



Words by the Chair

For many of us the Christmas break was an opportunity to rest and spend some time with friends and family. For the 49 migrants rescued by SeaWatch 3 and Sea Eye ships, it was 19 untenable days at sea in dire conditions. It is a sad example of the Council's unwillingness to agree on a common and human approach to asylum and migration based on shared responsibility.

I welcome the Romanian Presidency, that is taking over the Council presidency for the first time. With only three months left to the European elections, much remains to be achieved to deliver tangible results to European citizens. In the LIBE Committee, we will continue to push for key files, including the reform of the Common European Asylum System, as well as those related to the MFF, the protection of privacy and the Security Union, to be adopted before the end of the mandate. Our Committee will also keep a close eye on new developments regarding Brexit, in particular to ensure EU citizens living in UK and Britons living in EU maintain their current rights in every Brexit scenario.

Claude MORAES

Data protection: debate with Commissioner Jourová

Commissioner Jourová was invited on 29 January for an exchange of views with the Members, particularly to discuss the Commission report following the second annual joint review of the Privacy Shield, the adequacy decision on Japan and the envisaged adoption of a draft mandate for negotiations for an EU-US agreement on direct access to electronic communications data (Cloud Act/E-evidence).

She answered questions from LIBE Members on these topics and on the recent Commission [Report](#) on Investor citizenship and residence schemes in the European Union.



Regarding the EU-US Privacy Shield, Ms Jourov explained that the Commission report shows that several issues identified by the EU have been addressed by the US to ensure compliance with the principles and commitments underlying the Privacy Shield, both as regards commercial and law enforcement and national security aspects. In particular she referred to the recent designation by the US President of a permanent Ombudsperson, the publication of the report on Presidential Policy Directive 28, the designation of members of the Privacy and Civil Liberties Oversight Board and the more proactive stance of Department of Commerce and *Federal Trade Commission*. The Commission considers that the Privacy Shield offers an adequate level of protection. The Commission encourages the U.S. to adopt a comprehensive system of privacy and data protection and to become a Party to the Council of Europe's Convention 108 as this would contribute to further convergence of the two data protection frameworks.

On the adequacy of the Japan Data Protection framework, she informed about the adoption on 23 January by the Commission of the [Implementing Decision](#) declaring the adequacy of Japan and of the reciprocal decision by Japan on the EU legal framework. Ms Jourov stressed the strategic approach of the Commission of assessing adequacy out of trade agreements by means of specific adequacy decisions rather than provisions embedded in trade agreement. It is being followed for the assessment of other countries. Regarding Cloud Act and e-evidence she announced the adoption on 6 February of proposals for a draft mandate for negotiation of an EU-US agreement on direct access to data stored on the territory of the other party by service providers. Such an agreement should have safeguards and protections embedded into it and would prevent conflicts of laws.

Ms Jourov also referred to disinformation, particularly in the context of electoral campaigns and the recent agreement of the co-legislators on the Directive on data protection breaches by EU political groups and of the network established with national authorities in view of electoral processes. Data protection authorities are part of this network. Last, she referred to recent developments on anti-money laundering.

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MFF sectorial programmes - state of play



The LIBE Committee is responsible for 7 sectorial programmes of the future Mid-term Financial Framework (MFF): the Asylum and Migration Fund (AMF), the Internal Security Fund (ISF), the Border Management and Visa Fund (BMVI), two Pericles funds for the protection of the euro against counterfeiting, the Rights and Values programme and the Justice Programme together with JURI. While LIBE is working on the reports to adopt its positions on the different files, the Council is also preparing the ground for future negotiations with the Parliament on the sectorial proposals linked to the adoption of the main MFF regulation. While the Parliament is in co-decision with the Council on the sectorial programmes, managed by different committees, the MFF Regulation, falling under the competence of BUDG, as such only needs the consent of the Parliament.

