



Committee on Civil Liberties, Justice and Home Affairs
The Secretariat

Background note on Readmission Agreements

Introduction

"The Commission is committed to regularly inform the EP about all the concluded EU readmission agreements and in particular, to report every 6 months to the EP about the implementation of the EU readmission agreements, with particular reference to the ongoing work of the Joint Readmission Committees"¹.

Mr. Manservigi (Director General, DG Home, European Commission) will present the current state of play concerning the readmission agreements and the negotiations of Mobility Partnerships on 9 July at the LIBE Committee meeting.

1. Objectives

EU Readmission Agreements are internationally binding agreements which impose reciprocal obligations on the contracting parties to readmit their nationals and also, under certain conditions, third country nationals (TCNs) and stateless persons. In addition they set out, in detail, the operational and technical criteria for this process.

Since they should facilitate the swift return of irregular migrants, they are supposed to be a major element in tackling irregular migration. These agreements do not set criteria for the legality of a person's presence in the EU.

The EU readmission agreements are implemented by Member States at bilateral level with the third countries concerned. The so-called *Joint Readmissions Committees* (JRCs) monitor this implementation.

The EU Readmission Agreements can be part of broader "Mobility Partnerships". The Mobility Partnerships are instruments that offer a concrete framework for dialogue and cooperation between the EU and its Member States on the one hand, and non-EU countries on the other. The cooperation focuses on three areas: legal migration, migration and development and the fight against irregular migration.

¹ Commission Declaration annexed to the EP Recommendation on the proposal for a Council decision on the conclusion of the Agreement between the EU and the Islamic Republic of Pakistan on the readmission of persons residing without authorisation. Document: P7_TA (2010)0323.

2. Legal Base and EP's competences

As regards the Readmission Agreements, the Treaty of Lisbon provides the following legal bases:

Art 79.3 TFEU states:

"The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States".

Further to Article 218 TFEU,² the EP has acquired the power to give its consent to the EU readmission agreements³.

Member States also retain their right to conclude bilateral agreements with third countries so far as the Union has not exercised, or has decided to stop exercising, its competence⁴.

3. State of Play

Since 2000, the Council has adopted different Readmission Agreements with third countries, 13 of which have already entered into force⁵. Negotiations have been finalised with two countries (Turkey and Cape Verde) and are ongoing with a number of others⁶.

The Commission has provided an updated table on the state of play.

The mandate to start the negotiation on an *EU-Turkey Readmission Agreement* was received in November 2002 and the first round took place on May 2005. The last round of the negotiations took place on 14 January 2011. The outcome of these negotiations was endorsed by the Justice and Home Affairs Council⁷ held on 24 February 2011. The agreement was initialled on 21 June 2012 and the Commission put forward two proposals⁸ for Council decision.

² Art 218.6 TFEU "The Council, on a proposal by the negotiator, shall adopt a decision concluding the agreement. (...): (a) after obtaining the consent of the European Parliament (...)"

³ Since the Treaty of Lisbon entered into force, the first consent of the European Parliament took place with EU- Pakistan readmission agreement, voted on 21 September 2010. Document P7_TA (2010)0323.

⁴ This is based on the case law on preemption and the principle of sincere cooperation (art 2.2 TFEU).

⁵ Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia (FYROM), Georgia, the Republic of Moldova, Montenegro, Russia, Serbia, Ukraine, Pakistan, Hong- Kong, Macao and Sri Lanka.

⁶ Morocco, Azerbaijan, Armenia.

⁷ Council conclusions on EU-Turkey Readmission Agreement and related issues. Justice and Home Affairs Council meeting, Brussels, 24 and 25 February 2011:

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/119501.pdf

⁸ Proposal for a Council decision concerning the conclusion of the Agreement between the EU and Turkey on the readmission of persons residing without authorisation, COM (2012) 239 final, and Proposal for a Council decision on the signature of the Agreement between the EU and Turkey on readmission of persons residing without authorisation COM (2012) 240 final.

List of related documents and links

*** Strategic Documents of EU Readmission Agreements:**

- Communication from the Commission to the European Parliament and the Council, "Evaluation of EU Readmission Agreements". COM (2011) 76 final. 23 February 2011.

http://ec.europa.eu/home-affairs/news/intro/docs/COMM_PDF_COM_2011_0076_F_EN_COMMUNICATION.pdf

- Communication from the Commission of 18 November 2011 "The Global Approach to Migration and Mobility", COM (2011) 743 final.

http://ec.europa.eu/home-affairs/news/intro/docs/1_EN_ACT_part1_v9.pdf

- Council conclusions defining the "EU strategy on readmission". Justice and Home Affairs Council meeting, Luxembourg, 9 and 10 June 2011:

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/122501.pdf

*** Study of the European Parliament on Readmission Agreements:**

- Study "Readmission Policy in the EU". European Parliament. 2010.

[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/425632/IPOL-LIBE_ET\(2010\)425632_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/425632/IPOL-LIBE_ET(2010)425632_EN.pdf)

*** Turkey**

- Proposal for a Council decision concerning the conclusion of the Agreement between the EU and Turkey on the readmission of persons residing without authorisation, COM (2012) 239 final.

<http://register.consilium.europa.eu/pdf/en/12/st11/st11743.en12.pdf>

- Proposal for a Council decision on the signature of the Agreement between the EU and Turkey on readmission of persons residing without authorisation COM (2012) 240 final.

<http://register.consilium.europa.eu/pdf/en/12/st11/st11720.en12.pdf>

- Council conclusions on EU-Turkey Readmission Agreement and related issues, Justice and Home Affairs Council meeting, Brussels, 24 and 25 February 2011.

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/119501.pdf