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**NOTE**

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from: Presidency  
to Working Party on Integration, Migration and Expulsion/Mixed Committee  
(EU-Iceland/Norway/Switzerland/Liechtenstein)  
on 20 June 2012

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Subject: Preliminary synthesis on Member States' responses to a questionnaire following-up on "EU Action on Migratory Pressures – A Strategic Response" regarding readmission and return

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**I. Background**

1. On 26-27 April 2012 the Council adopted the "*EU Action on Migratory Pressures – a Strategic Response*" (hereinafter EU Action) giving it its full backing to support concrete activities in order to combat migratory pressures at EU level<sup>1</sup>.

In doing so, the Council has endorsed a more strategic and results-orientated way of implementing existing processes and measures agreed at EU level to address the growing phenomenon of illegal immigration and abuse of free movement.

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<sup>1</sup> Doc. 9650/12 MIGR 45 FRONT 67 COSI 25 COMIX 288

The EU Action contains two *strategic priority areas* specifically involving readmission and return:

- A) Under the strategic priority area on “*Strengthening cooperation with third countries of transit and origin on migration management*”, the EU Action includes four activities intended to operationalise the Council Conclusions of June 2011 defining an EU strategy on readmission (doc 11260/11 MIGR 118)
1. Launching of a substantive discussion based on a Presidency questionnaire to *identify new third countries*, with which concluding an EU readmission agreement would be of interest to the EU, in particular countries of origin of illegal migration (cf. EU Action I.1.A.i.).
  2. Preparation of a *comprehensive overview* of EU and Member States relations and agreements with third countries eligible for negotiation of EU readmission agreements (cf. EU Action I.1.A.ii.).
  3. Discussion and consideration of the use and the content of proportional, tailor-made incentives offered to those identified third countries with which EU readmission agreements are to be negotiated, in combination with the principle of conditionality applied in an appropriate manner (cf. EU Action I.1.A.iii.).
  4. Clarification of the Council’s criteria regarding rules on accelerated procedures, transit operations, and obligations to readmit third country nationals and stateless persons, in order to assess how these issues should be taken into account on a case-by-case basis in EU readmission agreements with identified countries (cf. EU Action I.1.A.iv.).
- B) Under the strategic priority area on “*Enhancing migration management, including cooperation on return practices*”, the EU Action includes ensuring that Member States share best practises on return (both voluntary and forced) and encouraging cooperation between the stakeholders in the field (cf. EU Action VI.2.B.).

2. In order to prepare the way for A) a substantive discussion and consideration of the operationalization of the Council Conclusions of June 2011 defining an EU strategy on readmission, and B) sharing of best practices on return matters, both as stipulated in the EU Action, the Presidency has asked delegations to respond to a questionnaire prepared by the Presidency.

Thus, as assumed by the EU Action the Presidency asked each delegation

A)

- to identify and prioritize the three third countries, with which concluding an EU readmission agreement would be of interest, focusing on countries of origin of illegal migration, and emphasizing the reasoning behind this perspective
- to give an overview of the main bilateral relations and agreements in place with those previously identified three third countries respectively,
- to indicate the main tailor-made incentives that may be offered in order to ensure the proper level of cooperation,
- to indicate whether a clause on the readmission of third country nationals and stateless persons should be incorporated in those negotiating directives previously identified, and
- to indicate whether rules on accelerated procedures and transit operations should be incorporated in or omitted from those negotiating directives,

B)

- to identify the main challenges regarding voluntary and/or forced returns to those three third countries previously identified by the Member State as eligible for negotiation of EU readmission agreements,
- to indicate the individual efforts taken in order to secure smooth return to those three third countries taken by each Member State, and
- to indicate the outcome of these efforts.

The Presidency has prepared the following synthesis based upon delegations' contributions with the aim to enable a substantive discussion and consideration within the framework of the Working Party on Integration, Migration and Expulsion (expulsion formation).

A total of 5 delegations have at this stage (18 June 2012) replied to the questionnaire (AT, BE, HU, NL, PL).

The intention of the synthesis is to outline delegations' responses with a view to indicate some common tendencies. The aim is to pave the way for an assessment of delegations' responses in light of coherence with the relevant EU policies and priorities including the Global Approach to Migration and Mobility.

Similar to the questionnaire, the synthesis is divided into two parts, first focusing on the operationalization of the June 2011 Council Conclusions defining an EU strategy on readmission, and secondly elaborating upon sharing of best practices regarding return matters. In Annex I, delegations' answers are presented in their entirety with a view to ensure that Member States may draw on each others' experiences and best practices.

In the Presidency's view, the present synthesis is to be seen as the first step only in order to adequately follow-up on the EU Action's focus on readmission and return. Therefore, the synthesis' conclusions are at this stage not complete, but should rather be sharpened by delegations' oral contributions and reflections initially at the meeting in the Working Party on Integration, Migration and Expulsion on 20 June 2012.

