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8765/1/16 REV 1 ASILE 13 EURODAC 3 ENFOPOL 132 CODEC 630
8742/16 ASILE 12 CODEC 619
11313/16 ASIM 107 RELEX 650 COMIX 534 CODEC 1073

Subject: Reform of the Common European Asylum System and Resettlement

- **Dublin:** 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)
- **Reception conditions:** 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)
- **Qualification:** 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)
- **Procedure:** 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)
- **Eurodac:** Proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 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] , for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast)
- **EASO:** Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (First reading)
- **Resettlement Framework:** Proposal for a Regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council (First reading)

= Progress report

I. INTRODUCTION

On 4 May 2016, in the framework of the reform of the Common European Asylum System (CEAS), the Commission adopted three legislative proposals namely the recast of the Dublin Regulation and of the EURODAC Regulation as well as a proposal for a Regulation on the establishment of the European Union Agency for Asylum (EUAA). Furthermore, on 13 July 2016, in order to continue the CEAS reform, the Commission adopted a second package consisting of a proposal for a Regulation establishing a common procedure in the EU replacing the Asylum Procedures Directive, a proposal for a Qualification Regulation replacing the Qualification Directive and the recast of the Reception Conditions Directive. In addition, a proposal for a Regulation establishing a Union Resettlement Framework was also presented.

The Maltese Presidency has pursued the examination of the above-mentioned proposals, initiated by the Slovak Presidency. The result of that work can be summarised as follows:

II. THEMATIC APPROACH

In view of the fact that some of the issues included in the proposals for the Qualification Regulation, Asylum Procedure Regulation, Reception Conditions Directive and Dublin Regulation are inter-related, the Presidency decided to adopt a thematic approach, through which certain articles across these four proposals were examined jointly. This approach was used for the examination of three specific horizontal themes:

- Limiting abuse and secondary movements;
- Socio-economic rights of asylum seekers and beneficiaries of international protection;
- Guarantees for those with special needs.

This has allowed the **Asylum Working Party** to address key points of concern across the board and work towards a final compromise which is appropriately balanced.

III. DUBLIN REGULATION

As called for by the European Council at its meeting on 15 December 2016, and building on the efforts of the Slovak Presidency, the Maltese Presidency has continued the process aimed at finding a compromise on the effective application of the principles of responsibility and solidarity by conducting informal consultations with Member States. The examination of the proposal by the Council preparatory bodies is expected to resume following some additional guidance from the political level on a possible way forward. In the meantime, some articles of the Dublin Regulation have been examined in the framework of the thematic approach, as outlined above.

IV. RECEPTION CONDITIONS DIRECTIVE

A first examination of the proposal for a recast of the Reception Conditions Directive was held in the Asylum Working Party during the Slovak Presidency. Several articles of this Directive have been examined in the framework of the above-mentioned thematic approach, and a revised text was discussed at the Asylum Working Party on 16 March.

The discussion of the Presidency's compromise proposals has shown significant convergence on many aspects of the proposal. However, some important elements still require further discussion, namely the provisions related to asylum applicants' access to the labour market, as well as measures aimed at preventing secondary movements, including assignment of residence, detention and the reduction and withdrawal of material reception conditions. Furthermore, progress on a number of outstanding issues is dependent on the progress achieved in the negotiation of other CEAS proposals, notably the Dublin Regulation and the Asylum Procedure Regulation.

V. QUALIFICATION REGULATION

The text of the proposal for a Qualification Regulation and, subsequently, draft compromise proposals were discussed at five meetings of the Asylum Working Party. In parallel, certain articles were also discussed in the framework of the thematic approach.

Some issues require a more in-depth debate namely: the role of the guardian in view of similar provisions in other proposals of the CEAS package; the period of three months after the withdrawal of the refugee/subsidiary protection status during which a person is allowed to remain in the Member State granting him/her protection; the mandatory nature of the status review and of the repatriation clause; the use of information received from another Member State to assess the potential threat of an applicant for the security or community of the Member State where he or she is present; and the best way to reflect the most recent case-law regarding terrorism-related grounds excluding a person from refugee status.

Two other issues also proved to be particularly sensitive and require further discussion: the validity period of the residence permit issued to beneficiaries of refugee status and beneficiaries of subsidiary protection as well as the content and definition of social security and social assistance (the rights and benefits that may be granted to the beneficiaries). Since the validity period of the residence permit and the social security provisions are considered by some Member States as two of the major factors giving rise to secondary movements and asylum shopping, their harmonisation is one of the main priorities of the Commission's proposals.

