



Analysis

EU Justice and Home affairs legislation under the 2009-14 term of the European Parliament

Steve Peers
Professor of Law, Law School, University of Essex

The latest term of the European Parliament has just come to an end. For most of this term, the Treaty of Lisbon was in force, meaning that the 'ordinary legislative procedure' applied to the adoption of the vast majority of Justice and Home Affairs legislation.

This analysis presents a brief summary of the JHA legislation adopted during this parliamentary term. It can be seen that under the most recent legislature, the EU adopted laws concerning:

- the second phase of the Common European Asylum System;
- amendments to the rules on visa requirements, internal border checks, internal border controls, and Frontex;
- various aspects of legal migration, but nothing significant on irregular migration;
- revised or new rules concerning aspects of civil jurisdiction, conflict of laws and enforcement of judgments;
- rules for the first time on criminal suspects' rights;
- revised rules on some areas of substantive criminal law;
- revised rules on investigation orders (previously known as mutual assistance), but not on any other aspects of mutual recognition.
- revised rules on victims' rights and confiscation of criminal assets, and new rules on protection orders.

Proposed EU legislation does not lapse when the European Parliament's term ends. This leaves two categories of measures which have not been adopted yet.

First of all, some legislation was agreed in principle, but has not yet been formally adopted. These measures will likely all be formally adopted in the spring by the Council.

Secondly, some legislation was not agreed at all during the EP's term, either because it was proposed very late in the term (for instance, new visa rules and further measures on criminal suspects), or because either the EP and/or the Council could not agree its position. In one case (EU fraud), both institutions agreed their position, but the EP agreed it too late to negotiate.

For these measures, where the Council has not yet agreed its position, negotiations will continue under the current Greek Presidency to agree it (negotiations for Council positions are currently furthest advanced as regards the Europol Regulation and the Directive on child criminal suspects). Where both the EP and the Council have agreed their positions, negotiations with the EP will get underway when the EP resumes its normal business in September.

The following lists present in turn (a) legislation formally adopted during the 2009-14 term; (b) legislation agreed in principle, which will be adopted in spring; and (c) legislation which was not agreed.

(a) Adopted legislation

Asylum

Regulation 439/2010 establishing a European Asylum Support Office (OJ 2010 L 132/11)

Decision amending European Refugee Fund (OJ 2010 L 129/1)

Directive 2011/95 on qualification and content of international protection (OJ 2011 L 337/9)

Decision amending European Refugee Fund as regards resettlement (OJ 2012 L 92/1)

Decision 258/2013 amending asylum and migration funding legislation (OJ 2013 L 82/1)

Directive 2013/33 on reception conditions for asylum-seekers (OJ 2013 L 180/96)

Regulation 604/2013 on responsibility for asylum applications (OJ 2013 L 180/31)

Directive 2013/32 on international protection procedures (OJ 2013 L 180/60)

Regulation 603/2013 on Eurodac (OJ 2013 L 180/1)

Regulation establishing the asylum and migration Fund (not yet published)

Regulation laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (not yet published)

Visas and borders

Regulation 1244/2009 amending Regulation establishing EC visa list (OJ 2009 L 336/1)

Regulation 265/2010 on long-stay visas (OJ 2010 L 85/1)

Reg 541/2010 amending Reg 1104/2008 on migration from SIS to SIS II (OJ 2010 L 155/19)

Reg 1091/2010 amending visa list to waive visa requirement for Albania, Bosnia-Herzegovina (OJ 2010 L 329/1)

Reg 1211/2010 amending visa list (OJ 2010 L 339/6)
Regulation 1077/2011 establishing agency to manage VIS, SIS and Eurodac (OJ 2011 L 286/1)
Decision drawing up list of travel documents (OJ 2011 L 287/9)
Reg. 1168/2011 amending Reg 2007/2004 establishing Frontex (OJ 2011 L 304/1)
Regulation 1342/2011 amending border traffic Regulation (OJ 2011 L 347/41)
Regulation 154/2012 amending visa code (OJ 2012 L 58/3)
Regulation 1273/2012 on migration from SIS to SIS II (OJ 2012 L 359/32)
Decision 259/2013 amending borders fund (OJ 2013 L 82/6)
Regulation 610/2013 amending Borders Code regulation (OJ 2013 L 182/1)
Regulation 1053/2013 on Schengen evaluation process (OJ 2013 L 295/13)
Regulation 1051/2013 amending borders code (OJ 2013 L 295/1)
Regulation 1052/2013 establishing Eurosur (OJ 2013 L 295/11)
Regulation 1289/2013 amending visa list (OJ 2013 L 347/74)
Regulation 259/2014 amending visa list to waive visa requirements for Moldova (OJ 2014 L 105/9)
Regulation establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa (not yet published)

Migration

Regulation 493/2011 amending Regulation on immigration liaison officers (OJ 2011 L 141/13)
Regulation 1231/2010 extending Regulation 883/2004 on social security for EU citizens to third-country nationals who move within the EU (OJ 2010 L 344/1)
Directive 2011/51 applying long-term residents' Directive to refugees and beneficiaries of subsidiary protection (OJ 2011 L 132/1)
Directive 2011/98 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 (single permit Directive) (OJ 2011 L 343/1)
Directive 2014/36 on admission of seasonal workers (OJ 2014 L 94/375)