On 30 November 2018, the Council published a first version of its “[draft Negotiating box](#)” listing specific articles of all MFF sectorial proposals that the Council considers linked to the adoption of the main MFF regulation. On 7 January 2019, after having consulted all EP rapporteurs of all MFF sectorial proposals, the BUDG Committee transmitted comments to the Romanian Presidency on the draft negotiating box. BUDG highlighted those elements that have to be negotiated with Parliament in the framework of the co-decision procedure. Under heading 4 (Migration and Border) and Heading 5 (Security and Defence) of the post 2020 MFF, the problematic issues raised are related to the scope of the financial breakdown of the AMF and BMVI, the issue of the support

to external migration management that concerns all of the three Funds, as well as the conditions related to the mid-term review. Upon recommendation of the Conference of Presidents, LIBE rapporteurs are aiming at a first reading position before the end of the term. Starting negotiations with the Council before the elections seems doubtful for LIBE files.

State of play of the reintroductions of internal border controls

Current reintroductions as notified to the Parliament:

- **Austria:** as of 11/11/2018 for 6 months (reason: migration and terrorist threat)
- **France:** from 01/11/2018 to 30/04/2019 (art.25.1 and 27 of regulation 2016/399) (terrorist threat)
- **Germany:** as of 12/11/2018 for 6 months (art. 25 to 27 of regulation 2016/399) (migration and security policy)
- **Sweden:** as of 12/11/2018 for 6 months (art.25 of regulation 2016/399) (threat to public policy and internal security)
- **Norway:** as of 12/11/2018 for 6 months (art. 25 and 27 of regulation 2016/399) (terrorist threat)
- **Denmark:** as of 12/11/2018 for 6 months (art. 25 and 27 of regulation 2016/399) (terrorist threat)

2017 discharge of the seven JHA agencies and EDPS

On 10 January, LIBE adopted 11 opinions on discharge of the 2017 Budget of the seven JHA agencies falling under its scrutiny, of the Commission and the EDPS. The main focus has been on EASO, eu-LISA and Frontex budgets. LIBE deeply regrets that [EASO](#) is the only EU agency for which the Courts of Auditor's did not deliver a “cleared” opinion on the legality and regularity of payments. It acknowledges the major risks inherent to the nature of the Office's activities and its extraordinary operational challenges but it regrets however that those risks were not mitigated by a solid governance structure and effective control. It also acknowledges nevertheless the efforts to address the weaknesses identified in an efficient and speedy way. It calls on the Office to justify thoroughly to the Parliament the gaps between resources currently available, the ones programmed but not yet available, and the ones not yet programmed but truly necessary in order for the Office to fulfil its mission.

Regarding Frontex, LIBE notes principally that for the second year in a row, significant cancellations (17%) of budget appropriations were carried over from the previous year. It stresses that this indicates a significant overestimation of the Agency's budgetary needs. It requests therefore the Agency to work with its partners to improve its budgetary forecasts. For eu-LISA, LIBE points out especially that the Agency had to make extensive use, via three framework contracts, of external contractors for the operational management of its systems (due to a lack of the necessary establishment posts). It stresses that outsourcing its activities to such a large extent creates risks of over-reliance on external contractors. It requests, therefore, the Agency to devise a long term strategy to mitigate this risk.

Resolutions on rights of Intersex People and on People of African Descent

On 27 November and 3 December 2018, LIBE adopted two resolutions in new areas of fundamental rights concern in the European Parliament. The first one, on the [rights of intersex people](#), addresses issues of medicalisation and pathologisation, identity documents and birth registration procedures, and the need to adopt legislation that adequately protects the fundamental rights of intersex people and intersex children, including intersex children with disabilities, and guarantees a full protection against discrimination based on sex characteristics.

As for the second one, focused on [People of African Descent](#), it calls for action against racism and discrimination, for a more balanced and comprehensive look at our common history and for an official recognition of histories of People of African Descent in Europe. Encouraging their political participation is also requested, while the current composition of EU assemblies and institutions shows that action is dearly needed. Both motions for resolution are to be shortly submitted to the Plenary for EP adoption.