Discussions held at Working Party level and in the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) on the validity period of the residence permit for refugees and beneficiaries of subsidiary protection have highlighted the fact that currently the legal solutions adopted by Member States in this area vary greatly and therefore further reflection and additional discussions are necessary in order to identify the best way forward.

VI. PROCEDURE REGULATION

The examination of the proposal for an Asylum Procedure Regulation continued and draft compromise proposals were discussed for those articles included in the framework of the thematic approach. The provisions relating to applicants with special needs (unaccompanied minors and guardianship, medical examination, applications made by unaccompanied minors) proved to be particularly challenging in terms of content, coordination and coherence with similar provisions in other proposals of the package. Thus, delegations highlighted a general need to better streamline the procedures, the timeline, the roles and tasks provided for in the different proposals. Furthermore, some delegations expressed concern relating to certain provisions aiming at limiting secondary movements which in their opinion failed to strike the right balance between fighting abuse and granting protection when needed.

VII. EURODAC REGULATION

Following the agreement on the partial general approach in December 2016, the Council is now waiting for the adoption of the European Parliament's position in order to start negotiations on the recast Regulation¹. On the basis of assessments by eu-LISA on the inclusion of colour copies of travel documents in the database, as well as on the possibility for law enforcement authorities to search EURODAC using alphanumeric data, the Council preparatory bodies will consider the possible extension of the mandate for negotiations on these two matters, which were not included in the partial general approach. In addition, the Presidency intends to shortly initiate discussions on the possible inclusion in this proposal of data on resettled persons.

¹ A vote on the draft report in the LIBE Committee is provisionally foreseen for 30 March 2017.

VIII. EUAA REGULATION

Following the agreement on a partial general approach in Council on 21 December 2016, the Presidency started negotiations with the European Parliament in January 2017. To date, two informal trilogues have taken place, on 7 February and 8 March. A third one is scheduled for 21 March. In preparation for these informal trilogues, several technical meetings have taken place. In the Council framework, the Presidency has convened a number of meetings of **JHA Counsellors** to seek the views of Member States on the amendments of the European Parliament as well as on the possible compromise suggestions.

During the first trilogue, the Presidency and the European Parliament's Rapporteur made a general presentation of their respective positions on 'Monitoring', 'the Organisation of the Agency', and 'Operational and Technical Assistance'. Negotiators also held a more in-depth discussion on Articles 1 (*Subject-matter and scope*) and 2 (*Tasks of the Agency*).

From these discussions, it appears that the Parliament attaches great importance to the considerably strengthened and more independent role of the Agency while the Council puts more emphasis on the importance of a good cooperative relationship between the Agency and the Member States as well as the support that the Agency provides them in fulfilling their obligations arising from the EU asylum acquis. Furthermore, some texts drafted at technical level were agreed ad referendum by negotiators.

During the second trilogue, the negotiators held an in-depth discussion on 'Operational and Technical Assistance', which continued at the technical level. The negotiators also presented their views on Article 22 on disproportionate pressure on the asylum and reception systems. Following that presentation, it was agreed that this particular article would be discussed in the context of the monitoring role of the Agency.

The Presidency and the European Parliament have planned several technical meetings for the near future with the aim of making as much progress as possible on this file before the end of June. Furthermore, the Presidency has held a number of bilateral meetings with Member States regarding their pledges to the asylum reserve pool in order to reach the target of a minimum of 500 experts set out in the Council's partial general approach.

IX. RESETTLEMENT REGULATION

The Asylum Working Party finalised the first detailed article by article examination of the proposal regarding the establishment of a Union Resettlement Framework on 17 January 2017. A second round of examination of the proposal, which included some Presidency compromise suggestions, took place on 2 March 2017. A further amended text is scheduled to be discussed at the next meeting of the Asylum Working Party on 4-5 April 2017.

Delegations have generally welcomed the objectives of the proposal during the discussions, but there are still some scrutiny reservations on the text. The main concerns raised by Member States so far include the need to clearly state the voluntary nature of resettlement in the Regulation; the definition of resettlement and the possibility to include other forms of humanitarian admission; the inclusion of the Internally Displaced Persons (IDPs) in the scope of the proposal; the admissibility criteria and the procedure that will be used for resettlement. Several delegations have expressed some concerns on the proposed Commission prerogatives to adopt delegated acts to supplement some of elements of the procedure.

X. CONCLUSION

COREPER and Council are invited to take note of this progress report.