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## **PART I – READMISSION**

### **Operationalising the Council Conclusions of June 2011 defining an EU strategy on readmission**

#### **I. Identification of new third countries, with which concluding an EU readmission agreement would be of interest**

##### *Introduction*

In the questionnaire, the Presidency asked delegations to identify and prioritize the three third countries, with which concluding an EU readmission agreement would be of interest, focusing on countries of origin of illegal migration, and emphasizing the reasoning behind this perspective.

In doing so, delegations were asked to consider the fact that according to the adopted EU Action, and in line with the June 2011 Council Conclusions defining an EU strategy on readmission, focus should be on countries of origin of illegal migration.

Also, the Presidency noted that the determination of priority third countries eligible for negotiation of EU readmission agreements, though based on delegations' answers, should also take due account of and be coherent with the overall strategic considerations and priorities outlined in the Communication and Conclusions on the Global Approach to Migration and Mobility. To this end, the June 2011 Council Conclusions recalls that the EU readmission policy forms an integral part of the Global Approach to Migration (and Mobility), and that the development of the EU readmission policy should also reflect the developments of the Global Approach.

##### *Break down of delegations' responses*

**Figure 1: New third countries identified by Member States as being of interest to conclude an EU readmission agreement with**

Identified third country	Most identified (regardless of priority)	Identified as first priority
Afghanistan	3 (AT, HU, PL)	2 (AT, HU)
Egypt	2 (HU, NL)	None
India	2 (NL, PL)	1 (PL)
Bangladesh	2 (BE, PL)	None
Iraq	1 (NL)	1 (NL)
Tunisia	1 (BE)	1 (BE)
Algeria	1 (AT)	None
Nigeria	1 (HU)	None

Note: AT has also identified Morocco, regarding to which a EURA mandate is already in place

[(poss.) Summary of the reasoning behind Member States' identification – limited, possibly, to the top three-countries.]

#### *Overall EU perspective*

In addition to the introductory remarks, and according to the June 2011 Council Conclusions regarding the future mandates on readmission, the most important criteria for determining, on a case-by-case basis, with which further third countries EU readmission agreements should be negotiated, are

- a) the migration pressure from a third country concerned on a particular Member State or on the European Union as a whole,
- b) the cooperation on return by the third country concerned, as well as
- c) the geographical position of the third country concerned situated at a migration route towards Europe

Re. a)

[(poss.) Data on numbers of rejected asylum seekers to be returned, including numbers of illegal TCN immigrants to be presented, once the top three-countries have been identified.]

Re. b)

In order to be able to respond adequately to this element, Member States' main challenges regarding voluntary and/or forced returns to those three third countries previously identified by Member States as eligible for negotiation of an EU readmission agreement are elaborated upon in Part II.

Re. c)

[(poss.) General description of the main migration routes to be presented, once the top three-countries have been identified; consultation with FRONTEX and EASO may be necessary.]

### *Conclusion*

[(poss.) Assessment of delegations' responses in light of coherence with the relevant EU policies and priorities including the Global Approach to Migration and Mobility, with a view to identify those [three] priority third countries with which concluding an EU readmission agreement would be of interest.]

## **II. Bilateral relations and agreements**

### *Introduction*

In the questionnaire, the Presidency asked delegations to identify the main bilateral relations and agreements that exist between those three third countries identified as eligible for negotiation of EU readmission agreements and the Member State in question.

In doing so, delegations were asked to consider the fact that according to the June 2011 Council Conclusions defining an EU strategy on readmission, negotiating directives should better take into account the overall relations with the third country concerned.

In this respect, delegations' attention was drawn to the fact that the elements of the Global Approach to Migration and Mobility and/or non-migration related issues embodied into EU framework agreements with the same third country, as stipulated in the June 2011 Council Conclusions, may function as guidance to Member States regarding the nature of the bilateral relations and agreements that may be relevant in this context.

#### *Delegations' responses*

In addition to the entire list in Annex I, delegations' responses to this specific question are listed separately in Annex II, classified by the relevant third country.

#### *EU context*

[(poss.) Bearing in mind the limitations drawn up by the June 2011 Council Conclusions on tailor-made incentives (see section V below), especially that such incentives should be defined on a *case-by-case basis* and according to the particular needs of *both sides*, a roughly drafted list of the main EU relations and agreements with those three third countries identified as eligible for negotiation of EU readmission agreements (see Part I, section I above) may be presented.]

### **III. Tailor-made incentives**

#### *Introduction*

In the questionnaire, the Presidency asked delegations to indicate the main tailor-made incentives that according to the perspective of the Member State in question may be offered to those three third countries identified as eligible for negotiation of EU readmission agreements (see section III above) in order to ensure the proper level of cooperation.

