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LIMITE

**VISA 4
MIGR 4
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COMIX 8**

NOTE

From: Presidency

To: Visa Working Party/Mixed Committee (EU-Iceland/Norway and Switzerland/Liechtenstein)

Subject: Procedure under Article 25a of the Visa Code: new approach

In February 2020, the revised Visa Code introduced the possibility to apply restrictive visa measures to third countries with which the cooperation on readmission is deemed insufficient and further action is needed. Article 25a also foresees the possibility to apply positive visa measures for third countries with which the cooperation on readmission would be considered satisfactory.

Since the entry into force of the process and mechanism established by Article 25a, the Commission has published four reports pursuant to its obligation under Article 25a paragraph 2 to regularly assess, at least once a year, third countries' cooperation with regard to readmission.

Following the publication of these reports, discussions were held in the Integration, Migration and Expulsion (IMEX Expulsion) Working Party (WP) and among JHA Counsellors, and overall relations with selected countries were discussed at the WP on External Aspects of Asylum and Migration (EMWP). Those discussions allow to indicate these third countries that constitute a priority for the Member States. At the same time, it is an opportunity for Member States to provide guidance to the Commission and the EEAS on the need for further possible outreach towards specific third countries.

Pursuant to Article 25a paragraph 5, the Commission then has the possibility to submit a proposal to the Council to adopt visa measures towards one or several third countries where the Commission considers that, after initial outreach, cooperation on readmission is insufficient, and that action is needed.

So far, the Commission has tabled proposals regarding The Gambia, Bangladesh, Iraq, Senegal and Ethiopia. Since their publication, those proposals have been regularly discussed in the Council within the Visa WP, the IMEX Expulsion WP and the MOCAD, notably to provide the Member States with the latest state of play of the discussions with the third countries concerned and to give them the opportunity to share their own experience and the latest developments in terms of cooperation on readmission with those third countries.

While the Presidency understands the necessity to provide adequate level of information to the different stakeholders, we believe it might be opportune to rationalise the discussions, especially in the Visa WP. Indeed, the Visa WP does not appear to be the appropriate setting to discuss evolutions of the cooperation on readmission with third countries. It is questionable both in terms of content and representation among the delegations.

Consequently, the Presidency would like to introduce a change of approach regarding the Article 25a procedure, related to the process following the publication of a proposal for visa measures by the Commission. **From now on, the Presidency does not intend to have the regular updates of the Commission on the outreach towards third countries within the Visa WP – these discussions will take place mainly in the IMEX Expulsion WP.**

The Visa WP will continue to be involved in the procedure at a later stage, after it is decided within the IMEX Expulsion WP that the lack of progress on readmission cooperation would necessitate the adoption of visa measures to be considered by the Visa WP. The approval of the measures shall thus remain the prerogative of the Visa WP, and the final discussion should also be the opportunity to discuss **visa-related aspects of the proposal**.

Indeed, the Presidency notes that the Visa WP has so far **missed the opportunity to examine further the implications of the considered visa measures**, especially when adopting visa sanctions towards The Gambia. Those “visa-related aspects” to be discussed could include: the number of visas delivered by the Member States in the third country, the additional administrative burden to be expected and to be considered when deciding on the entry into force of the measures, the potential problems that could arise from the adoption of the measures, etc.

The Presidency would like to have the delegations' opinion on the following questions:

1. *What are the Member States' views on the new approach suggested by the Presidency?*
 2. *What could be the (other) visa-related aspects to be discussed when adopting visa measures?*
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