Priorities of the Romanian Council Presidency in Justice and Home Affairs



romania2019.eu

The two Romanian Ministers in charge of justice and internal affairs, respectively Tudorel Toader and Carmen Daniela Dan, presented the priorities of the Romanian Presidency to LIBE on 23 January.

The Ministry of Interior underlined that in the context of current challenges such as Brexit, Migration and Security, the Presidency will focus on countering terrorism and prevent radicalisation, in particular in prisons. It will also concentrate on securing external

borders and adopting the mandate on the European Border and Coast Guard, advancing Interoperability, and as far as the Schengen evaluation mechanism is concerned, will work towards the adoption of draft recommendations and national action plans.

As regards migration, Ms Dan underlined the need to ensure the balance between solidarity and responsibility in asylum system, stressing that efforts will be made to advance discussions in the Council on asylum procedures. One of the focus will be to enhance cooperation with third countries as well as legal migration to reduce irregular migration. Exchanging with Members, she expressed the willingness to find solutions as regards the Common European Asylum System (CEAS) files in the Council in view of unblocking some of the files.

The Minister of Justice underlined strategic objectives among the legislative priorities such as the two E-evidence legislative proposals. All efforts will be made in view of the full operationalisation of the European Public Prosecutor's Office and for continuing work on the Rights and Values and Justice Programmes.

Members raised several points such as to the situation of the rule of law in Romania and the fact that Romania, holding the Council Presidency, should lead by example. They asked about concrete steps that the Presidency could take in order to advance the CEAS package, inquired about the advancement in the Council as regard the two Article 7 procedures on Hungary and Poland and asked which files could be concluded under the Romanian Presidency.

Documents adopted in LIBE

- [Opinion](#) on Establishing the Neighborhood, Development and International Cooperation Instrument
- [Report](#) on Rights and Values programme
- [Report](#) on the situation of fundamental rights in the EU in 2017
- [Report](#) on ID cards
- [Resolution](#) on the rights of intersex people
- [Resolution](#) on the fundamental rights of People of African descent

LIBE-related resolutions in Plenary

- [Report](#) on Asylum, Migration and Integration Fund
- [Report](#) on Humanitarian visa
- [Report](#) on Visa code
- [Report](#) on Establishing the Rights and Values programme
- [Resolution](#) on the protection of personal data afforded by Japan
- [Recommendation](#) on EU/Albania status agreement

Next LIBE meetings:

4, 7, 11, 18-19 and 25-26
February

See [draft agendas](#), [meeting documents](#) and [live broadcast](#)

European Agenda on Migration

During the first LIBE meeting of the year, the Commission presented its [Communication](#) on the progress under the European Agenda on Migration, highlighting the need to find agreement on as many migration-related files as possible (Common European Asylum System, Return Directive, European Border and Coast Guard and Interoperability).

Members recalled that, unlike Parliament, Council has been unable to reach a common position on the basis of solidarity and responsibility sharing. Criticisms were also directed towards the Commission for the lack of impact assessments, forcing Parliament to spend more time and resources to reach informed decisions.

Members also referred to the [Parliament study on the cost of Non-Europe in the area of asylum](#) (presented in LIBE on 23/24 January) and regretted the Commission's focus on border management, which the study shows is not a very cost-effective migration management tool.

Commission stressed that pressure to advance negotiations is also directed to Council and highlighted efforts to find ad hoc temporary solutions for the disembarkation and distribution among willing Member States of persons arriving irregularly in the EU, including through search and rescue.

Visa: non-reciprocity and suspension mechanism

The Commission presented its latest [communication](#) on the situation of non-reciprocity in the area of visa policy and its second [report](#) under the visa suspension mechanism.

