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**NOTE**

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From: Presidency  
To: Working Party on Integration, Migration and Expulsion (IMEX Expulsion)  
Subject: Presidency discussion paper on Visa Code Article 25a exercise

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Delegations will find in annex a discussion paper on the above-mentioned topic for the Integration, Migration and Expulsion (IMEX Expulsion) working party meeting on 16 January 2024.

Presidency discussion paper on Visa Code Article 25a exercise

On many occasions, including at the last JHA Council in December 2023, the importance of the external dimension to increase the number of effective returns has been recalled. This involves ensuring that third countries cooperate satisfactorily on the readmission of illegally staying third country nationals vis-à-vis all Member States, regardless of the caseload they have. This is precisely the purpose of the visa leverage of Article 25a of the Visa Code, which is currently the only legal tool at our disposal for all third countries to improve readmission cooperation.

Greater effectiveness should lead to a more credible tool and in turn, this should induce more effective returns of illegally staying third country nationals to countries of origin and transit by means of enhanced readmission cooperation with those countries. This objective will guide the work of the Council during this semester. In this context, the Presidency intends to hold a strategic discussion on the effectiveness of the visa leverage in the IMEX Expulsion Working Party.<sup>1</sup>

In parallel, as announced and explained in the discussion paper issued by the Presidency of the Visa Working Party,<sup>2</sup> as of January 2024, the concrete follow-up of the annual Visa Code Article 25a exercise will be re-assigned from the Visa Working Party to the Integration, Migration and Expulsion (IMEX Expulsion) Working Party. In practice it means that, from now on, the discussions aiming to provide Member States with the state of play of the outreach towards the relevant third countries and the developments in terms of cooperation on readmission will be discussed within the IMEX Expulsion Working Party. The Presidency believes that in this manner we can increase the coherence and the effectiveness of the mechanism.

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<sup>1</sup> 17110/23

<sup>2</sup> 5114/24

On the occasion of the re-assignment of the follow-up of the Article 25a exercise to the IMEX Expulsion Working Party, and in the middle of the annual exercise, it is the right moment to provide a clear guidance on the way forward. Lessons learned under the Swedish Presidency have shown that working on the basis of a concrete deadline to decide whether to adopt the Commission proposals for restrictive visa measures can bring results. The discussion that will be held at the forthcoming IMEX Expulsion Working Party meeting on 16 January 2024 will help to determine the appropriate follow-up to be made to the proposals currently on the table, which are listed below.

*Iraq:* On 15 July 2021, the Commission proposed restrictive visa measures with respect to Iraq.<sup>3</sup> Due to Iraq's constructive engagement to help address the situation at the EU-Belarus border in 2021, the Council decided at that time not to adopt the Council implementing decision. However, as Iraq was again indicated among the third countries which were not sufficiently cooperating on readmission in the context of second annual report on the assessment of the level of third country cooperation in 2020, the proposal was back on the table in 2022. Faced with the pressure from the EU, the new Iraqi government took a different stand on returns and promised to cooperate on readmission, including on non-voluntary returns, at the EU-Iraq Cooperation Council on 19 March 2023.

In March 2023, the Presidency presented an action file on Iraq in the Moadem, which was meant to give Iraq a last chance to show progress and implement the commitments made at the EU-Iraq Cooperation Council.<sup>4</sup> The action file defined what kind of progress was expected from the Iraqi side and established that in case of no such progress, the Council would vote on the restrictive visa measures against Iraq at June JHA Council. This was followed by an intense outreach towards Iraq.

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<sup>3</sup> 10860/21

<sup>4</sup> WK 3656/2023; WK 3656/2023 REV 1

As a result, a high level Iraqi delegation announced on 10 May 2023 the lifting of the moratorium on the refusal of forced returns. A few days after, Iraqi diplomatic representations in EU Member States were instructed accordingly. Iraq also started an active outreach towards the Member States, explaining the policy change and proposing to sign bilateral readmission arrangements.

Given this unprecedented opening, the Presidency proposed – and COREPER agreed - to extend the established deadline from June to October JHA Council<sup>5</sup> in order to give Iraq time to translate its political commitment into tangible results. To have more transparent and predictable cooperation on readmission, Iraqi authorities demonstrated openness and willingness to consider concluding a non-binding instrument on return and readmission between the EU and Iraq. In October 2023, the Council endorsed the opening of the discussions in view of concluding the arrangement,<sup>6</sup> which should start in January 2024.

