



Council of the
European Union

Brussels, 8 March 2021
(OR. en)

6770/21

JAI 231
COMIX 130

NOTE

From:	Presidency
To:	Delegations
Subject:	Overview of the current legislative proposals under the Portuguese Presidency

Delegations will find attached the state of play of current Home Affairs legislative items in view of the informal videoconference of the Ministers of Home Affairs on 12 March 2021.

Information from the Presidency on current legislative proposals

This report provides information from the Presidency on the status of negotiations on legislative proposals in the field of home affairs.

Proposals in the field of civil protection and financial resources

EU Civil Protection Mechanism

On 2 June 2020, the European Commission submitted a proposal for a *Decision of the European Parliament and of the Council amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism*. The file has been negotiated in the Council's Prociv Working Party and in the European Parliament's ENVI Committee. The rapporteur is Nikos Androulakis MEP (S&D).

Following a partial mandate on the financial aspects of the proposal approved on 7 October 2020, Coreper adopted a full mandate to start trilogue negotiations on 30 November 2020. The mandate included modifications related to the direct procurement by the Union of rescEU capacities and to the establishment and scope of disaster resilience goals. Negotiations started under the German Presidency with a first political trilogue on 10 December 2020, followed by a first technical trilogue on 17 December 2020. Continuing under the Portuguese Presidency, eight further technical trilogues took place between 7 January and 9 February 2021. At the second and final political trilogue on 8 February 2021, provisional agreement was reached on a compromise text which was confirmed by Coreper on 17 February 2021 and by vote in the ENVI Committee on 25 February 2021.

EU funds (AMIF, BMVI, ISF)

On 13 June, as part of the next Multiannual Financial Framework (MFF) package, the Commission issued three sectoral proposals in the area of Home Affairs:

- the Asylum, Migration and Integration Fund (AMIF);
- the Border Management and Visa Instrument (BMVI), as part of the Integrated Border Management Fund; and
- the Internal Security Fund (ISF).

The negotiations on these Regulations began under the Austrian Presidency. Given the interlinkages among the three proposals, the Presidency decided to take the legislative files forward at the same pace.

The EP adopted its first-reading position on the three proposals at the plenary session on 13 March 2019. The rapporteurs appointed by the EP were Miriam Dalli and Tanja Fajon for AMIF and BMVI respectively (both S&D; Ms Dalli being later replaced by Ms Fajon) and Monika Hohlmeier for ISF (EPP).

The Council adopted partial general approaches on 7 June 2019 and (full) general approaches on 12 October 2020, following the conclusion of the political negotiations on the MFF 2021-2027.

Trilogues with the European Parliament started in September 2019, under the Finnish Presidency. Work continued at technical level in the first half of 2020, although fewer meetings were held due to the Covid-19 pandemic. In December 2020, under the German Presidency, the co-legislators secured provisional agreements at the respective final trilogues. The provisional agreements were presented at the meeting of the Permanent Representatives Committee on 16 December 2020, and received the necessary support from delegations.

Work was continued under Portuguese Presidency. Following the debriefing on the last political trilogue in Coreper, the Portuguese Presidency held around 10 technical trilogues (on the specific files and on horizontal provisions), with a view to reaching agreements with the European Parliament. On 24 February 2021, the Permanent Representatives Committee analysed and endorsed the final compromise texts previously agreed with the EP. They obtained a favourable vote at the LIBE Committee meeting on 1 March 2021.

The Presidency recognises the spirit of compromise displayed by all Member States' delegations, as well as by the European Parliament, which confirmed the agreement on 1 March 2021.

Legislative proposals in the field of migration

Amending the VIS Regulation

On 16 May 2018, the European Commission submitted a *proposal for a Regulation amending the Visa Information System (VIS) Regulation*. The file is being negotiated in the Council's **Visa Working Party** and in the European Parliament's LIBE Committee (rapporteur Paulo Rangel MEP (EPP)).

Negotiations in the Council began in June 2018 under the Bulgarian Presidency. At the end of 2019, the Finnish Presidency started the trilogue negotiations, which continued under the German Presidency, and allowed the Council and the European Parliament reached a provisional agreement on 8 December 2020.

Resettlement Regulation

On 13 July 2016, the European Commission submitted a 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*. The file is being negotiated in the Council's **Working Party on Integration, Migration and Expulsion** and in the European Parliament's LIBE Committee (rapporteur Malin Björk MEP (GUE/NGL)).

A provisional agreement with the European Parliament on the whole text was reached on 13 June 2018 and presented in Coreper on 19 June 2018. However, this provisional agreement was not approved by Coreper and negotiations have not resumed since May 2019.

Blue Card Directive

On 7 June 2016, the Commission presented its proposal for a *Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of highly-skilled employment*. The Blue Card Directive is being negotiated at the level of JHA Counsellors (Integration, Migration and Expulsion) and in the European Parliament's LIBE Committee (rapporteur Javier Moreno Sánchez MEP (S&D)).

