



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 September 2010

13912/10

**Interinstitutional File:
2009/0036 (CNS)**

**MIGR 81
ASIE 55**

“I/A” ITEM NOTE

from: General Secretariat of the Council
to: Permanent Representatives Committee/Council
Subject: Council Decision concerning the conclusion of the Agreement between the European Community and Pakistan on readmission

1. By a letter received on 12 March 2009, the Commission submitted to the Council the above-mentioned proposal.
2. It is recalled that in its decision taken on 18 September 2000 the Council authorised the Commission to negotiate an agreement between the European Community and the Islamic Republic of Pakistan on the readmission of persons residing without authorisation.
3. The draft readmission agreement transmitted by the Commission to the authorities of the Islamic Republic of Pakistan was examined in several rounds of negotiations and it was initialled in Brussels on 9 September 2008.
4. The Council Decision concerning the signing of the agreement draft was adopted on 4 June 2009 by the Council.¹

¹ Doc. 8793/09 MIGR 66 ASIE 40

5. The readmission agreement was signed by the European Community and Pakistan in Brussels on 26 October 2009.
6. On 29 October 2009 the Council consulted¹ the Parliament on the proposal for a Council Decision concerning the conclusion of the readmission agreement between the European Community and Pakistan. The Parliament did not render its opinion before the entry into force of the Lisbon Treaty. Under the Lisbon Treaty² the consent of the Parliament is henceforth required for the adoption of the Decision on the conclusion of the agreement.
7. By a letter received on 9 August 2010, it was notified to Council that on 16 July 2010, the Islamic Republic of Pakistan has ratified the agreement.
8. On 21 September 2010 the European Parliament has rendered its consent for the conclusion of the agreement.
9. In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, the United Kingdom has notified, by a letter received on 27 May 2009, its wish to take part in the adoption and application of this Decision.
10. In accordance with Articles 1 and 2 of the Protocol on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of the said Protocol, Ireland is not participating in the adoption of this Decision and is not bound by or subject to its application.

¹ Articles 63(3)(b) and 300 (2)(a) and (3)(a) of the TEC.

² Articles 79(2),(3) and 218 (6) (a)(v) of the TFEU

11. In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
12. The Permanent Representatives Committee is thus invited to confirm the agreement reached on the Decision on conclusion and suggest that the Council:
- adopt, under part "A" of the agenda of a forthcoming session, the Decision as set out in doc. 5942/10 MIGR 9 ASIE 2 (text finalised by the Legal Linguistic experts)
 - decide that the above Decision be published in the Official Journal, "L" series, in accordance with Article 17(1)(d) of the Council's Rules of Procedure
- decide to enter in its minutes the statements as set out in the Annex to this Note.
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Statements to be entered into the Council minutes

Joint Declaration by the Council and the Commission on Article 20(3)

The Council and the Commission emphasise that the provisions of Article 20(3) are exceptional provisions linked to the context of the negotiations with Pakistan. They do not form a precedent for other negotiations of Community readmission agreements, where the outcome must exclude such a restriction of scope.

In addition, these provisions must be interpreted as laying the burden of proof on the parties which invoke them, whose responsibility it will be, in this case, to prove the person's entry into the territory of the requesting State before the entry into force of this Agreement.

The effects of Article 20(3), especially with regard to the successful readmission of own nationals excluded from the scope of this Agreement, will be closely monitored, particularly in the Joint Readmission Committee.

The Commission, or any Member State concerned, will also be able to refer any significant problems in this area to the competent bodies of the Council so that measures can be taken to resolve them.

Declaration by France on the Joint Declaration in relation to Article 8(2)

France takes note of the Joint Declaration on Article 8(2) and of the fact that, in the case of a positive reply to a request for readmission addressed by France to Pakistan, it aims to include the issuing of the travel document within the maximum time limit of 30 days.

The application of the Joint Declaration thus agreed will have to be closely monitored, particularly in the Joint Readmission Committee.