Civil Cooperation

'Rome III' Regulation 1259/2010 on choice of law in divorce proceedings (OJ 2010 L 343/10)
- Nb: special legislative procedure and enhanced cooperation applied
Regulation 650/2012 on choice of law and jurisdiction in succession proceedings (OJ 2012 L 201/107)
Regulation 1215/2012 on civil and commercial jurisdiction (OJ 2012 L 351/1)
Regulation 606/2013 on civil law enforcement of protection orders (OJ 2013 L 181/4)

Criminal law and policing

Directive 2010/64 on the right to interpretation and translation in the framework of criminal proceedings (OJ 2010 L 280/1)
Directive 2011/36 on trafficking in persons (OJ 2011 L 101/1)
Directive 2011/82 on exchange of information on traffic offences (OJ 2011 L 288/1)
- Nb legal challenge to validity: CJEU will give ruling on 6 May 2014

Directive 2011/92 on sexual exploitation of children (OJ 2011 L 335/1)
Directive 2011/99 on European protection order (OJ 2011 L 338/2)
Directive 2012/13 on the right to information on criminal proceedings (OJ 2012 L 142/1)
Directive 2012/29 on crime victims' rights (OJ 2012 L 315/57)
Directive 2013/40 on attacks on information systems (OJ 2013 L 218/8)
Directive 2013/48 on access to lawyer and communication rights (OJ 2013 L 294/1)
Directive on European investigation order (not yet published)
Directive on freezing and confiscation of criminal proceeds (not yet published)
Directive on criminal sanctions against market abuse (not yet published)

Regulation 542/2010 amending Decision on migration of third-pillar SIS to SIS II (OJ 2010 L 155/23)
Regulation 1272/2012 on migration from SIS to SIS II (OJ 2012 L 359/21)
Regulation establishing a Justice Programme (OJ 2013 L 354/73)
Regulation on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (not yet published)

(b) Agreed proposals

Immigration and asylum

Regulation amending visa list Regulation (COM (2012) 650, 7 Nov. 2012)
Regulation on maritime surveillance operations (COM (2013) 197, 16 April 2013)
Decision on transit as regards Croatia and Cyprus (COM (2013) 441, 21 June 2013)
Directive on admission of intra-corporate transferees (COM (2010) 378, 13 July 2010)

Civil cooperation

Regulation on European account preservation orders (COM (2011) 445, 25 July 2011)
Regulation amending civil jurisdiction Regulation (COM (2013) 554, 26 July 2013)

Criminal law and policing

Directive on counterfeiting currency (COM (2013) 42, 5 Feb. 2013)
Amendment to Decision on European Police College (Council doc. 16378/13, 18 Nov. 2013)

(c) Legislation not agreed

Immigration and asylum

Regulation establishing entry-exit system (COM (2013) 95, 27 Feb. 2013)
- no EP or Council position yet
Regulation amending borders code (COM (2013) 96, 27 Feb. 2013)
- no EP or Council position yet

Regulation establishing registered traveller programme (COM (2013) 97, 27 Feb. 2013)

- no EP or Council position yet

Regulation recasting visa code (March 2014)

- no EP or Council position yet

Regulation creating a touring visa (March 2014)

- no EP or Council position yet

Directive on admission of students, researchers and others (COM (2013) 151, 25 March 2013)

- EP agreed its position, Council has not

Civil cooperation

Regulation on choice of law and jurisdiction on matrimonial property (COM (2011) 126, 16 Mar. 2011)

- EP agreed its position, Council has not; special legislative procedure

Regulation on choice of law and jurisdiction on registered partnerships (COM (2011) 127, 16 Mar. 2011)

- EP agreed its position, Council has not; special legislative procedure

Regulation amending insolvency Regulation (COM (2012) 744, 12 Dec. 2012)

- EP agreed its position, Council has not

Regulation amending prior legislation regarding implementing measures (COM (2013) 452, 27 June 2013)

- EP agreed its position, Council has not

Regulation amending small claims and order for payment Regulations (COM (2013) 794, 19 Nov. 2013)

- no EP or Council position yet

Criminal law and policing

Directive on passenger name records (COM (2011) 32, 2 Feb. 2011)

- EP in effect rejected; Council agreed position

Directive on protection of EU financial interests (COM (2012) 363, 11 July 2012)

- EP has agreed position; Council has also; negotiations did not start yet

Directive to amend Framework Decision on drug trafficking (COM (2013) 618, 17 Sep. 2013)

- EP has agreed position; Council has not

Directive on presumption of innocence (COM (2013) 821, 27 Nov. 2013)

- no EP or Council position yet

Directive on childrens' rights as suspects (COM (2013) 822, 27 Nov. 2013)

- no EP or Council position yet

Directive on provisional legal aid (COM (2013) 824, 27 Nov. 2013)

- no EP or Council position yet

Regulation on Europol (COM (2013) 173, 27 March 2013)

- EP has agreed position; Council has not

Regulation on European Public Prosecutor's Office (COM (2013) 534, 17 July 2013)

- EP adopted interim report; no Council position yet

Regulation on Eurojust (COM (2013) 535, 17 July 2013)

- no EP or Council position yet

April 2014

© Statewatch ISSN 1756-851X. Personal usage as private individuals/"fair dealing" is allowed. We also welcome links to material on our site. Usage by those working for organisations is allowed only if the organisation holds an appropriate licence from the relevant reprographic rights organisation (eg: Copyright Licensing Agency in the UK) with such usage being subject to the terms and conditions of that licence and to local copyright law.