



**COUNCIL OF
THE EUROPEAN UNION**

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LIMITE

**MIGR 86
COMIX 633**

NOTE

from: Presidency

Subject: Transit by land of returnees

Introduction

Fostering voluntary departures is one of the key objectives of the Return Directive. This procedure is seen as the most beneficial for both the authorities of the returning state and for the returnee. It is therefore crucial to find effective solutions to implement voluntary departures in full compliance with legal instruments, such as the Return Directive¹ and without causing excessive administrative burdens.

Voluntary departures generally take place by air (direct flight to the country of origin), as it is considered by most Member States as the easiest way for a returnee to leave the territory. However, this solution may be impractical for the returnee (e.g. families with a car and many belongings). Transit by land through other Member States would be another way of making this process more attractive. However, currently the third country national intending to return by land does not have any visa or authorisation to enter or stay in other Member States and would not be able to pass by transit (Directive 2003/110 is only applicable to transit by air).

¹ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p.98

At previous meetings of the Contact Committee on the Return Directive, it was envisaged to prepare recommendations regarding *the practical modalities of mutual recognition of return decisions for the purpose of transit by land of returnees*. The aim of these recommendations would be to let returnees transit through other Member States' territories on the basis of the return decision issued by a first Member State without administrative or penal sanctions.

A technical working group of interested Member States (**CZ, HU, LV, PL, SI**), together with the Commission have elaborated such recommendations. These are based on voluntary involvement of Member States and do not imply any legal obligations. In reaction to these recommendations, written contributions have already been received from nine Member States. However, many critical points were left open and positions are still awaited from the majority of Member States, that have not yet answered or that have made scrutiny reservations.

Objective

The purpose of the discussion is to reach a consensus between Member States on a way to address the issue of transit by land through other Member States. To this end, the Presidency wishes to give Member States the opportunity of sharing their views regarding this issue, their possible use of the draft recommendations and their related comments.

Questions

1. Are delegations willing to endorse and to make use of the draft recommendations set out in the Contact Committee Return Directive.
 - yes
 - yes, subject to the following changes/adaptations
 - no
2. If "no", please specify the reasons why.
3. If "no", please indicate which alternatives should be chosen for tackling the problem of transit by land of returnees.