



Brussels, 13 March 2015
(OR. en)

7156/15

LIMITE

MIGR 15
VISA 115

NOTE

From:	Presidency
To:	Delegations
Subject:	Return and readmission policy - Discussion paper

Return and readmission policies are an integral part of a comprehensive EU policy against irregular migration.

The return and readmission policies are also essential elements of the Global Approach to Migration and Mobility, the overarching framework for the external aspects of the asylum and migration policy.

The importance of the EU return and readmission policies as a part of the EU migration policy has been widely recognized in various EU instruments, including at the highest political level. In June 2014, the European Council in its Strategic guidelines for Area of Freedom, Security and Justice stressed the need for establishing an effective common return policy and reinforcing readmission obligations in agreements with third countries.

Therefore, the Presidency considers that an exchange of views on these issues in the joint meeting of the HLWG and SCIFA, on the basis of an update from the Commission on the state-of-play of the EU policies in this area, would be most beneficial **to take stock** of the current situation and **identify further needs** for the development of the EU return and readmission activities.

In its March 2014 Communication on EU Return Policy, the Commission reported that "there is a considerable gap between the persons issued with a return decision (approximately 484 000 persons in 2012, 491 000 in 2011 and 540 000 in 2010) and those who, as a consequence, have left the EU (approximately 178 000 in 2012, 167 000 in 2011 and 199 000 in 2010).

There are multiple reasons for this gap, including in particular lack of cooperation from the non-EU country of origin or transit (e.g. problems in obtaining the necessary documentation from non-EU consular authorities) and lack of cooperation from the individual concerned (i.e. he/she conceals his/her identity or absconds)."

On 5-6 June 2014, the Council adopted a set of Conclusions on EU Return Policy, which reaffirm the EU approach and closely interlink return and readmission. The above-mentioned Council Conclusions specifically emphasised some concrete measures which were proposed by the Commission in its Communication on the EU Return Policy of 28 March 2014, in particular the following ones:

- ***strengthened EU cooperation with third countries***, including a call on the Commission to ensure sufficient financial resources;
- ***further improvement of cooperation between Member States*** on the promotion on voluntary returns and more efficient forced returns;
- ***Frontex support*** by means of joint return operations;
- the Commission's intentions ***to draw up a "Return Handbook"*** in close cooperation with the Member States;
- ***launching an initiative on pilot projects*** concerning a number of selected third countries.

In addition it should be noted that on 9–10 June 2011 the Council adopted Conclusions defining the EU strategy on readmission, which refer to the EU readmission policy as an important tool to ensure an effective and credible return policy. The negotiation of new EU readmission agreements with third countries and the implementation of the existing ones were also identified as indispensable instruments to ensure a successful migration policy. The **use of GAMM instruments**, such as Mobility Partnerships or Dialogues on Migration and Mobility, could also provide a positive incentive to third countries to cooperate further with the EU in the field of readmission.

Nevertheless, it should be acknowledged that very often the negotiations of readmission agreements are rather difficult and complex. Quite frequently, the third countries concerned appear reluctant to accept the “**third country national clause**” or even oppose its inclusion in the agreement. This is the main reason why, for example, it has not been possible to finalise the negotiations with Morocco. For the same reason other third countries are reluctant to enter into negotiations on a readmission agreement with the EU.

It would probably be useful to further reflect on the need to review this strategy on readmission, adopted by the Council in 2011, and to look for **more powerful incentives** for third countries of origin to cooperate on readmission.

It might be useful to **establish a linkage between the currently negotiated amendment of the Visa Code and the cooperation of third countries in the return/readmission of their nationals**. The currently negotiated amendment of the Visa Code provides for a number of visa facilitations to third country nationals who are subject to the visa requirement. The applicability of these facilitations is currently exclusively linked to individual circumstances of third-country nationals.

This approach might be reviewed, and visa facilitation only be granted to nationals of third countries who cooperate on readmission. For this purpose the Visa Code could foresee the setting up of a (regularly updated) list of third countries who cooperate in the field of readmission (taking into account the practical experiences of Member States) and visa facilitation be limited to nationals of third countries who cooperate.

In light of above and considering the update provided by the Commission, the Presidency invites delegations to exchange views on the above issues and in particular on the following questions:

- *How could operational activities at EU level be further facilitated, in order to ensure a greater effectiveness of the EU return policy?*
 - *What additional measures could be taken in order to expand the EU efforts on readmission field, in particular with a view of stalled negotiations already undertaken with key third countries (including on the third country national clause)?*
 - *Should a linkage be made between the currently negotiated amendment of the Visa Code and the cooperation of third countries on readmission, by limiting visa facilitation to nationals of third countries who cooperate on readmission?*
-