Next LIBE meetings

In the context of the exponential growth of the epidemic, the President of the European Parliament has announced a number of measures to contain the spread of the COVID-19 virus and to safeguard Parliament’s core activities.

• An extraordinary plenary session was held in Brussels on 26 March, replacing the session originally planned for 1 and 2 April.

• Weeks 15-18 are now marked for possible remote meetings of governing bodies, groups and committees, with a Plenary on 16-17 April.

The agendas for the next LIBE meetings can be found here.

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Words by the Chair

The LIBE Committee is, even during this hard time of coronavirus, constantly exploring all sorts of methods and video tools in order to keep delivering and protecting EU citizens in the field of civil liberties, justice and home affairs. This involves strong support from staff in particular technicians who have to work in very difficult conditions. Unfortunately, we learned with great sadness of the passing of one of our colleagues from DG ITEC, Giancarlo Agostino Di Maria. On behalf of the LIBE Committee, I would like to take this opportunity to pay tribute to him and his colleagues’ dedication without which democracy at EU level could not continue.

Indeed, LIBE is particularly on the alert while Member States’ governments are taking extraordinary measures to protect the population, which derogate from the regular functioning of their democratic systems. However, the measures must respect the valid legal norms and as I have stressed in my press statement, the use of smartphone data to manage COVID-19 must respect EU data protection rules. At EU level, we are particularly concerned about the reintroduction of internal border controls within the Schengen free-movement area and the situation of asylum seekers stranded on the Greek islands. LIBE Coordinators had an exchange of views with Commissioner Johansson on 26 March on these two extremely worrying topics, which were already at the centre of LIBE’s concerns and have only been exacerbated with the outbreak of the coronavirus crisis.

We will keep the pressure for action on the other institutions and will make sure those topics at least remain high on our committee’s agenda - as we did with our first remote meeting on 2 April.

Juan Fernando López Aguilar

LIBE calling for emergency solutions in Greece

The LIBE Committee has been following closely the situation at the Greek external borders of the Union. After President Sassoli’s visit to Greece on 3rd of March... (more on page 2)
LIBE calling for emergency solutions in Greece

... (continuation from page 2) the LIBE Chair has recently sent two letters on behalf of the LIBE Committee calling for emergency solutions. The first one, addressed to the Commission and the Council Presidency, stressed the urgent need for relocation of notably vulnerable persons from Greece, including unaccompanied minors. The second one, addressed to the Commissioner for Crisis Management, called for urgent measures to avoid a coronavirus outbreak in the Greek islands which would have dramatic consequences on top of an already ongoing humanitarian crisis.

On 2 April, LIBE held an exchange of views with representatives of the Greek government and the Commission, as well as the Directors of Frontex and FRA on the situation in Greece following the suspension by the Turkish government of the EU-Turkey statement and the aggravation through the Covid 19 pandemic of the ongoing humanitarian crisis due to overcrowded refugee camps on the Greek islands. The discussion took place against the backdrop of an emergency action plan set up by the Council on 4 March, including an additional 700 million euros for Greece for border and migration management, two rapid interventions by Frontex and the relocation of 1.600 unaccompanied minors from the Greek islands to other Member States, that are hampered by the pandemic but about to start.

At the meeting, Commission Vice President Schinas and Commissioner Johansson detailed the various measures to be financed from 350 million euros from the 2020 EU Budget as well as another 350 million based on an amending budget. Most of the funds will be spent on improved reception conditions on the islands, the separation of vulnerable people by transferring them from the camps into hotel rooms, support by Frontex and EASO for border control and asylum procedures, and improvements in the health care for refugees and migrants. The Greek ministers Chrisochoidis and Mitarachi thanked the Union for the support to prevent an outbreak of the Covid 19 crisis among refugees and migrants and underlined the commitment of the Greek government to respect human rights and European and international law. FRA recommended a number of measures focusing on physical distancing, access to the asylum procedure and non-criminalisation of irregular entry.