In this respect and in accordance with the June 2011 Council Conclusions, the Presidency noted that such incentives, though inspired by delegations' answers, should be defined on a case-by-case basis and according to the particular needs of both sides. Also, such incentives should be proportional to the obligations assumed by the third country in question, in combination with the principle of conditionality applied in an appropriate manner.



### *Delegations' responses*

In Annex I, delegations' responses are listed in their entirety.

[(poss.) Concerning those three third countries identified as eligible for negotiation of EU readmission agreements (see Part I, section I above), delegations' responses may be summarized as follows:]

[...]

### *Overall EU perspective*

The identification of incentives draws upon the elements mentioned in the June 2011 Council Conclusions. Thus, such incentives should as a starting point 1) be tailor-made designed to ensure the proper level of cooperation, 2) be defined on a case-by-case basis and according to the particular needs of both sides, 3) be proportional to the readmission obligation assumed by the third country in question, and 4) should be applied in combination with the principle of conditionality applied in an appropriate manner.

### *Conclusion*

[(poss.) Bearing in mind the limitations that are drawn up by the June 2011 Council Conclusions on tailor-made incentives, and limited to those three third countries identified as eligible for negotiation of EU readmission agreements (see section III above), the Presidency at this stage *proposes* to include the following incentives identified by 1) Member States in the questionnaire or 2) listed above (see Part I, section II), during the negotiations with the identified third country in question:]

[...]

Also, the Presidency proposes that the withdrawal of incentives when a third country does not cooperate in the effective implementation of its readmission obligation, without prejudice to existing international legal obligations, *generally* – and with due respect of contractual obligations – is to be included as an element in the negotiations.

#### **IV. Obligations to readmit third country nationals [and stateless persons]**

##### *Introduction*

In the questionnaire, the Presidency asked delegations to indicate whether a clause on the readmission of third country nationals [and stateless persons] according to the perspective of the Member State in question should be incorporated in the negotiating directives concerning those three third countries identified by each Member State as eligible for negotiation of EU readmission agreements.

Also, delegations were asked to specify the reasons why such a clause according to the perspective of the Member State in question should be incorporated, e.g. due to 1) the geographical situation and 2) transit character for illegal migration of the third country concerned as stipulated in the June 2011 Council Conclusions.

In doing so, delegations were asked to consider the fact that according to the June 2011 Council Conclusions, negotiating directives should, where appropriate, contain flexibility.

##### *Delegations' responses*

In Annex I, delegations' responses are listed in their entirety.

[(poss.) Concerning those three third countries identified as eligible for negotiation of EU readmission agreements (see Part I, section I above), delegations' responses may be summarized as follows:]

[...]

##### *Overall EU perspective*

[(poss.) Data on numbers of illegal immigrants from other third countries to the EU transiting through the third countries in question / other relevant data to be presented, once the top three-countries have been identified (see Part I, section I above).]

## *Conclusion*

[...]

## **V. Accelerated procedures and transit operations**

### *Introduction*

In the questionnaire, the Presidency asked delegations to indicate whether rules on accelerated procedure and transit operations according to the perspective of the Member State in question should be incorporated in or – in duly justified and exceptional cases – omitted from the negotiating directives concerning those three third countries identified as eligible for negotiation of EU readmission agreements by each Member State.

Also, delegations were asked to specify the reasons underlying the perspective of the Member State in question, e.g. due to whether one or both the procedures are unlikely to be used in practice in relation to the third country in question.

### *Delegations' responses*

In Annex I, delegations' responses are listed in their entirety.

[(poss.) Concerning those three third countries identified as eligible for negotiation of EU readmission agreements (see Part I, section I above), delegations' responses may be summarized as follows:]

[...]

### *Overall EU perspective*

[(poss.) Clarification of those elements that define “duly justified/exceptional cases” to be deducted using delegations' responses in relation to concrete examples of countries as a stepping stone.]

## *Conclusion*

[...]

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**PART II – RETURN**  
**Sharing of best practices on return**

**I. Challenges regarding voluntary and/or forced returns**

*Introduction*

In the questionnaire, the Presidency asked delegations to identify the main challenges regarding voluntary and/or forced returns to those three third countries previously identified by the Member State in question as eligible for negotiation of an EU readmission agreement, e.g. due to

- practical reasons such as
  - o difficulties in *identifying* the returnee as a national of the third country in question, and whether such difficulties are due to the length of proceedings in relation to identification, due to the third country's unwillingness to cooperate at national level (including via embassies in your Member State), or due to technical and/or financial issues (lack of financing of identity centres, pending establishment of investigating bodies, non-existence of proper birth registration centres/procedures, etc.),
  - o difficulties in obtaining *travel documents* for the returnee, and whether such difficulties are due to the third country's unwillingness to cooperate at national level (including via embassies in your Member State), or
- more policy or legal based reasons such as
  - o the country of origin's unwillingness to accept the fact that under customary international law it is an obligation of each State to readmit its own nationals,
  - o the country of origin's unwillingness to accept forced returns,
  - o the country of origin's request for reintegration or social measures to be in place in the country of origin prior to readmission.

