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THE EUROPEAN UNION**

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from : the incoming Presidency

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to : Working Party on Migration and Expulsion

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on : 17 July 2002

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Subject : Improved operational cooperation between the Member States in the field of  
return

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In preparation for the meeting of the Working Party on Migration and Expulsion on 17 July 2002, delegations will find attached a discussion paper drafted by the incoming Presidency.

## 1. Background

In a number of instruments adopted in the field of migration the need for improved operational cooperation on return is stressed. They include the following:

On 22 December 1995 the Council adopted a recommendation on concerted action and cooperation in carrying out expulsion measures (12097/95 ASIM 329).

On 28 February 2002 the Council adopted a comprehensive plan to combat illegal immigration and trafficking in human beings in the European Union. In the summary of measures and courses of action to be adopted and implemented in order to combat illegal immigration and trafficking in human beings which is annexed to the action plan, it is stated that in the short term there must be an improvement in the practical co-operation between authorities responsible for return issues (6621/1/02 REV 1 JAI 30 FRONT 19 MIGR 10 VISA 29).

On 10 April 2002 the Commission adopted a Green Paper on a Community return policy on illegal residents. The Green Paper contains a number of proposals for co-operation and harmonisation in the field of return, including proposals for strengthening practical cooperation between authorities responsible for return issues (8000/02 MIGR 33).

On 13 June 2002 the Council adopted an action plan for the management of the external borders of the Member States of the European Union, which also includes a section on increased co-operation in the field of return (10019/02 FRONT 58 COMIX 298).

Member States may greatly benefit from each others' experience and assistance in return of third-country nationals. On the basis of this note the Presidency therefore wishes to initiate a discussion among the Member States on the possibility of improving operational co-operation in the field of return. In the short term, the discussions are intended to result in efficient utilisation of each others' experience and assistance, which may facilitate and contribute to making more flexible the work of the Member State authorities responsible for the practical implementation of returns.

The areas of co-operation mentioned in this note have among other things been selected against the background of the comprehensive plan to combat illegal immigration and trafficking in human beings in the European Union, the Commission's Green Paper on a Community return policy concerning illegal residents and the action plan relating to border controls. Other proposals for co-operation in the field of return may follow.

On the basis of the preliminary discussion of the proposals in this note, the Presidency will take further action.

## 2. **Exchange of more complete and detailed information on returns and voluntary repatriation**

### *Formulation of common definitions of concepts in the field of return*

Statistical information on returns is already being exchanged between Member States and third countries. However, it is difficult to compare the information due to the different methods of counting and different definitions of return. In its Green Paper on a Community return policy concerning illegal residents, the Commission proposes to lay down a number of common definitions in the field of removal and readmission with a view to making possible a more complete and detailed information exchange.

This draft proposal should be discussed with a view to reaching agreement on common definitions, which may contribute to increased exchange of information in this field. Thus, a common set of definitions will facilitate the Commission's preparation of annual public reports on asylum and migration, cf. the decision of the Council hereon of May 2001. Furthermore, common definitions will facilitate future discussions in the field of return.

When agreement has been reached on a common set of definitions, more statistical information should be exchanged between the Member States in the field of return through the existing channels.

3. **Improved cooperation relating to the identification of illegal residents, improved cooperation relating to the issuing of relevant travel documents and transportation**

The major obstacle for smooth return is uncertainty concerning the identity of the person concerned and/or his or her lack of the necessary travel documents. As set out in the Commission's Green Paper, the establishment of a visa identification system would help to identify many of the persons who are to be returned. Meanwhile, Member States could usefully cooperate more closely in order to enhance identification and the procurement of travel documents for illegal residents. Among other things, such co-operation should entail pooling the experience in identification and procurement of travel documents which the authorities of the individual Member States have accumulated, so that the each Member State's expertise can be used by others.

*Exchange of experience in identification of illegal residents*

As soon as possible, the Member States should initiate an exchange of general as well as country-specific experience relating to the identification of illegal residents for the purpose of return. As a first step, a list of contact points in each Member State could be drawn up. The indicated contact points could be contacted as required in the case of general as well as country-specific questions about identification in connection with returns. Depending on the administrative structures in individual Member States, the list of contact points might thus contain persons with a general knowledge of the return phase, including identification, and persons with country-specific knowledge.

Consequently, an attempt should be made to reach consensus so that the Council Secretariat could gather information from Member States for the purpose of drawing up such a list.