The Council adopted its general approach on 24 July 2017 and negotiations were launched with the European Parliament, however they were interrupted for an extended period of time due to divergent positions. The presentation of the New Pact on Migration and Asylum, on 23 September 2020, allowed the trilogues (political and technical) to resume during the German Presidency and discussions were held on some of the key political issues: maintenance of national schemes; unemployment; labour market tests; and long-term mobility.

The Portuguese Presidency has continued interinstitutional negotiations, both at technical and political level. Some progress has been achieved in aligning the institutions' positions on wage limits and harmonisation, especially at the political trilogue of 11 February 2021. Other key political issues, such as the scope of the directive and the rights family members have been addressed. The Presidency will continue working both with Member States and with the colegislator, as it is the Presidency's objective to reach agreement as soon as possible.

Eurodac Regulation

On 23 September 2020, the Commission presented its amended proposal for a *Regulation of the European Parliament and of the Council on the establishment of ‘Eurodac’ for the comparison of biometric data for the effective application of Regulation (EU) XXX/XXX [Regulation on Asylum and Migration Management] and of Regulation (EU) XXX/XXX [Resettlement Regulation], 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 and amending Regulations (EU) 2018/1240 and (EU) 2019/818*. The file is being negotiated in the Council’s Asylum Working Party and in the European Parliament’s LIBE Committee (rapporteur Jorge BUXADÉ VILLALBA MEP (ECR)).

Based on the discussions in the Working Party, the German Presidency submitted a redraft of the proposal. Discussions in the Council are at a very advanced stage. .

EU Asylum Agency Regulation (EASO/EUAA Regulation)

On 4 May 2016, the Commission presented its 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*. The file is being negotiated in the Council’s Asylum Working Party and in the European Parliament’s LIBE Committee (rapporteur Elena YONCHEVA MEP (S&D)).

On 12 September 2018, the Commission presented a proposal for amending the 2016 proposal and no amendments were made to the file by the Pact on Migration and Asylum presented on 23 September 2020.

Under the German Presidency, the interinstitutional negotiations were resumed on the basis of the 2016 proposal and the provisional agreement was reached in 2017 between the European Parliament and the Council. These negotiations with the European Parliament have reached a very advanced stage at technical level.

Asylum and Migration Management Regulation

On 23 September 2020, the Commission presented its proposal for a *Regulation of the European Parliament and of the Council on asylum and migration management and amending Council Directive (EC) 2003/109 and the proposed Regulation (EU) XXX/XXX [Asylum and Migration Fund]*. The file is being negotiated in the Council's Asylum Working Party and in the European Parliament's LIBE Committee (rapporteur Tomas TOBÉ MEP (EPP)).

The Portuguese Presidency started the first reading of the proposal in the Working Party on Asylum, focusing on Part IV – "Solidarity". Discussion on this part have already been concluded. The debate has continued on Part II – "Common Framework for Asylum and Migration Management" and Part III – "Criteria and Mechanism for determining the Member State Responsible", to be followed by the remaining provisions.

Asylum Procedures Regulation

On 23 September 2020, the Commission presented its amended 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*. The file is being negotiated in the Council's Asylum Working Party and in the European Parliament's LIBE Committee (rapporteur Fabienne KELLER MEP (Renew)).

Under the German Presidency, the first reading of the proposed amendments was completed in the Working Party on Asylum, the Member States gained an understanding of the substance of the Commission proposal, links with other legal acts were identified and Member States' initial positions were ascertained (progress report).

The Portuguese Presidency is committed to proceeding with the discussions at technical and political level in order to reach a compromise. In this regard, the Presidency intends to draft a compromise version and to start the second reading of the proposal in the Working Party on Asylum.

Recast of the Return Directive

On 12 September 2018, the Commission presented its proposal for a *Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (recast)*. The file is being negotiated in the Council's Working Party on Integration, Migration and Expulsion and in the European Parliament's LIBE Committee (rapporteur Tineke STRIK MEP (Greens/EFA)).

Under the Romanian Presidency, a partial general approach was reached by the Council on 7 June 2019. The rapporteur's draft report on the Commission proposal has been available since 21 February 2020, while the amendments suggested by the members of the LIBE Committee have been available since 28 September 2020. Discussions on the report and the proposed amendments took place in the LIBE Committee on 21 September and 15 October 2020. Due to the COVID-19 pandemic, the original timetable has been delayed and the voting schedule remains uncertain.

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, 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*. The proposed Regulation replaces the Qualification Directive. The file is being negotiated in the Working Party on Asylum and in the European Parliament's LIBE Committee (rapporteur Tanja FAJON MEP (S&D)).

A partial mandate for negotiations with the European Parliament was approved in Coreper on 19 July 2017 and was extended several times in 2017 and 2018. Eight political trilogues and 38 technical meetings with the EP took place under the Estonian and Bulgarian Presidencies. A provisional agreement with the EP on the whole text was reached on 14 June 2018 and the text was presented in Coreper on 19 June 2018. However, this provisional agreement was not approved by Coreper and negotiations have not resumed since.