### *Delegations' responses*

In Annex I, delegations' responses are listed in their entirety.

[(poss.) Concerning those three third countries identified as eligible for negotiation of EU readmission agreements (see Part I, section I above), delegations' responses may be summarized as follows:]

[...]

### *Overall EU perspective*

According to the June 2011 Council Conclusions, one of the criteria for determining, on a case-by-case basis, with which further third countries EU readmission agreements should be negotiated, is the cooperation on return by the third country concerned.

In addition, greater exchange between Member States of practical experiences and best practices – or even a joint and coherent EU response in certain cases – may add value regarding the cooperation on returns with those third countries deemed problematic in a return context, both voluntary and/or forced, even if no EU readmission agreement are to be negotiated at present or in the near future.

### *Conclusion*

[...]

## **II. Practical, legal or political return efforts**

### *Introduction*

In the questionnaire, the Presidency asked delegations to indicate the individual efforts related to those three third countries previously identified by the Member State in question taken by each Member State, possibly limited to the main/most dominant efforts, including

- an overview of present or former practical, legal or political initiatives taken in order to secure smooth return to those countries, and
- if possible the outcome of these initiatives, including if possible an evaluation perspective.

*Delegations' responses*

In Annex I, delegations' responses are listed in their entirety.

[(poss.) Concerning those three third countries identified as eligible for negotiation of EU readmission agreements (see Part I, section I above), delegations' responses may be summarized as follows:]

[...]

*Conclusion*

[...]

\* \* \*

**II. Conclusion**

...

**III. [The way forward]**

**Delegations' responses in their entirety to a questionnaire following-up on "EU Action on Migratory Pressures – A Strategic Response" regarding readmission and return<sup>2</sup>**

In the following, delegations' responses are listed in their entirety corresponding with the questionnaire, applying only conceptual editing as deemed necessary.

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<sup>2</sup> Questionnaire prepared by the Presidency (doc. x)

## *Austria*

### **Part I (Readmission)**

#### **A. Identification of (3) new third countries, with which concluding an EU readmission agreement would be of interest**

Afghanistan, Morocco, and Algeria.

#### *Reasoning*

- The migration pressure. Yes (all three countries).
- The lack of cooperation on return. Yes, beside the fact that Afghanistan was sending positive signals in the last months to negotiate a Memorandum of Understanding regarding return.
- The geographical position. No.

#### **B. List of bilateral relations and agreements with those (3) identified countries**

There are no relations and agreements with any of these three countries related to migration issues.

#### **C. Indication of possible tailor-made incentives with those (3) identified countries**

Development aid (especially Afghanistan) and re-integration projects (all three countries).

#### **D. Incorporation of a clause regarding third country nationals and stateless persons with those (3) identified countries**

From the viewpoint of Austria there is a certain need for a third country national clause for Algeria and Morocco. The reason therefore is the great number of illegal migrants from other, third western or central African states passing on their way to Europe the territory of these two countries

#### **E. Incorporation of rules on accelerated procedures and transit operations with those (3) identified countries**

Yes.



## **Part II (Return)**

### **A. Main challenges regarding voluntary/forced returns to those (3) identified countries**

All three third countries present difficulties in *identifying the returnee as a national*, whereas the unwillingness to cooperate at the national level is the main reason. Nevertheless there is the presumption that the unwillingness results from directives from the home country.

All three countries present difficulties in *obtaining travel documents for the returnee*, whereas the unwillingness to cooperate at the national level is the main reason. Nevertheless there is the presumption that the unwillingness results from directives from the home country.

All three countries are unwilling to accept the fact that under customary international law it is an obligation of each State to readmit its own nationals.

All three countries are unwilling to accept forced returns.

### **B. Individual efforts (and outcome) to secure smooth return to those three identified countries**

Bilateral meetings at different levels, from political to expert level for all three countries as well as forwarding drafts for Memorandum of Understanding related to migration issues.

## *Belgium*

### **Part I (Readmission)**

#### **A. Identification of (3) new third countries, with which concluding an EU readmission agreement would be of interest**

Belgium does not have specific requests for new mandates: Belgium is of the opinion that priority should be given to (a) finalizing the current mandates into readmission agreements, and (b) improve the application of already existing readmission agreements. Besides, for the most interesting countries for Belgium in terms of readmission and for which there isn't a European mandate yet, there is already negotiations at Benelux or bilateral level going on.