As regards visa non-reciprocity, the Commission explains that the situation for citizens of 5 Member States (Bulgaria, Croatia, Cyprus, Poland and Romania) with the US persists. It outlines in detail the requirements that have to be met according to the US Visa Waiver Program and the activities undertaken in order to achieve visa-free travel to the US for those citizens. Most Members intervening considered that not enough was done to ensure full reciprocity with the US. It was pointed out that the presentation by the Commission of the delegated act foreseen in the reciprocity mechanism would increase the pressure on the US. During this term, LIBE discussed the issue on several occasions, leading to the adoption of an EP [resolution](#) in March 2017 on "Obligations of the Commission in the field of visa reciprocity [...]", and of a subsequent LIBE request to the Legal Affairs Committee (JURI) for a possible action for failure to act before the EUCJ which did not receive JURI's support.

As regards the visa suspension mechanism, the Commission explained that the countries in question continue to fulfill the benchmarks but that further improvements are necessary for a series of countries and with regard to several benchmarks.

LIBE missions

Global Compact: delegation to Marrakesh



A 9-Member European Parliament delegation [participated](#) at the Intergovernmental Conference for adopting the Global Compact for Safe, Orderly and Regular Migration (GCM), as part of the overall EU delegation. The LIBE Committee, together with AFET, DEVE and DROI, has closely followed the processes leading to the UN Global Compacts on Refugees and on Migration, through committee debates and plenary, inter-parliamentary meetings, fact-finding missions and the adoption of a [plenary resolution](#) on the Global Compacts adopted by a large majority in April 2018.

The EP strongly supports the GCM and welcomed its adoption in Marrakesh. The GCM is the first global multilateral framework to enhance international coordination on human mobility covering all aspects of the migration cycle. It is based on the principles of partnership, shared responsibility and the understanding that no country can address the challenges of this phenomenon on its own. At the Conference, MEPs regretted the campaign of disinformation that has led to several countries withdrawing their support from the compact. The GCM is a non-legally binding framework that does not create new obligations for states and is in full respect of the principle of national sovereignty.

Visit to repatriation centre 127 bis in Steenokkerzeel (Belgium)



Director Brenda Melis explained to the LIBE delegation that the Steenokkerzeel centre, located next to Zaventem Airport, is one of five Belgian immigration detention centres (total capacity: 559 places), all managed by the Belgian Immigration Office. The centre has 80 places, plus 28 places in four new family units, in use since August 2018. Unaccompanied minors are never detained, but are kept in open facilities.

Since September 2018, a police office is located in the centre. Irregularly staying migrants, mostly so-called 'transmigrants' trying to reach the UK and not seeking asylum in Belgium, are brought there and then detained in the centre. They are often released later failing identification or removal from the territory.

In addition, the centre holds people seeking asylum in immigration detention or at the border (accelerated asylum procedure) and asylum seekers subject to the Dublin procedure.

The Steenokkerzeel centre participates in joint return operations coordinated by Frontex, often to Democratic Republic of the Congo.

LIBE events



Appointment of the European Chief Prosecutor

In the LIBE meeting of 29 January, M. Salles, Interim Administrative Director of the EPPO, evoked the current procedure of the European Chief Prosecutor: after its meeting beginning of January, the selection panel selected 11 candidates, who were to be heard on 30 and 31 January. The shortlist should be made available early February and shall contain from 3 to 5 candidates. As soon as the shortlist will be established by the selection panel, the Council and the European Parliament will separately organise hearings of each of the shortlisted candidates, and will seek a common position on the preferred candidate. The wish of both the Council and the Parliament is

to finalise the procedure by Spring. The EPPO is envisaged to take up its functions by the end of 2020. M. Salles insisted on the need for the Council and the Parliament to agree on a name before the end of the European Parliament term. He recalled as well the procedure followed to designate the European Prosecutors, and added that on 11 January, the Commission submitted to the Council a draft proposal on the transitional rules. Several Members put questions on the procedure. The Chair indicated this point would be further discussed in Coordinators.

M. Salles also indicated that the EPPO implementation was still a work in progress. An intensive work has been done with the Luxembourg authorities as regards the future premises of the EPPO, and by 2020 an efficient building should be made available. The case management system was also under discussion with the assistance of external experts. The first results of the ongoing study should be available in March. As regards the budget, the total amount of the envelope in 2019 is 3,10 millions of Euros. The question of whether such amount is sufficient or not will be assessed in the mid-term.