Crisis Situations Regulation

On 23 September 2020, the Commission presented its proposal for a *Regulation addressing situations of crisis and force majeure in the area of migration and asylum*. The file will be negotiated in the Working Party on Asylum and in the European Parliament's LIBE Committee (rapporteur Juan Fernando LÓPEZ AGUILAR MEP (S&D)).

Reception Conditions Directive

On 13 July 2016, the Commission presented its proposal for a *Directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast)*. The proposal was discussed at the Asylum Working Party and at JHA Counsellors meetings and the Permanent Representatives Committee granted a mandate to start negotiations with the European Parliament on 29 November 2017. The file was negotiated with the European Parliament's LIBE Committee (rapporteur Sophie IN'T VELD (Renew, NL)). Provisional agreement with the EP was reached on 14 June 2018 and the text was presented in Coreper on 19 June 2018. However, this provisional agreement was not approved by Coreper and negotiations have not resumed since.

Legislative proposals in the field of security

Screening Regulation

On 23 September 2020, the Commission presented its proposal for a *Regulation of the European Parliament and of the Council 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*. The file is being negotiated in the Council's Working Party on Frontiers and in the European Parliament's LIBE Committee. (rapporteur Birgit SIPPEL MEP (S&D)).

Under the German Presidency, the negotiations began in the Council Working Party on 19 October 2020. The first reading of the draft Regulation was completed.

The negotiations continued under the Portuguese Presidency at the Frontiers Working Party meetings on 21 January, 11-12 February and 11 March. The examination of the above-mentioned proposal will continue at JHA Counsellors level.

ETIAS consequential amendments

On 7 January 2019 the Commission submitted a proposal for a *Regulation of the European Parliament and of the Council establishing the conditions for accessing the other EU information systems and amending Regulation (EU) 2018/1862 and Regulation (EU) 2019/816 [ECRIS-TCN]* and a proposal for a *Regulation of the European Parliament and of the Council establishing the conditions for accessing other EU information systems for ETIAS purposes and amending Regulation (EU) 2018/1240, Regulation (EC) No 767/2008, Regulation (EU) 2017/2226 and Regulation (EU) 2018/1861*. The file is being negotiated in the Council's Working Party on Frontiers and in the European Parliament's LIBE Committee (rapporteur Jeroen Lenaers MEP (EPP)).

The Council mandate was adopted under the Romanian Presidency on 22 May 2019. The trilogues could not start until January 2021 because the European Parliament did not wish to discuss this file before an impact assessment had been provided by the Commission. The European Parliament commissioned an external, substitute impact assessment, which has been available since December 2019. After a long period of inactivity on the European Parliament side, the proposal is now being taken forward again, one and a half years on. The rapporteur's report was adopted in the LIBE Committee on 7 December 2020. Under the Portuguese Presidency a first political trilogue took place on 13 January 2021, a second on 11 February 2021 and a third on 25 February 2021. A fourth political trilogue will take place during the week 8-12 March.

TCO Regulation

On 12 September 2018 the Commission submitted a proposal for a *Regulation of the European Parliament and of the Council on preventing the dissemination of terrorist content online*. On 6 December 2018, the Council agreed on a general approach.

The European Parliament reached its first reading-position in April 2019. Three political trilogues were held under the Finnish Presidency and three trilogues under the German Presidency. From March 2020 to September 2020 there was a break in negotiations.

Under the Portuguese Presidency, political agreement was reached on 10 December 2020. This political agreement was analysed in Coreper on 16 December 2020. On 11 January 2021, the compromise/text agreed at early second reading was approved by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE). Under the Portuguese Presidency the legislative procedure will be formally concluded.

Recast of EUROPOL Mandate

On 9 December 2020, the European Commission presented a proposal for a revision of the EUROPOL Regulation, “amending Regulation (EU)2016/794, as regards *Europol’s cooperation with private parties, the processing of personal data by Europol in support of criminal investigations, and Europol’s role on research and innovation (COM(2020) 796 Final)*”. The proposal is accompanied by a related amendment of the SIS Regulation which contains the provisions necessary for the creation of a new type of "information" alert to be entered directly by Europol (COM(2020) 791 Final). The file is being negotiated in the Council’s Law Enforcement Working Party and in the European Parliament’s LIBE Committee (The rapporteur for both of the proposals is Javier Zarzalejos (EPP)).

Negotiations in the Council began in January 2021 under the Portuguese Presidency. By the end of February 2021, the Europol proposal had been discussed in 4 LEWP meetings, two of which were entirely dedicated to this item. The proposal regarding the SIS was discussed in one meeting of IXIM before the Presidency decided to bring it back to the LEWP for a more general discussion on potential alternatives to the approach proposed by the Commission.