If new mandates are to be proposed, Belgium recommends *Tunisia* (Belgium understood from the readmission expert meeting from 25/5/12 that the Commission is already preparing its draft mandate for a EURA with Tunisia) and *Bangladesh*.

#### *Reasoning*

- The migration pressure. As regards *Tunisia*: not so much asylum seekers, but mainly intercepted illegal migrants and criminal activities. As regards *Bangladesh*: in top-20 in terms of asylum applications (over 500 per year).
- The lack of cooperation on return. Lack of cooperation for both countries, especially on the level of their capitals who don't reply timely (or not at all). The embassies however do their best.
- The geographical position. As regards *Tunisia*: transit country used as migration route towards Schengen. Not applicable as regards *Bangladesh*.

#### **B. List of bilateral relations and agreements with those (3) identified countries**

*Tunisia* is not an official partner country for development cooperation, but there are some "working arrangements".

As regards *Bangladesh*, a MoU concerning readmission has just been proposed, but without any result so far.

### **C. Indication of possible tailor-made incentives with those (3) identified countries**

As regards *Tunisia*, they've made clear they have financial demands.

As regards *Bangladesh*, Belgium could envisage promotion of circular migration: issuance of D-visas for students, which allow residence for one or two years, after which they should in principle return to their country of origin (if needed, the readmission agreement could be applied to ensure their return).

### **D. Incorporation of a clause regarding third country nationals and stateless persons with those (3) identified countries**

As regards *Tunisia*: necessary, because of its nature of a transit country and proximity to the EU (so even if the scope of the clause would be limited to only those who entered the EU "directly", this clause would still be useful)

As regards *Bangladesh*: not absolutely necessary, because not a specific transit country.

Nevertheless, Belgium would propose to have it in the mandate anyway, but with the possibility to have it dropped during the negotiations if it would turn out be an insurmountable obstacle for Bangladesh.

Remark for both countries: third country spouses and minor children of own citizen should be treated as own citizens as it is the case in the most recent readmission agreements and mandates, they shouldn't be affected by the absence or presence of a third country clause.

### **E. Incorporation of rules on accelerated procedures and transit operations with those (3) identified countries**

This is necessary for neither Tunisia nor Bangladesh, as it seems unlikely to want to return third countries nationals to their home country via these countries.

## **Part II (Return)**

### **A. Main challenges regarding voluntary/forced returns to those (3) identified countries**

Main difficulties for both *Tunisia* and *Bangladesh*: length of proceedings, and financial issues, but also difficulties in obtaining travel documents. *Bangladesh* request reintegration or social measures to be in place prior to readmission.

**B. Individual efforts (and outcome) to secure smooth return to those three identified countries**

As regards *Tunisia*: a EURINT mission has taken place in May 2012; negotiations with Tunisian authorities mainly in order to try to improve the practical cooperation.

As regards *Bangladesh*: there was a fact finding mission, where Belgium also tried to advocate a proposal for a MoU (without success).

Regarding outcome: Procedures with the *Tunisian* consulate are faster now; no outcome as regards *Bangladesh*.

## *Hungary*

### **Part I (Readmission)**

#### **A. Identification of (3) new third countries, with which concluding an EU readmission agreement would be of interest**

Bearing in mind that the Council should consider the migration pressure from a third country concerned on a particular Member State or on the European Union as a whole, due to the illegal migration pressure exposed to Hungary, Hungary consider, that first of all, the EU should initiate a readmission agreement with Afghanistan.

Countries from North-African region play an important part regarding the issue of illegal migration (both as a source and transit counties), therefore Hungary would support a readmission agreement with Egypt, as well. It is important to mention that mandates have already been given to the Commission for negotiating EU readmission agreements with Algeria and Morocco; Hungary would thus appreciate the conclusion of the agreements for which a mandate is still outstanding.

Since EU did not launch such a negotiation with any country of Sub Saharan Africa, conclusion of an agreement with Nigeria should be considered.

#### *Additional reasoning*

- The migration pressure. This is true for all the three countries of origin, especially for Afghanistan.
- The lack of cooperation on return. This is true for Afghanistan and Egypt.
- The geographical position. Not applicable.
- Other reasons. In case of Hungary, the diplomatic/consular mission of *Afghanistan* is ready to issue travel documents for its nationals only in case they are willing to return home voluntarily. In case of *Egypt*, a lot of Arabic-speaking third country nationals declare that they are a (for example) Palestinian or Iraqi national in order to avoid expulsion, but it happens that during the alien policing procedure the interpreters engaged by the immigration authority state that the person in question is probably Egyptian, however, the Embassy of Egypt in Budapest rarely confirms that the person is their national.