News from Justice and Home Affairs agencies



Frontex. - Four-year Eastern Partnership project

Frontex concludes a four-year [Eastern Partnership project](#) with the six Eastern Partnership countries - Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. The aim of the project was the effective implementation of Integrated Border Management concept.

- Frontex opens first risk analysis cell in Niger.

Frontex recently opened the first "[Risk Analysis Cell](#)" in Niamey in cooperation with Nigerien authorities. The role of these cells, which are run by local analysts trained by Frontex, is to collect and analyse strategic data on cross-border crime in various African countries and support relevant authorities involved in border management.

EASO. - Latest news

- In December, EASO signed three new Operating Plans with Cyprus, Greece and Italy. Operational support for Cyprus will be stepped up through support with the registration of applications for international protection and with improving reception conditions, including in a newly established first reception centre.

- The EASO Management Board is expected to select one candidate for the post of Executive Director at its February meeting. The successful candidate, before being appointed, will be heard by the LIBE Committee on 11 March.

FRA. - Contributions to the UN work on SDGs

FRA cooperates with the UN in fostering human rights and the SDGs. To this purpose, in January the agency contributed to two key UN fora in the month of January. On the 15th, it presented its work to the [UN's Committee on the Rights of the Child](#). On the 16th, FRA Director Michael O'Flaherty was rapporteur for the UN's Human Rights Council conference on '[Empowering people and ensuring inclusiveness and equality](#)'.

Europol. - EMPACT Joint Action Days

In pursuit of the priorities set by the [EMPACT](#) (European multidisciplinary platform against criminal threats), Europol coordinated [eight law enforcement operations](#) aimed at targeting cross-border organised crime in 2018.

Eurojust. - Achievements in cross-border cooperation

On 9 January Eurojust published a [call for proposals](#) for financial assistance to joint investigation teams (JITs). The amount disposed (up to € 350 000 in total) is part of the agency's mission to foster coordination in cross-border criminal investigations and prosecutions.

Cepol. - Exchange Programme

The Agency planned the [CEPOL Exchange Programme \(CEP\)](#) 2019, which provides an opportunity for exchange of knowledge and best practices for law enforcement officials. The upcoming edition will witness a [greater involvement of Frontex border guards](#).

EDPS. - Data protection in EU Institutions

Regulation 2018/1725 on data protection in the European Institutions was at the heart of a series of meetings involving M. Buttarelli and M. Wiewiórowski during the month of January. The ERA Academy of European Law organised a [conference](#) on the topic on 17-18 January.

Security Dialogue on "Cooperation with the Western Balkans in the field of security"

On 10 December, Commissioner King gave an overview of the situation in the Western Balkan, threats and challenges which need to be addressed. He highlighted that the cooperation between the EU and the Western Balkan remains strong, but needs to be enhanced not only in regard to accession talks, security situation in the EU but also in the interest of the region itself. Organized crime networks, based in the Western Balkans, have been very active across the EU.

The production of synthetic drugs, trafficking of cocaine, firearms, stolen cars, cybercrime and human trafficking are examples for criminal threats. Returning foreign fighters remain a destabilizing factor for the region and a high security risk for the EU. Estimations would state that about 35% of 1.000 foreign fighters returned meanwhile. They would continue to be a source of radicalisation.

Money laundering and terrorism financing are additional areas of high concerns. The number of cyberattacks has grown exponentially according to Europol. The legal, technical and operational level to respond to this threat is very low in the Western Balkans. Commissioner King reported on steps taken by the EU to support the region by enhancing cooperation. One of these measures was the Joint Action Plan on Counterterrorism signed on 5 October 2018. He informed that the fight against radicalisation, the protection of citizens and infrastructure, measures against financing and enhanced information exchange are parts of this action plan.

