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NOTE

From: Presidency

To: Permanent Representatives Committee/Council

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11316/16 ASILE 26 CODEC 1076 + ADD 1
11317/16 ASILE 27 CODEC 1077 + ADD 1 + ADD 2

Subject:

- Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (First reading)
- Proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) (First reading)
- Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (First reading)
- Proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (First reading)

= Progress report

I. INTRODUCTION

1. Following its Communication of 6 April 2016 ("Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe")¹ on the reform of the Common European Asylum System (CEAS), the Commission presented
 - on 11 May 2016, a **first package of legislative proposals**, containing:
 - a recast of the Dublin Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection (doc 8715/16);
 - a Regulation on the European Union Agency for Asylum, replacing the EASO Regulation (doc 8742/16);
 - a recast of the Regulation on the establishment of 'Eurodac' (doc 8765/16);
 - on 18 July 2016, a **second package of legislative proposals**, which contains:
 - a Regulation establishing a common procedure for international protection in the EU (replacing the Asylum Procedures Directive) (doc 11317/16 + ADD 1 + ADD 2);
 - a Regulation on qualification of third-country nationals or stateless persons as beneficiaries of international protection (replacing the Qualification Directive) (doc 11316/16 + ADD 1);
 - a recast of the Directive for the reception conditions of applicants for international protection (doc 11318/1/16 REV 1);
 - a Regulation establishing a Union Resettlement Framework (doc 11313/16).
2. According to the Commission, the **general objectives** of the above-mentioned two packages are:
 - improving the functioning of CEAS by eliminating differing treatment of asylum seekers and varying recognition rates among Member States;
 - reducing secondary movements and contributing to a fairer distribution among the Member States of the responsibility to offer protection to those in need.

¹ Doc 7665/16.

3. The CEAS reform is a **priority** for the Slovak Presidency whose objective is to achieve the greatest possible progress on as many proposals as possible. This priority is reflected, in particular, in the scheduling of 17 meeting-days of the Working Party on "Asylum" until the end of its term. Even though the Commission has presented the proposed reform in two steps, the Presidency perceives the seven proposals as parts of one complex legislative effort.
4. So far, the Presidency has focused on the examination of the first three proposals (Dublin, Eurodac and Asylum Agency Regulations) and, after a delay meant to allow for a thorough analysis of the July legislative proposals, it has in parallel opened the discussions on all the remaining proposals. Significant progress has already been achieved on the Eurodac Regulation and on the European Union Agency for Asylum Regulation (doc. 12726/16).
5. These proposed legislative acts are subject to the **ordinary legislative procedure**.²

II. DUBLIN REGULATION

6. The Asylum Working Party has so far **examined forty Articles** of the proposal (Art. 1-38 and 44-45) at its meetings on 26 May, 14 June, 15 July, 7 and 28 September 2016.
7. While most Member States have entered **general scrutiny reservations**, the majority of delegations agreed on the **need to reform the current Dublin rules and supported two of the main aims** of the Regulation: faster and more efficient determination of the Member State responsible for examination of asylum claims and prevention of secondary movements.

² The European Parliament rapporteurs are for:

- the Dublin Regulation: Cecilia WIKSTROM (ALDE, SE);
- the Reception Conditions Directive: Sophie INT VELD (ALDE, SE);;
- the Qualification Regulation: Tanja FAJON (S&D, SI);
- the Asylum Procedures Regulation: Laura FERRARA (EFDD, IT).

8. Concerns raised by delegations so far include:
- one single Member State responsible for the examination of asylum claims and the removal of the cessation of responsibility;
 - the obligation for Member States where the application was lodged to do certain checks before applying the criteria for determining the Member State responsible;
 - the definition of 'family members';
 - amended rules for remedies;
 - shorter deadlines for detention and transfers;
 - the corrective allocation mechanism and the financial solidarity contribution.
 - questions of practical, operational and financial nature in relation to the new automated system;

III. JULY LEGISLATIVE PROPOSALS

9. The Commission made a general presentation of the July proposals at the Asylum Working Party on 15 July 2016 and a more detailed presentation on 29 September 2016, followed by a discussion allowing Member States to express their **initial positions**.
10. Most delegations have entered **general scrutiny reservations**. Although the views expressed by the delegations were still of a preliminary nature, the discussions have shown a **general support** to the objectives of each proposal. Nevertheless, **some concerns or doubts** were expressed by delegations. Delegations were in particular concerned about possible financial and administrative burden resulting directly from some of the Commission proposals. Other concerns relate in particular to the following issues:

a) Reception Conditions Directive

- obligation for Member States to draw up, and regularly update, contingency plans to ensure the adequate reception of applicants when they are confronted with a disproportionate number of applicants;
- obligation for Member States to take into account common standards and indicators on reception conditions when monitoring and controlling their reception systems;
- obligation for Member States to assign a guardian to represent and assist unaccompanied minors;
- equal treatment for applicants in the EU concerning the labour market access, same level of social security, reduced time-limit for access to the labour market from 9 to 6 months;
- sanctions mechanism in case of secondary movements.

b) Qualification Regulation

- compulsory systematic and regular protection status reviews;
- sanctions aiming at reducing secondary movements;
- obligation for Member State to take into account the common analysis and guidance of the EU Agency for Asylum on the situation in the country of origin;
- choice of legal instrument (a regulation instead of a directive).

c) Procedure Regulation

- procedure in three different stages (administrative procedure: regular or accelerated procedures; appeal procedures);
- shorter time limits, guardianship system, free legal assistance at all stages of the procedure;
- sanctions mechanism;
- choice of legal instrument (a regulation instead of a directive).

IV. CONCLUSION

11. The Presidency intends to finalise the first technical examination of the Dublin Regulation and present new compromise proposals to be considered by the Working Party shortly and, where appropriate, to hold constructive policy debates on this proposal at Coreper and Council. Given the close interlinks between the Dublin Regulation and the other proposals of the July legislative package, in particular the Asylum Procedures Regulation, the Reception Conditions Directive and the Qualification Regulation, the Presidency attaches great importance to a parallel examination of these files. The Presidency is therefore planning to start shortly their technical examination by the Asylum Working Party. Simultaneously, the Presidency will initiate the first technical examination of the draft Regulation establishing a Union Resettlement Framework. In the Presidency's view, this proposal does not have significant technical links with the other proposals of the package, which should allow for a rapid progress.
12. Against this backdrop, COREPER and Council are invited to:
- a) take note of this progress report;
 - b) endorse the three-track approach, proposed by the Slovak Presidency, for the examination of the CEAS reform package:
 - focusing on the examination of the Eurodac Regulation and on the European Union Agency for Asylum Regulation with the aim of achieving progress towards a Council general approach by the end of its term;
 - in parallel, holding discussions on the Dublin Regulation and the Asylum Procedures Regulation, Reception Conditions Directive and Qualification Regulation;
 - simultaneously, initiating the technical examination of the Regulation establishing a Union Resettlement Framework.