## **B. List of bilateral relations and agreements with those (3) identified countries**

### *Afghanistan*

- Health cooperation agreement between the Hungarian People's Government of the Republic and the Government of the Republic of Afghanistan (1977)
- Air Transport Agreement between the Government of the People's Republic of Hungary and the Government of the Republic of Afghanistan (1977)
- Agreement on international road freight transport in the Hungarian People's Republic and the Government of the Republic of Afghanistan (1977)

### *Egypt*

- Agreement with the Government of the Republic of Hungary and the Government of the Arab Republic of Egypt to the diplomatic passports of nationals reciprocal visa exemption (2007)
- Economic Cooperation Agreement with the Republic of Hungary and the Government of the Arab Republic of Egypt (2007)
- Implementing an exchange program of the Hungarian Republic and the Government of the Arab Republic of Egypt for education, science and culture between the years 2008 to 2010 (2008)

### *Nigeria*

- Economic Cooperation Agreement in the Hungarian People's Government of the Republic and the Government of the Federal Republic of Nigeria (1974)
- Economic and scientific-technical cooperation agreement in the Hungarian People's Republic and the Government of the Federal Republic of Nigeria Federal Military Government (1979)
- Air Transport Agreement between Hungarian People's Government of the Republic and the Government of the Federal Republic of Nigeria (1977)

## **C. Indication of possible tailor-made incentives with those (3) identified countries**

In Hungary's view, use of incentives will be of key importance, if the Council decides to request the Commission to proceed to negotiations with the above mentioned three countries (of origin).

However, Hungary consider that the incentives should rather consist of elements of non-migration related issues embodied into EU framework agreements with the same third country (e.g. opening of visa facilitation agreements with those third countries is not desirable at the moment).

Nonetheless, especially in the case of *Afghanistan*, the issue of reintegration of returnees is a question EU should deal with.

**D. Incorporation of a clause regarding third country nationals and stateless persons with those (3) identified countries**

As a general rule, it is foreseen to incorporate clauses on the readmission of third country nationals in the negotiating directives, with due regard to the geographical situation and transit character for illegal migration of the third country concerned. In Hungary's view, in the case of the above mentioned countries (Afghanistan, Egypt and Nigeria), a third country national clause is desirable, but can be subject to review if this clause only would impede the conclusion of the negotiations.

**E. Incorporation of rules on accelerated procedures and transit operations with those (3) identified countries**

N/A.

**Part II (Return)**

**A. Main challenges regarding voluntary/forced returns to those (3) identified countries**

*Afghanistan*

In case of Afghanistan, Hungary is facing increasing number of illegal migrants coming from this country. They arrive to Hungary mostly through the following route: Iran, Turkey, Greece, Macedonia and Serbia. Some of them are sent back to Serbia applying the readmission agreement between EU and Serbia, under the TCN clause. Nonetheless, there is no possibility to send back every Afghan person to Serbia, so Hungary has to cope with the challenge of their return to Afghanistan. The diplomatic mission of Afghanistan accredited to Hungary will refuse issuing the travel document to their nationals if they do not show willingness to return to Afghanistan on voluntary basis; but very few Afghan persons express their wish when it comes to voluntary return. Thereby, in case where international protection is not secured to them, their further stay in Hungary is not legal anymore and forced return should have been carried out. However, in practice Hungary is not capable of organising any forced return since the Afghan authorities do not cooperate at all. This country of origin is unwilling to accept the fact that under customary international law it is an obligation of each State to readmit its own nationals.

### *Egypt*

As for Egypt, internal political uncertainty, which prevail for a while in this strategic country, contributed to the increasing number of illegal migrants. Hungary faces difficulties with obtaining travel documents for the returnees, and such difficulties are due to the third country's unwillingness to cooperate at national level (including via their embassy). It is a phenomenon that a lot of Arabic-speaking third country nationals declare that they are Palestinian or Iraqi nationals in order to avoid expulsion, but it happens that during the alien policing procedure the interpreters engaged by the immigration authority state (officially or just informally) that the person in question is probably Egyptian. However, the Embassy of Egypt rarely confirms in these cases that the person concerned is their national. Hungary would like to emphasise that countries from the region of North-Africa are becoming frequent countries of origin concerning illegal migration towards Hungary. Since the routes have changed, most of them are coming to Hungary via Turkey, Greece and the Western Balkans. It is important to mention that Hungary is not the country of their final destination. Unfortunately, Hungary experiences lack of cooperation by these countries even in cases when their nationals express their wish to return voluntarily. Mandates have been already given to the Commission for negotiating EU readmission agreements with Algeria and Morocco, and Hungary would appreciate conclusion of the agreements for which a mandate is still outstanding. Regrettably, countries of North-Africa refuse to accept returns through Joint Return Operations organised by FRONTEX.