Prüm Decision - EU-UK relations

This draft Council implementing decision, based on Article 33 of Council Decision 2008/615/JHA (Prüm Decision) seeks to allow for the exchange of dactyloscopic data between the UK and the Member States bound by the Prüm Decision.

The application of this implementing Decision will be limited to the transitional period set out in the Withdrawal Agreement of the United Kingdom from the EU (31 December 2020), after which, the new modalities of cooperation with the UK will have to be established within the framework of the future partnership agreement. Thus, this measure is closely connected with the ongoing negotiations on the Agreement. On 12 December 2019, the Council has transmitted this draft measure to the Parliament for consultation with a deadline to react until 12 March 2020. The procedure of adoption of the EP opinion is ongoing. The Presidency presented the draft on 19 February in the LIBE Committee, but the information was assessed by the shadow rapporteurs as insufficient. The LIBE Chair has requested the Council for further information and extension of the deadline. Due to the current exceptional situation, the deadline for consultation of the EP has been extended by the Council until 15 May.
**LIBE Mission to Frontex 24-25 February**

A LIBE mission visited Frontex in Warsaw, Poland, on 24-25 February. Since the last LIBE mission in February 2017, the role of the Agency has developed in a very substantial manner. The mission’s objective was to better understand in particular the challenges Frontex is facing in implementing the new Regulation (EU) 2019/1896 on the European Border and Coast Guard. Bettina Vollath, S&D, headed the LIBE mission with participation of MEPs from ECR, Assita Kanko, and Renew, Yana Toom.

The members of the mission met with Frontex’ Executive Director, the Deputy Executive Director, the Directors of the various divisions (Operational Response Division, Situational Awareness and Monitoring Division, Capacity Building Division, Corporate Governance Division and International and European Cooperation Division), the head of the Task Force ETIAS, other experts, as well as representatives of the Frontex Consultative Forum on Fundamental Rights, the Fundamental Rights Office and the Data Protection Office.

They discussed all activities of the Agency with the various interlocutors and the challenges faced by the Agency. In terms of ongoing activities discussions with Members included the Frontex deployments with a focus on Greece and the Western Balkans operations and the recruitment of the first Agency staff to form part of the new standing corps. In terms of challenges, the Agency highlighted among others the latest figures for the multiannual financial framework which would nullify the intention of the legislator regarding the setting-up of the standing corps and the enhanced mandate of the Agency.

**COVID-19 impact on LIBE activities**

Due to the COVID-19 outbreak, the following LIBE activities have been cancelled or postponed, while the LIBE committee, like the EP, is focusing on priority topics and core legislative and budget activities

**LIBE Missions (initial dates indicated below - new dates to be decided)**
- LIBE mission to Slovakia 18-20 March
- LIBE mission to 6th meeting of the Joint Parliamentary Scrutiny Group on Europol (JPSG), Zagreb, Croatia 22-23 March
- LIBE mission to Hungary 23-25 March
- LIBE mission to Greece 6-8 April
- LIBE mission to Croatia 18-20 May
- LIBE mission to The Hague 18-20 May (Europol)

**LIBE Committee meetings - cancelled:** 16, 17 and 26 March.

**LIBE hearings (initial dates indicated below - new dates to be decided)**
- The situation of the Rule of Law in Poland, in particular as regards the independence of the judiciary, 17 March
- European Citizens’ Initiative: “Minority Safepack” (with CULT and PETI), 23 March
- Establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights - 15 April
- The situation of the Rule of Law in Poland, in particular as regards the independence of the judiciary - Workshop - 29 April
- Implementation of the procedural rights Directives - 30 April
LIBE Mission to Washington DC and Boston 24 – 28 February

The objective of the mission was to discuss the state of play on major LIBE topics with US authorities and stakeholders in the civil society. Topics covered included data protection, law enforcement, counter terrorism and visa waiver and artificial intelligence. The delegation was headed by the LIBE Chair Juan Fernando López Aguilar (S&D, ES), with the participation of Birgit Sippel (S&D DE), Javier Zarzalejos (EPP, ES), Nicolaus FEST (ID, DE), Marina Kaljurand (S&D, ET), Moritz Körner ( Renew, DE), Patrick Breyer (Greens/EFA, DE).