The next step will then be to commence exchange of experience relating to the identification of illegal residents. Perhaps in this context special meetings of experts should be convened at regular intervals, possibly after questionnaires have been distributed in advance.

### *Exchange of experience in obtaining travel documents*

On 28 February 2002 the Council adopted conclusions on obtaining travel documents for the repatriation of people who do not or who no longer fulfil the conditions for entry and residence. The Member States have completed a questionnaire on the procurement of travel documents in the return phase which is attached to the conclusions. This questionnaire will be updated and distributed to Member States at regular intervals with a view to benefiting from each others' experience in this field. In the medium term the intention is on the basis of the replies to the questionnaire to prepare a handbook of best practice in this field.

At the next meeting of the Working Party on Migration and Expulsion (hereinafter referred to as the Expulsion Group), the Presidency wishes to take stock of the replies to the questionnaire so far and to discuss a possible time frame for preparing the handbook of best practice.

Furthermore, the Presidency considers it useful to clarify whether or not the Council conclusions of 29 November 2000 on the measures to be taken against States posing problems concerning issuance of documents have led to improved co-operation among embassies on return issues.

In this context Member States are requested to give an account of any activities which have taken place since these conclusions were adopted. At the same time it should be clarified whether Member States perceive a need to intensify and establish more detailed procedures for co-operation among the embassies on return issues and, if so, how this can be achieved.

### *Transportation and common operations*

In the Council's recommendation of 22 December 1995 on concerted action and cooperation in carrying out expulsion measures, consultation with a view to implementing returns is contemplated. Among other things, the Council recommends that the Member States should inform each other of which authority in their territory is responsible for gathering information on seats available on flights for return purposes, and which authority to request for use of available seats on flights departing from Member States etc.

The Presidency considers it useful to exchange information on existing bilateral carrier arrangements for return purposes and proposes that the above-mentioned list of contact points should include authorities responsible for these matters.

In the Council's action plan for the management of the external borders of the Member States of the European Union it is stated that existing structures responsible for return in each of the Member States must be identified, and that the need for common repatriation operations must be assessed.

With that in mind the necessary information should be gathered and exchanged concerning the authorities in the individual Member States responsible for return, among other things with a view to assessing the possibility of performing common repatriation/return operations in the longer term.

The next meeting of the Expulsion Group should discuss how this can take place in the most appropriate manner.

#### *Best practice for return*

It is well-known that implementing returns to a number of countries of origin and transit is hard due to difficulties in cooperation with the authorities in relation to identification, issuance of travel documentation etc. The Presidency considers it would be very useful for the Member States to develop best practices for return to a region or to specific countries of origin and transit. This could include contact information in Member States as well as in the third country/countries in question, methods of identification of nationals from the country/countries, methods of obtaining travel documents and the practicalities of the physical return (means of transport, procedures on arrival, escorts during return), cf. also section 5.

It should be clarified whether approval can be given for the elaboration of such best practice surveys. If so, the Member States are requested to put forward proposals for regions or countries for which best practices should initially be worked out. In this regard reference should be made to the Council conclusions of April 2002 on criteria for the identification of third countries with which new readmission agreements need to be negotiated.

**4. Improved cooperation between and use of immigration liaison officers and embassies in countries of origin and transit**

In its Green Paper, the Commission raises the issue of whether liaison officers posted in countries of origin and transit can also be used in relation to returns, among other things with a view to facilitating contact with the authorities of the countries in question.

The Presidency considers it could be useful to obtain more knowledge of the position of the Member States on this issue, including the Member States' present use of liaison officers in return issues and the possibility of improved co-operation in this field. In that context, it should be noted that the issue has also been addressed in relation to the combating of illegal immigration in general.

**5. Holding of annual meetings for the purpose of discussing return experience**

It appears from the Council's action plan for the management of the external borders of the Member States of the European Union that, under the auspices of the Council, annual meetings must be held at operational level to discuss new experience and to organise programmes for return operations.

In connection with these meetings, it may be assessed whether there is a need for initiating common repatriation/return operations. This assessment may take place on the basis of statistical information on the returns of the Member States, best practice for returns to specific countries, the frequency of bilateral contacts, for instance relating to transport etc. Furthermore, the extent to which it will be appropriate to have common training programmes for specialised return units may be assessed.

During these annual meetings, Member States may usefully exchange experience on return issues involving selected countries of origin and transit.

The organization of these meetings under the auspices of the Council should be clarified in the appropriate forum.