### *Nigeria*

A considerable part of illegal migrants coming from Sub Saharan Africa are from Nigeria. Huge numbers of these illegal migrants are involved into crime connected with drugs, so their presence often poses a risk to public order at the same time. It is not a rare case that a Nigerian national establishes a family relationship solely for the purpose of obtaining a residence permit on the grounds of family reunification. In the latter case, issuing a return decision is a complex issue, from the legal point of view. Hungary experiences a lack of cooperation by the Nigerian Embassy, which also hampers the effective return procedure.



## *Netherlands*

### **Part I (Readmission)**

#### **A. Identification of (3) new third countries, with which concluding an EU readmission agreement would be of interest**

Iraq, India, and Egypt.

#### *Reasoning*

##### *Iraq*

- Cooperation on forced return has been postponed since autumn 2011.
- Large caseload of Iraqis that are supposed to leave the Netherlands as their asylum permit has been withdrawn due to an improvement of the country of origin (+/- 1,300).
- Significant number in new arrivals (1,400 new asylum applications in 2011).
- Profile: mainly asylum cases.
- High number of voluntary returns.

##### *India*

- The return cases consist primarily of illegal labour migrants. Exact numbers of illegal Indians residing in the Netherlands are not available, some 100-150 cases a year enter the return process.
- Very limited cooperation on return in general terms. Verification procedures take very long if an answer is received at all, even in well documented cases (i.e. copies of passports and other ID documents). Recently though, India has become more cooperative in case of voluntary return through IOM.
- It is known that primarily Bengali, Nepali and Tibetans use India as transit route.
- India does not at all seem receptive to bilateral requests to improve cooperation and speedier procedures, often citing security reasons.

##### *Egypt*

- Very limited cooperation on forced return on undocumented as well as documented cases
- Caseload consists mainly of illegally residing nationals who have never requested for asylum or other types of legal residence.

## **B. List of bilateral relations and agreements with those (3) identified countries**

There is no formal or informal readmission agreement with any of these three countries (Iraq, India, Egypt).

## **C. Indication of possible tailor-made incentives with those (3) identified countries**

*Iraq* already signed for the readmission obligation, in the PCA (Partnership and Cooperation Agreement). If *Iraq* fails to resume its cooperation, it could be discussed within the framework of the PCA. Incentives and conditionality might also be found within that PCA.

Possible tailor-made incentives regarding *India* to be submitted in a later stage.

Regarding *Egypt*, incentives could primarily be found in the migration dossier, by negotiating a CAMM or MP with *Egypt*.

## **D. Incorporation of a clause regarding third country nationals and stateless persons with those (3) identified countries**

As regards *Iraq*: A readmission agreement without a TCN-clause might be considered

As regards *India*: The Netherlands is very hesitant to decide on an agreement without a TCN-clause, because of precedence and because the agreement with Pakistan does contain that clause.

As regards *Egypt*: A TCN-clause is required.

## **E. Incorporation of rules on accelerated procedures and transit operations with those (3) identified countries**

### *Accelerated procedures*

As regards *Iraq*: Accelerated procedures are not the most important element of a readmission agreement with *Iraq*. However, in order to avoid any precedence, it could be considered to include those clauses.

As regards *India*: Accelerated procedures are not the most important element of a readmission agreement with *India*. However, in order to avoid any precedence, it could be considered to include those clauses.

As regards *Egypt*: Accelerated procedures are of importance, in particular for southern Member States.

### *Transit operations*

In the Netherlands' view, the clauses on transit operations do not really block negotiations concerning all three third countries. Therefore, the Netherlands favour to include them as not to create any precedence on that issue.

## **Part II (Return)**

### **A. Main challenges regarding voluntary/forced returns to those (3) identified countries**

#### *Iraq*

Iraq has postponed any cooperation on forced return in the autumn of 2011. Iraq does not issue any travel documents for non voluntary return

#### *India*

Very limited cooperation on return in general terms. Verification procedures take very long if an answer is received at all, even in well documented cases (i.e. copies of passports and other ID documents), citing national security reasons. India is by far the main country of origin of highly-skilled labourers using preferential measures for this target group. Additionally, number of students seems to increase as well. The promotion of legal migration is only possible if misuse of preferential admission measures can be countered through cooperation on readmission making forced return an ultimate and viable option.

#### *Egypt*

Egypt does not issue travel documents for non voluntary return

### **B. Individual efforts (and outcome) to secure smooth return to those three identified countries**

If countries do not sufficiently cooperate on return, the Netherlands develops a tailor-made strategy per country. This strategy could include incentives and conditionality. Those strategies are confidential.

## *Poland*

### **Part I (Readmission)**

#### **A. Identification of (3) new third countries, with which concluding an EU readmission agreement would be of interest**

India, Afghanistan, and Bangladesh.