Data protection: The delegation was pleased that the US Congress is now seriously considering developing federal privacy legislation, inspired by the GDPR. It discussed with the US Government (USG) the remaining deficiencies of the EU-US Privacy Shield, especially regarding its enforceability by the Federal Trade Commission (FTC). The delegation welcomed the 5 billion settlement negotiated between the FTC and Facebook following the Cambridge-Analytica leaks but it also noted that such a fine is not sufficient on its own to prevent similar incidents reoccurring in the future.

Law enforcement: Discussions focused on objectives of a future US Cloud Act agreement. According to the USG, the Agreement would be the most effective pragmatic way of addressing current operational concerns on Mutual Legal Assistance Treaties (MLATs). Such agreement would (if no US citizens are involved) allow Member States’ judges to directly obtain information from US companies without the need for validation of the "probable causes" by US judges as currently required by US law with MLAT requests.

Counter Terrorism and Visa Waiver: In a meeting with the FBI, the delegation welcomed the improved counter-terrorism cooperation since the terror attacks of 2015. In a meeting with the Privacy and Civil Liberties Oversight Board (PCLOB), it noted the very high number of financial tracking information requests (several thousands per year) by Member States to the US Treasury department. Regarding possible impacts on the EU-US PNR agreement of the ECJ ruling on the EU-Canada PNR, the USG expressed the need to maintain access to all information currently available and that therefore the US-EU PNR agreement should be left unchanged. Regarding the US Visa Waiver Program, it noted the demand of the USG regarding security measures to put in place (notably in relation to the automated processing of national PNR data) by Bulgarian, Croatian, Cypriot and Romanian governments to obtain visa free entry to the US.

Artificial Intelligence: The delegation met with different stakeholders regarding challenges and opportunities of the use of AI for law enforcement and justice purposes, especially how unintended impacts on civil liberties and fundamental rights could be addressed without losing benefits of AI. The American Civil Liberties Union (ACLU) informed of at least one case of misuse of AI in the US justice system. MIT explained the accelerating development of new disruptive AI technologies, given availability of very cheap computing power and vast amount of data. With the Harvard Law School the delegation brainstormed inter alia on the right to be informed and to obtain explanations and reasons, the level of due diligence and human verification required and responsibility and liability of all stakeholders involved. In a meeting with local Cambridge authorities, the delegation discussed the ban of the use of facial recognition by the local police department.
3 questions to Patryk Jaki, Rapporteur, Regulation on preventing the dissemination of terrorist content online

1. Can you briefly describe this legislative proposal and why it is so important to fight the dissemination of terrorist content online?

The Regulation covers the fight against terrorist content on the Internet. The Internet has become an important part of the activities of the Islamic State. Especially after the military defeats in Syria and Iraq. This is the place where recruiting is done and young people face a threat of indoctrination. To this day, groups of the Islamic State are still active and they are using social media and the Internet in their daily activities.

Terrorism has many faces. After the mass shootings, for instance in Christchurch, we face its extreme right-wing, racist face. The return of ideologically motivated terrorist attacks is a recent and newly developed problem. As EUROPA pointed out, it is a rapidly growing force using the Internet to select targets, to recruit and to train more new fighters. Our task is to weaken this trend and stop online recruitment, and to stop the spread of terrorist propaganda online.