European Council: 13-14 December 2018 summit



In their closing Summit of 2018, the EU27 deliberated on several topics with a view to plan the way forward under the Romanian Presidency and in the prospect of the upcoming EU elections. Some of the matters enclosed in the [Conclusions](#) are relevant to the work of the LIBE Committee. In relation to the **Multiannual Financial Framework**, the aim is concluding an agreement in the European Council in autumn 2019. Progress is expected in regards to the advancement of the **single market agenda** as well, including its digital transformation and the role of Artificial Intelligence. The **European Digital Policy** will be further discussed in the spring. On the **migration agenda**, the EU Heads of State and governments now see their comprehensive approach as having three dimensions, i.e. EU's external borders, increased external action and the "internal aspects" as a whole. They pointed to the need to conclude the negotiations on the **EBCG** as a priority to further strengthen control on external borders and migratory routes. The fight against smugglers and cooperation with countries of origin and transit should be intensified as well in the coming months. The European Council also stressed the importance of advancing on the internal aspects of the European migration policy. They encouraged the co-legislators to reach an agreement on the proposed reforms, in particular on the **CEAS**, notably the **EU Asylum Agency** and the **return directive**. Part of the Summit included a [meeting](#) dedicated to **Brexit** in the context of Article 50. The conclusions confirmed the decision not to renegotiate the agreement reached and called for 'preparedness' to the withdrawal 'taking into account all possible outcomes'. Finally, in the field of fundamental rights, the European Council addressed the question of growing deliberate disinformation in the public sphere. Heads of State called for the prompt and coordinated implementation of the Joint Action Plan on disinformation, and for "swift and decisive action at both European and national level on securing free and fair European and national elections". Welcoming the **Council Declaration on the fight against antisemitism** of 6 December 2018, the European Council reiterated its condemnation of **all forms of racism, xenophobia and intolerance**.

Informal meeting of the JHA Council in Romania

An [informal meeting](#) of the EU Home Affairs and Justice ministers will take place in Bucharest on 7-8 February. The first part of the meeting will be dedicated to police cooperation, with a focus on counter-terrorism. Secondly, there will be an exchange of views on the challenges and opportunities of the growing digitalisation of law enforcement cooperation. Other major "Home" item on the agenda will be the way forward on the migration and asylum policy of the EU, and cohesion in revamping Schengen. As for "Justice" issues of relevance for LIBE, gathering electronic evidence in criminal law and the future of judicial cooperation in criminal matters in the EU are to be discussed. During their stay, the JHA ministers will visit the General Inspectorate of the Romanian Border Police, where they will be introduced to the Operational Coordination Centre.

Protocol amending Convention 108

On 4 February LIBE approved the recommendation (Rapp: József Nagy, EPP) to give consent to the Council to authorise the Member States to ratify the Protocol amending the Convention 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data. This Protocol modernises current Convention 108 so as to better address challenges resulting from new digital era, the globalisation of processing operations and the greater flows of personal data. The Protocol was prepared in parallel with the EU data protection package and ensures consistency with it. As the EU is not party to Convention 108, the Council has to authorise the Member States to ratify the Protocol in the interest of the Union. The EU will be also entitled to join the Convention once it will be in force. The Protocol and Convention 108 are also open to the accession by third countries and international organisations. In this regard the Convention is becoming a global standard for data protection.

News from Council of Europe

The Parliamentary Assembly of the Council of Europe is an active participant of a **global campaign to end child detention**. In particular, it condemns the practice of detaining immigrant children adopted by some Member States in the past years. It considers it a violation of the EU Receptions Conditions Directive (art. 8 and 23) as well as of the UN Convention on the Rights of the Child (art. 3 and 37). The General Rapporteur on the Campaign is [Pierre-Alain Fridez](#) (Switzerland, SOC), appointed by the PACE Committee on Migration, Refugees and Displaced Persons in June 2018. The Rapporteur presented its recommendations resulting from his fact-finding missions at an international [roundtable](#) organised with the Council of Europe Children's Rights Division on 13-14 December in Strasbourg. The event also welcomed the release of a [Handbook on child-friendly information for children in migration](#), as part of the initiatives of the Council of Europe aimed at fostering children rights. The campaign is due to be presented to LIBE in March.

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