#### *Reasoning*

- The migration pressure. Significant number of abolition applications (since the first half of 2012 and until the end of June 2012, there is the “abolition law” in force in Poland giving the possibility to the illegal foreigners to legalize their stay on the Polish territory).
- The lack of cooperation on return. Lack of cooperation on return of own nationals for all three countries.
- The geographical position. Not applicable.

#### **B. List of bilateral relations and agreements with those (3) identified countries**

##### *India*

- Agreement on economic cooperation (2006-05-19)
- Agreement on tourism cooperation (2009-04-24)
- Agreement on cooperation in the field of health and medicine (2009-04-24)

The Embassy of India does not cooperate in confirming identity and issuance of the travel documents for their nationals. The only way to obtain travel documents is voluntary return to India. Forced return is not facilitated by the Embassy.

##### *Afghanistan*

The Embassy of Afghanistan does confirm identity of their nationals but does not issue travel documents for return to the country of origin. Embassy does facilitate (issue travel documents) for voluntary return.

##### *Bangladesh*

The Embassy of Bangladesh does not cooperate in confirming identity and issuance of the travel documents for their nationals.

### **C. Indication of possible tailor-made incentives with those (3) identified countries**

During last months, Poland expressed its support to start negotiations on a Visa Waiver Agreement for holders of diplomatic passports with India provided that the following conditions are met:

- the Indian side presents to the EU information on the conditions of issuing such passports in India;
- the Indian side presents to the EU the catalogue of persons entitled to obtain this type of a passport in India.

At the same time, Poland is against an idea of commencement of a discussion on service passports with India.

The same position Poland expressed regarding cooperation with China.

Cooperation with Afghanistan and Bangladesh requires further deliberations.

Poland also supports an extension of cooperation as an offer/incentive encouraging third-countries to collaborate more efficiently with the EU in the area of readmission and returns, especially with regards to development of cooperation and trade cooperation with those countries.

### **D. Incorporation of a clause regarding third country nationals and stateless persons with those (3) identified countries**

In Poland's opinion, a third-country national clause should not be negotiated. This position was expressed during last month at HLWG on Asylum and Migration, especially in connection to India and China.

### **E. Incorporation of rules on accelerated procedures and transit operations with those (3) identified countries**

In Poland's opinion, rules on accelerated procedures and transit operations should not be negotiated.

## **Part II (Return)**

### **A. Main challenges regarding voluntary/forced returns to those (3) identified countries**

#### *India*

The Embassy of India in Warsaw does not cooperate at national level. It is hard to receive formal answer (in writing) concerning their nationals.

#### *Afghanistan*

The Embassy of Afghanistan does not issue emergency travel documents for their nationals.

#### *Bangladesh*

The Embassy of Bangladesh in Hague does not respond to correspondence concerning identification and return of their nationals.

### **B. Individual efforts (and outcome) to secure smooth return to those three identified countries**

#### *India*

Regular meetings with consular staff concerning exchange of correspondence and/or consular interview.

#### *Afghanistan*

Regular meetings with consular staff concerning exchange of correspondence and/or consular interview. The Embassy confirms identity of the foreigners (in Polish language) but does not issue emergency travel documents for return.

#### *Bangladesh*

Exchange of correspondence with no answer received.

On 1 June 2012 the Polish Border Guards organized meeting with the Consul and 13 foreigners were interviewed. No result of the interview was received so far.

**List of bilateral relations and agreements with those third countries identified by Member States as eligible for negotiation of EU readmission agreements**

*Afghanistan*

- Various development aid and re-integration projects
- Health cooperation agreement between the Hungarian People's Government of the Republic and the Government of the Republic of Afghanistan (1977)
- Air Transport Agreement between the Government of the People's Republic of Hungary and the Government of the Republic of Afghanistan (1977)
- Agreement on international road freight transport in the Hungarian People's Republic and the Government of the Republic of Afghanistan (1977)

*Egypt*

- Agreement with the Government of the Republic of Hungary and the Government of the Arab Republic of Egypt to the diplomatic passports of nationals reciprocal visa exemption (2007)
- Economic Cooperation Agreement with the Republic of Hungary and the Government of the Arab Republic of Egypt (2007)
- Implementing an exchange program of the Hungarian Republic and the Government of the Arab Republic of Egypt for education, science and culture between the years 2008 to 2010 (2008)

*India*

- Agreement on economic cooperation (2006-05-19)
- Agreement on tourism cooperation (2009-04-24)
- Agreement on cooperation in the field of health and medicine (2009-04-24)

*Nigeria*

- Economic Cooperation Agreement in the Hungarian People's Government of the Republic and the Government of the Federal Republic of Nigeria (1974)
- Economic and scientific-technical cooperation agreement in the Hungarian People's Republic and the Government of the Federal Republic of Nigeria Federal Military Government (1979)
- Air Transport Agreement between Hungarian People's Government of the Republic and the Government of the Federal Republic of Nigeria (1977)