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NOTE

From: Presidency
To: Permanent Representatives Committee/Council

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11318/1/16 REV 1 ASILE 28 CODEC 1078
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11317/16 ASILE 27 CODEC 1077 + ADD 1 + ADD 2
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

a) 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)

b) 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)

c) 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)

d) 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)

e) 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)

f) 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)

g) 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 and 13 July 2016, the Commission submitted seven legislative proposals aimed at reforming the Common European Asylum System. This package included the recast of the Dublin Regulation and of the Eurodac Regulation, a proposal for a Regulation on the establishment of the European Union Agency for Asylum (EUAA), a proposal for a Regulation establishing a common procedure in the EU, a proposal for a Qualification Regulation, the recast of the Reception Conditions Directive and a proposal for a Regulation establishing a Union Resettlement Framework.

The Estonian Presidency has taken forward the examination of the above-mentioned proposals, initiated by the Netherlands Presidency and continued by the Slovak and Maltese Presidencies. The current progress report builds on the previous report presented to the Council on 9 June, as set out in document 9781/17.

II. DUBLIN REGULATION

Pursuant to the repeated requests by the European Council on making progress on the EU's asylum policy and building on the progress made under the Maltese Presidency, the Estonian Presidency has taken forward the discussions with a view to reaching a compromise on the effective application of the principles of solidarity and responsibility. This work has been based on the common understanding of the need to strike the right balance between the principles of responsibility and solidarity and the need to ensure resilience to future crises, as well as on the broad support for a comprehensive approach of which the reform of CEAS is only one aspect.

Building on the elements, which were identified under the Maltese Presidency as the ones, which could attract a good measure of agreement and on those that needed further work, the current Presidency has focused on a number of key specific issues to consolidate the required support. In the bilateral contacts with delegations, the Presidency has aimed at consolidating the understanding of all the generally stable points and finding as much common ground as possible on issues where the compromise has so far not proved possible. Based on these contacts, the issue will be further discussed at political level in due course in order to find the right balance that would allow for continuation of the examination of the Commission proposal by the Council preparatory bodies. It has to be stressed that all the aspects of the current reform are interlinked and compromise will be required on all sides in order to establish the required support leading to the reform of the current CEAS.

III. RECEPTION CONDITIONS DIRECTIVE

The proposal on the recast of the Reception Conditions Directive was initially examined by the Asylum Working Party and is currently being pursued by the JHA Counsellors. Progress was made on many aspects of the proposal. However, some issues still need to be tackled, in particular the provisions related to the measures aimed at preventing secondary movements, including the assignment of residence, detention and the reduction and withdrawal of material reception conditions, as well as the provisions on the unaccompanied minors.

The Presidency aims at reaching a partial general approach and at starting negotiations with the EP at the earliest opportunity.

IV. QUALIFICATION REGULATION

Under Estonian Presidency, a mandate for negotiations with the European Parliament was obtained in Coreper on 19 July 2017. The provisions containing cross-references to other proposals in the CEAS package and specific provisions, which need further discussion in the Council preparatory bodies, are not included in this mandate and are expected to be agreed at a later stage. Two specific issues (the definitions of family members and a new annex, which would contain the various information to be provided to the beneficiaries of international protection) are also not included in the mandate either. The Presidency intends to discuss further these two issues already in October with the aim of including them in a revised mandate by the end of its term.

The trilogues with the European Parliament have started in September 2017. The first discussions highlighted, among others, the following sensitive issues: approximation of both statuses and length of residence permits, Internal Protection Alternative and its application, status reviews for beneficiaries of refugee and subsidiary protection statuses, the possibility for a beneficiary of international protection to remain on the territory of the Member State for three months after the withdrawal of the status on the basis of cessation ("grace period"). On these aspects, the positions of the Council and of the European Parliament are very different and, therefore, complex negotiations are to be envisaged.

The Presidency's aim is to advance the discussions with the European Parliament as much as possible towards an agreement by the end of its term.

V. PROCEDURES REGULATION

The Estonian Presidency finalised the first examination of the whole proposal on the Asylum Procedure Regulation, in the beginning of September, and started the discussion of the first draft compromise proposals in the Asylum Working Party in the same month. In June 2017, the European Council gave a clear mandate to the Council to align the Commission's proposal on the Asylum Procedures Regulation, regarding the safe third country concept, with the effective requirements of the Geneva Convention and the EU primary law. In order to identify the best way to fulfil this mandate, the Presidency held a policy debate on this issue in SCIFA (28 September 2017). As a next step, the Presidency aims to redraft the relevant provisions in the Asylum Procedure Regulation. The Presidency intends to pursue the examination of the compromise proposals and to make as much progress as possible towards a general approach.

VI. EURODAC REGULATION

Following the agreement at Coreper, on 15 June 2017, on an extended mandate for negotiations with the EP and the vote in the LIBE committee, on 30 May 2017, negotiations between the Council and the European Parliament on the recast Eurodac Regulation started in September 2017. While the positions of both the Council and the EP are rather similar on most provisions of the recast Regulation, access of law enforcement authorities to Eurodac, data retention periods and special provisions relating to minors can be expected to require negotiations that are expected to be more complex. Both co-legislators aim at reaching an agreement on this file before the end of the term of the current Presidency.

As regards the inclusion of data on resettled persons in Eurodac, the Presidency will present drafting proposals to the Council preparatory bodies in order to complete the mandate for negotiations with the European Parliament.

VII. EUAA REGULATION

Following the agreement on a partial general approach in Council, on 20 December 2016, the Maltese Presidency started negotiations with the European Parliament in January 2017. As a result of a series of technical meetings and trilogues, the Maltese Presidency reached an agreement on the enacting terms of the text during the trilogue of 28 June. The Estonian Presidency is currently continuing work at a technical level in order to align the recitals of the text with the main body of the proposal. The issue of references to other proposals in the field of the CEAS that have been placed in square brackets in the Council's mandate for inter-institutional negotiations still needs to be reflected upon after the end of technical discussions.

VIII. RESETTLEMENT REGULATION

JHA Counsellors have pursued the discussion on the Resettlement Framework Regulation and have examined draft compromise proposals at two meetings under the Estonian Presidency (18 September and 3 October).

Progress has already been made on many aspects of the proposal, but there are still some issues that remain open, including the definitions and the scope of "resettlement" and "humanitarian admission" as well as the status given to the persons admitted.

The Presidency is currently working on new compromise proposals in order to make progress in this file at JHA Counsellors level. The Presidency aims to reach a Council's mandate for starting negotiations with the European Parliament at the earliest opportunity.

IX. CONCLUSION

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