2. Why did you want to be rapporteur on this topic and how do you see your role going forward?

I would like to represent and defend the position of the EP. I am aware of how complicated and multi-threaded this regulation is. As a rapporteur, I want to find a balance between security and protection of civil rights and liberties on the Internet. For me personally, the most important issue is to stop any attempts to filter content on the Internet and to introduce provisions safeguarding freedom of speech and freedom of expression of different views and opinions. Even the controversial ones, as long as they are proclaimed within the scope of existing law and do not incite crime and hatred.

3. What are the main challenges to be addressed in order to adopt this legislative proposal?

The main issues in dispute between co-legislators are definitions, the scope of the Regulation and the introduction of so-called specific measures which should not be obligatory for companies. Other issues of contention are the so-called removal order/request and cross border procedure, as well as the structure and organisation of the institutions responsible in the Member States for issuing decisions on the removal of terrorist content.

For me personally, the key issues are to safeguard civil liberties, the proper scope of this Regulation and to stop mandatory content filtering in the Internet. No obligation for companies. Those who already use filters will be able to do so further - we cannot ban it, but with this regulation we will introduce reporting and full transparency of actions taken by them.
LIBE working groups

LIBE Monitoring COVID-19 emergency measures -

The LIBE Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG) chaired by Sophie in ’t Veld (Renew, NL) held its most recent meeting on 2 April, via video link, given the current circumstances.

The DRFMG took this opportunity to discuss measures taken by the EU governments to fight the coronavirus crisis and their impact on democracy, the rule of law and fundamental rights.

After an exchange of views with Michael O’Flaherty, Director of the European Agency for Fundamental Rights (FRA), Members decided to monitor the impact of emergency measures in all Member States. The DRFMG will hold weekly meetings to that effect and will continue to keep LIBE regularly updated about its discussions.

Ensuring continuity of the Group’s activities, Members also exchanged on latest developments in Slovakia with Ambassador Peter Javorčík, Permanent Representative of Slovakia to the EU and Gianluca Esposito, Head of Action against Crime Department of the Council of Europe. A LIBE mission to Slovakia is indeed supposed to take place when confinement measures will allow, as a follow-up to recommendations made by the EP following a previous visit to the country in 2018.

The DRFMG met again on 8 April to discuss COVID-19 measures taken by Member States with Commissioner for Justice Didier Reynders, and had an exchange on 16 April with Christos Giakoumopoulos, Director General for Human Rights and Rule of Law at the Council of Europe.

Schengen Scrutiny Group

The Covid-19 crisis has important repercussions on the functioning of the Schengen area. The Schengen Scrutiny Group led by its Chair Ms Tanja Fajon has engaged in regular discussion with Commissioner Johansson, who spoke to the working group on 18 February 2020. The group has closely followed the developments regarding the re-introduction of internal border controls or other checks and measures at the internal borders by most EU Member States and temporary restriction of non-essential travel to the EU and Schengen area at the external borders. Following the debate of LIBE coordinators with Commissioner Johansson on 26 March 2020 by videoconference, the coordinators asked the Schengen Scrutiny Group to follow up on their recommendations.

The Schengen Scrutiny Group met by means of videoconference on 1 April 2020 and debated various possibilities of follow up and on ensuring that Parliament is informed in a full and timely manner of all developments in the area of the functioning of Schengen due to the Covid-19 crisis, as well as calling on the Commission to ensure the respect of valid Schengen and EU acquis. Other important topics on the agenda of the Group were the Schengen evaluation of Croatia and the serious deficiencies identified as part of the UK Schengen evaluation in the area of the Schengen Information System.
Justice and Home Affairs agencies

**eu-LISA**

Several LIBE MEPs accompanied by political groups advisers and Secretariat staff visited on 11 February 2020 the eu-LISA's Operational site in Strasbourg, France. After being welcomed to the site by the Agency’s Executive Director, Mr Krum Garkov, the Members were given a guided tour of the operator/server rooms and the helpdesk. The visit continued with presentations on topics including the state of play in the evolution of Eurodac, SIS and VIS, the ongoing development of EES, ETIAS, ECRIS-TCN and interoperability of EU information systems and eu-LISA’s reporting and statistics products as well as data quality and protection safeguards within the systems. Important topic was the budget of the Agency. The Members very much appreciated the information provided.

