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NOTE

From: Presidency

To: Strategic Committee on Immigration, Frontiers and Asylum/Mixed Committee (EU-Iceland/Liechtenstein/Norway/Switzerland)

Subject: EU pilot project on return policy

1. The Hellenic Presidency decided to hold an informal debate on return policy during the ministerial working lunch of the JHA Council on 3 March 2014. Beforehand, and in consultation with the Commission (DG HOME) and the EEAS, the Presidency had presented a 'food for thought paper' on '*An effective return policy*' (doc. 7007/14). While recognising that each year the authorities of the EU Member States apprehend more than 500 000 illegal migrants, the paper underlined that only about 40 % of them are sent back to their country of origin or transit. The paper also examined the different EU legislative and operational instruments adopted in the area of the return policy and underlined the need to improve the cooperation with third countries on the readmission of their nationals. Several questions were put to ministers in order to identify ways to achieve more concrete results in the area of the return policy.
2. On 26 February 2014, the Dutch minister, on behalf of other Member States (DK, ES, FI, MT, AT and SK), sent a letter to his colleagues, recalling the difficulties experienced by Member States regarding the return of persons who were denied residence permits or entered illegally the territory of the EU Member States and underlining the lack of cooperation of some origin countries in readmitting their own nationals.

Thereafter, it was suggested that the EU should carry out a pilot project, on the basis of the 'more for more' principle, prioritising some third countries whose nationals have been denied residence permits or entered the EU irregularly.

3. During the ministerial working lunch on 3 March, several proposals were presented by ministers recognising that return and readmission should be an integral part of the EU's migration policy and in particular of its relations with third countries. A special reference was made to the need to include return/readmission provisions in all agreements with third countries, as is the case of the Cotonou Convention, and to take the necessary steps so that these provisions effectively become operational, thereby contributing to ensure that these countries comply with their legal obligations regarding the readmission of their nationals. The ideas presented in the letter of the Dutch minister were generally supported by other ministers who agreed to invite the Commission, in close cooperation with interested Member States and the EEAS, to further develop that pilot project.
4. In the follow-up to this ministerial debate and with a view to preparing the SCIFA's meeting of 5-6 May 2014, the Hellenic Presidency presented a paper launching a debate on an initiative to improve the return rate in a number of specific countries of origin. It was suggested to select the third countries according to the following criteria:
 - total number of persons living irregularly in the EU Member States;
 - number of Member States that experience problems with non-voluntary returns of nationals of certain third states;
 - degree of leverage that the EU and its Member States could exert towards these countries;
 - feasibility of improvement in the return rate to these countries.

Furthermore, in close cooperation with the Commission services and the EEAS, the Presidency presented a limited number of "candidate countries" with whom this pilot initiative could be launched: Bangladesh, Ghana, Nigeria and Pakistan.

It was agreed that the discussion should be pursued with the involvement of the competent regional working groups in order to foster the comprehensive approach that such an issue calls for, ensuring that the message to readmit their nationals would be raised with the selected third countries in all formal contacts of Ministers, High Representative, Commissioners as well as senior EU and Member States' officials with their counterparts in the pilot countries, irrespective of subject or location (Brussels, capital of pilot country, multilateral organisation, etc.).

5. During the SCIFA meeting in May, it was noted that this process would require the active participation of the relevant services of the Commission, the EEAS and of the EU delegations in the selected pilot countries in order to identify the tools and means to exert the EU's leverage and to define the strategy to be followed for each one of them. Thereafter, Member States were invited to provide additional information on several issues, related in particular to their bilateral agreements with the third countries, to the other useful issue concerning the possible leverage the EU could exert on those third countries and to relevant difficulties that Member States had faced with the same countries in trying to achieve the return/readmission of their nationals. Several Member States have already replied. Those which have not yet replied are invited to reply as soon as possible.
6. On 5 June 2014, the JHA Council endorsed this approach and invited the Commission, the EEAS and the competent European agencies to take the necessary measures, in close consultation and cooperation with Member States, to launch the above pilot project. The Commission was also invited to keep the Council and its preparatory bodies regularly informed of the state of play of the implementation of this pilot project.

Next steps

7. The competent regional working groups (COAFR and COASI) held a first exchange of views on this issue on 25 June. During these meetings, delegations welcomed and generally supported the idea of a pilot project on the return policy. Only a few delegations expressed a reservation on the suggested list of four countries and, in particular, on Ghana and Pakistan. Delegations were invited to present written comments until 9 July. COAFR and COASI will resume this discussion in September.

8. In the meantime, the different Commission services involved (in particular DG HOME, DEVCO, TRADE and EAC) will pursue their discussions in order to formalize an agreed package for the selected third countries (a 'consolidated leverage basket'), identifying the tools and means allowing to exert greater leverage at European level, which will be presented to the competent working parties with a view to defining the EU strategy to be followed for each one of the chosen third countries.
9. Given that the participation of the Member States in the pilot project will take place on a voluntary basis, delegations are invited to express already at this stage their intention as regards their participation in all or some of the four initiatives concerning the above-mentioned third countries.
10. SCIFA will be invited to examine this issue at its meeting on 11 July.
