finish the first reading of the proposal.

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 started in May 2023. The first trilogues took place on 4 May and 13 June 2023 under the Swedish Presidency. On 2 October the third trilogue took place. The objective of the Presidency is to reach an agreement with the Parliament before the end of the year.

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. Following initial work under the Swedish Presidency, the Spanish Presidency continued the examination of the proposal in the Working Party on Judicial Cooperation in Criminal Matters (COPEN). The Spanish Presidency aims to reach a general approach in December 2023. 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 was presented in the Working Party on Judicial Cooperation in Criminal Matters (COPEN) in June 2023, under the Swedish Presidency. Its examination by the Council continues under the Spanish Presidency.

Regulation on the cross-border protection of vulnerable adults

The proposal was submitted by the Commission on 31 May. The proposal was presented in June in the Working Party on Civil Law Matters under the Swedish Presidency. The first technical examination of the Regulation is ongoing.

Revision of the Victims' Rights Directive

On 12 July 2023 the Commission presented a proposal to revise the Victims' Rights Directive. It addresses problems identified in the evaluation of the implementation of the Directive submitted by the Commission in June 2022. The amendments concern five main victims' rights: access to information, improved support and protection, improved participation in criminal proceedings and facilitated access to compensation. The first reading of this text began in the Working Party on Criminal Matters on 22 September.

Revision of the Directive on preventing and combatting trafficking in human beings and protecting its victims

On 19 December 2022 the Commission presented a proposal to amend Directive **2011/36/EU** on preventing and combating trafficking in human beings and protecting its victims. The general approach was reached under the Swedish Presidency at the Justice and Home Affairs Council of 9 June. The FEMM and LIBE Committees, both competent for this file, have not yet approved their joint opinion. Interinstitutional negotiations are expected to begin in November.

Directive on combating violence against women and domestic violence

The Commission submitted its proposal for a Directive on combating violence against women and domestic violence on 9 March 2022, under the French Presidency. Negotiations took place under the French, Czech and Swedish Presidencies. At its meeting on 9 June 2023, the Justice and Home Affairs Council reached a general approach on the proposal. Following the adoption by the LIBE and FEMM Committees of their joint opinion, interinstitutional negotiations started in July 2023, under the Spanish Presidency. The first trilogue took place on 8 July and the second on 3 October. The objective is to work towards the finalisation of this file by the end of the year.

Directive on the violation of Union restrictive measures

The proposal was tabled on 2 December 2022, shortly after the adoption of a specific Council Decision from 28 November 2022 which had enlarged the legal basis in Article 83(1) TFEU. On 9 June the Council adopted its general approach. On 6 July 2023 LIBE Committee adopted the report and authorised the opening of interinstitutional negotiations, a decision confirmed by the Plenary on 12 July. The first trilogue took place on the same day, under the Spanish Presidency. The second trilogue took place on 26 September. The objective of both the co-legislators is to reach a full agreement under the Spanish Presidency.

Revision of the Directive on asset recovery and confiscation

On 25 May 2022 the Commission submitted a proposal for a Directive on asset recovery and confiscation. The general approach was agreed in Council on 9 June 2023. The first trilogue took place on 13 June under the Swedish Presidency. On 3 October the second trilogue took place, under the Spanish Presidency. The objective of both the co-legislators is to reach an agreement under the Spanish Presidency.

Regulation laying down additional procedural rules relating to the enforcement of Regulation (EU) 2017/679 (General Data Protection Regulation or GDPR)

The Commission adopted its proposal on procedural rules relating to the enforcement of the GDPR on 4 July 2023 and presented it on 24 July 2023 in the Working Party on Data Protection. The Working Party has subsequently initiated the first-reading examination of the proposal.