*Bangladesh:* On 15 July 2021, the Commission proposed restrictive visa measures with respect to Bangladesh.<sup>7</sup> The second annual report on the assessment of the level of third country cooperation on readmission in 2020 showed that cooperation had improved, therefore it was decided not to proceed with the adoption of the restrictive visa measures. However, Member States insisted on keeping the proposal on the table until the improvement of the cooperation on readmission could be seen as sustainable for all Member States. Since then, it is to be noted that the fourth Article 25a report published in 2022 shows a significant decrease in the quality of the cooperation compared to the previous report.

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<sup>5</sup> WK 6777/2023; WK 6777/2023 REV 1

<sup>6</sup> 13551/23

<sup>7</sup> 10858/21

*The Gambia:* Following a notification by Germany on 23 February 2021, the Commission assessed that it was confronted with substantial and persisting practical problems in cooperation with The Gambia in the readmission of irregular migrants. On 15 July 2021, the Commission proposed restrictive visa measures with respect to The Gambia,<sup>8</sup> which were adopted by the Council on 8 October 2021.<sup>9</sup> However, based on the second annual report on the assessment of the level of third country cooperation on readmission in 2020, the Commission concluded that the measures applied were ineffective as, despite some limited developments, cooperation on readmission remained insufficient. Therefore, on 9 November 2022, the Commission proposed a Council implementing decision on the application of an increased visa fee with respect to The Gambia,<sup>10</sup> which was adopted by the Council on 8 December 2022.<sup>11</sup> Later on, following the positive steps taken by The Gambia in the organization of return flights and operations, the Commission proposed, on 27 September 2023, to repeal the latter Council implementing decision.<sup>12</sup> It was approved at the working party level on 19 December 2023. However, the Commission did not propose to repeal the first visa measures in place, as improvement of the cooperation on readmission was not yet deemed sufficient.

*Senegal:* Following the second annual report on the assessment of the level of third country cooperation on readmission in 2020, the Commission proposed restrictive visa measures with respect to Senegal on 9 November 2022,<sup>13</sup> which has been discussed at the Visa Working Party since then. Intensive contacts with Senegal continued and resulted in some improvements in readmission cooperation for some Member States. However the picture of Senegal's cooperation on readmission remains mixed. The presidential elections will take place on 25 February 2024.

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<sup>8</sup> 10859/21  
<sup>9</sup> 11748/21  
<sup>10</sup> 14564/22  
<sup>11</sup> 15216/22  
<sup>12</sup> 13574/23  
<sup>13</sup> 14563/22

*Ethiopia*: Following the fourth annual report on the assessment of the level of third country cooperation in 2022, the Commission proposed restrictive visa measures with respect to Ethiopia on 27 September 2023.<sup>14</sup> In a note verbale to the Delegation of the European Union in Ethiopia, dated 31 October 2023, the Ethiopian authorities informed of the resumption of the implementation of the 2018 readmission arrangement<sup>15</sup> and of its desire to renegotiate it in the context of the rising cost of living. Since then, several discussions have been held on the proposal for restrictive visa measures at the Visa Working Party. The Commission has proposed dates for the EU-Ethiopia Joint Working Group in early 2024, which have not yet been confirmed by Ethiopia.

The Presidency would like to invite delegations to reflect and share their views on the following questions:

1. How do you assess the level of Iraq, Senegal, Bangladesh and Ethiopia cooperation on readmission, especially on non-voluntary returns?
2. Do you have upcoming bilateral discussions or meetings on readmission with Iraq, Senegal, Bangladesh and Ethiopia? Are bilateral negotiations of a readmission arrangement with Iraq concluded or ongoing?
3. Could a locally coordinated demarche in Iraq, Senegal, Bangladesh and Ethiopia be useful to increase readmission cooperation?
4. Should concrete individual deadlines for improving readmission cooperation be set for all third countries against which Article 25a proposals are on the table, i.e. Iraq, Senegal, Bangladesh and Ethiopia, or would they be more appropriate only for some countries? What could be an appropriate deadline to be set so as to decide whether to proceed with the adoption of the restrictive visa measures in the absence of satisfactory and concrete progress in the readmission cooperation: March or June (the answers can differ depending on the third countries concerned)?

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<sup>14</sup> 13582/23

<sup>15</sup> 15762/2/17