

EU-READMISSION AGREEMENT WITH PAKISTAN

*After years of opacity on the conclusion of readmission agreements with third countries, the European Commission agreed - for the first time - to answer some of the questions put forward by Members of the European Parliament at a meeting held on 24 February 2010. Thus, in the name of transparency and information sharing, the **Greens/ALE** and the **GUE/NGL** groups would like to present the issues which dominated the debates to you.*

Timetable: a vote at the end of April in the LIBE Committee, followed by a vote in plenary session, probably in May.

For the first time, the Members of the European Parliament will have the opportunity to veto the conclusion of such agreements.

I. GENERAL ELEMENTS

- With the Lisbon Treaty, the European Parliament now has an essential role in the conclusion of readmission agreements since it acquired the right to veto such agreements. The EP has to take full advantage of this right in order to be able to claim that it is a genuinely concerned co-legislator who cares about the respect of Human Rights. The EP, thus, has to call for a detailed examination of the situation in the countries with which such agreements are negotiated. In future, the EP should also demand to be informed and consulted regularly from the beginning of the legislative process to the actual granting of the mandate to the Commission by the Council.

- No evaluation has been made of the readmission agreements to date. The results of readmissions are not made public or even communicated either to the European Parliament or national parliaments. There is an absolute need for this evaluation, in particular as regards the respect of Human Rights before proceeding further with the conclusion of new readmission agreements with third countries. The Commission appears to be working on the evaluation of these agreements and should make these results available as soon as possible and, at the latest, by the end of this year.

II. THE EU-READMISSION AGREEMENT WITH PAKISTAN: KEY POINTS

1) The situation in Pakistan:

Numerous conventions have not been ratified by Pakistan, and in particular the Geneva Convention of 1951. Council internal documents as well as different NGOs' reports all concur that the situation in the country is not at all secure, as there are regular attacks and tribal fights. Moreover, women are denied their rights and are often victims of violence, whilst children are detained from the age of seven, and homosexuality is punished with two years of prison and public flogging, etc.

The Commission provided no guarantees in its negotiations to ensure the safety of readmitted persons and the respect of their rights, hiding behind a provision contained in the agreement that envisages that its implementation will be carried out in respect of international conventions and that it is up to the states to respect those conventions. The

Commission's argument that one cannot force a state to sign such conventions and that Pakistan is at least making "efforts" in this direction, such as the creation of a Ministry of Human Rights, is hardly convincing as is its argument that reciprocally, the EU is also not obliged to sign readmission agreements with such states.

2) Afghanistan:

The first sentence of the agreement says: The "conclusion of a readmission agreement with Pakistan was one of the measures recommended in the 1999 High Level Working Group Action Plan on Afghanistan". Would the aim of the agreement therefore be the repatriation of Afghans? In addition to this, according to Article 11 of the agreement, Pakistan makes its territory available for the return of migrants to other countries with which Member States have not succeeded in returning migrants.

In the 1999 action plan for Afghanistan, a number of projects were proposed in order to protect those migrants and Afghan refugees who were particularly marginalised in Pakistan, and even, according to the NGOs, those recently returned to Afghanistan, without assuring the safety of such a return. This is why without clear and binding guarantees, it is impossible to make sure that Afghan migrants readmitted to Pakistan will see the respect of their ensured rights and will not be transferred back to Afghanistan.

3) Turkey:

One of the aims of this agreement, which was confirmed by the Commission, is to encourage the conclusion of a readmission agreement with Turkey, which is currently being negotiated. It will serve as an essential argument to convince Turkey to sign the same agreement since the original idea was to sign agreements with "countries of origin" such as Turkey, which migrants transit through in order to enter the territory of the EU.

4) Scope:

The question of the scope of this agreement is astonishing. First of all, it provides for the return of nationals: in 2008, there were 13,348 arrests of Pakistanis in irregular situations and 4,424 effective returns. The agreement also targets stateless third-country nationals: one wonders about the relevance of this kind of agreement, bearing in mind that almost all migrants travel overland while the agreement concerns those who illegally entered the territory of the Member State arriving directly by air or by sea and who have not entered through another state.

5) Periods:

- Response to the readmission request: the deadline is 30 days. If there is no reply within this time limit, the transfer shall be deemed to have been agreed. This does not provide a sufficient guarantee since a simple delay in the procedure could involve repatriation.

- Document for the return: The Pakistani authorities have to draw up without delay the travel document necessary for the return. The legal impossibility of readmissions without this document is not mentioned. Recourse to the European *laissez passer*, a travel document drawn up only by the authorities in the state expelling the migrant, is extremely alarming because it paves the way for numerous abuses by the Member States, as has been the case in France which expelled Afghans last December. Yet, the European *laissez passer* is supposed to be used only for cases in which the third-country national to be expelled is either under international protection or Stateless.

6) Entry into force:

The readmission concerns only those who entered the territory of a Member State after the entry into force of the agreement. However, it is up to the state which invokes it to prove that the person to be readmitted entered European territory before the entry into force of the agreement. But, if this involves Pakistan, doesn't this lead to an excessive burden of proving something that has not occurred on its territory but on the territory of one of the Member States? Furthermore, one should bear in mind that the majority of migrants do not have any passport and therefore there is no stamp proving the date of entry.

7) The mixed readmission commission:

The EP plays no role. The Commission states that the presence of Parliament would have no added value. However, it would make the implementation of these agreements much more transparent and the EP could play the role of a true protector, taking into account the problems which this type of agreement can raise with respect to Human Rights, International Law, and International Treaties.

8) Recourse:

Recourse is the responsibility of national legislations. There is no guarantee of an effective solution.

9) Transport costs:

The Requesting State can recover the costs associated with the readmission from the person to be readmitted or third parties.

10) Personal data protection:

The agreement contains no indication aiming to protect personal data. Its transmission to "other non specified bodies" is even possible without the consent of the migrant in question.