**Europol**

On 27 March Europol published a new report on “Pandemic profiteering: How criminals exploit the COVID-19 crisis”. The report provides for an outlook on the latest developments of COVID-19 on the criminal landscape in the EU, in order to support Member States’ law enforcement authorities in their work. The types of crime include significant increase in cyber attacks, adapted versions of telephone fraud schemes, supply scams and decontamination scams, the sale of counterfeit healthcare and sanitary products as well as personal protective equipment and counterfeit pharmaceutical products and organised property crime involving the impersonation of representatives of public authorities. Commercial premises and medical facilities are expected to be increasingly targeted for organised burglaries.

**FRA**

In light of the increased measures taken by European States to protect their borders, the European Union Agency for Fundamental Rights, together with the Special Representative of the Secretary General on Migration and Refugees (CoE) recently published a note outlining the main fundamental rights safeguards applicable to Member States’ borders. With regards to the measures taken to limit the spread of COVID-19, FRA is collecting information across all EU Member States highlighting the main fundamental rights concerns during the crisis. It particularly regards the rights of women, migrants, asylum seekers, exploited workers and Roma. The first report was published on 8 April. As for the relocation of unaccompanied children from Greece, FRA urges Member States to agree on a simple and practical workflow by providing practical suggestions to the EU and its Member States on the relocation process. Further, FRA just published a paper on “Children in migration”.

**EDPS**

On 18 March, the EDPS released his Annual Report 2019. EDPS activities focused on consolidating the achievements of previous years, assessing the progress made and starting to define priorities for the future mandate. The EDPS put efforts to ensure that new EU rules on data protection set out in Regulation 2018/1725 are implemented by the EU institutions, inter alia by conducting training sessions, issuing Guidelines and continuing to work closely with the Data Protection Officers of the EU institutions. The EDPS also stepped up enforcement activities by launching several investigations into the processing of personal data by EU institutions and continued to work closely with the European Data Protection Board. In addition, a significant focus of EDPS work in 2019 was on developing and sharing technological expertise. A presentation by EDPS was foreseen in LIBE but had to be postponed due to the current health crisis.
The Justice and Home Affairs Council addressed on 13 March 2020 two major challenges currently faced by the EU - the coronavirus outbreak and the situation at external borders. Concerning the latter, the Council looked at how measures adopted on 4 March were implemented, including staff and assets called for by Frontex for two rapid border intervention operations, the deployment of 160 asylum experts, a call for items triggered via the EU civil protection mechanism and coordinated support for return by Frontex, as well as financial assistance of up to €700 million.

According to the statement made by Davor Božinović, Deputy Prime Minister and Minister of the Interior of Croatia after the meeting, decisions taken at the borders of Member States are national decisions and fall under the competence of the respective Member State, but the Commission proposed to prepare (and later issued) guidelines on a more uniform way of health screening carried out at borders.

The Commission also recommended entry restrictions for non-essential travel to the Schengen area, which were endorsed on 17 March 2020 by the Heads of State or Government for a period of 30 days, as well as the guidelines on border management.

On 26 March the Members of the European Council issued a joint statement in which they reacted to the ongoing Covid-19 crisis and inter alia declared they would continue to keep track of developments through the EU's Integrated Political Crisis Response mechanism (IPCR), activated by the Croatian Presidency. They expressed their intention to evaluate temporary restriction of non-essential travel to the EU in due time and decide whether to prolong these measures, and to resolutely counter disinformation with transparent, timely and fact-based communication on their efforts and by increasing the resilience of societies. Finally, they also expressed their concerns over the situation at the Greek-Turkish border and their full solidarity with Greece, as well as with Bulgaria and Cyprus and other Member States, which are similarly affected, including in efforts to manage the EU's external borders.