EC/Montenegro agreement: readmission agreement

2007/0146(CNS) - 19/07/2007 - Legislative proposal

PURPOSE: to sign and conclude a Readmission Agreement between **Montenegro** and the Community.

PROPOSED ACT: Council Decision.

BACKGROUND: the 2003 Thessaloniki Summit on the Western Balkans recognised the importance of giving due recognition to matters concerning illegal immigration and the issuing of visas. The "Thessaloniki Agenda", accordingly recognised the need for the EU to conclude Readmission Agreements with the countries of the Western Balkans, including the Republic of Montenegro. In November 2006 the Council formally authorised the Commission to negotiate a Readmission Agreement with Montenegro to be negotiated alongside an Agreement on the issuance of short-stay visas. See CNS/2007/0149. The Member States have been regularly informed and consulted throughout the negotiating process.

CONTENT: the purpose of this proposal, therefore, is to request the Council to sign and conclude an Agreement between the Community and the Republic of Montenegro on Readmission. The Commission is of the view that the objectives set by the Council in its negotiating Directives have been attained and that the draft Readmission Agreement is acceptable to the Community. The draft Agreement with Montenegro has been, as far as possible, harmonised with the draft Readmission Agreements of the other Western Balkans countries.

The main elements of the proposal can be summarised as follows:

- the Agreement has been divided into eight sections with 23 Articles. It contains seven Annexes and six joint Declarations, all of which form an integral part of the overall Agreement;
- the readmission obligations are fully reciprocal and comprise of own nationals, third country nationals and stateless persons – including those of Montenegro and the former nationals of the Socialist Federal Republic of Yugoslavia who have acquired no other nationality;
- this obligation to readmit own nationals extends to former own national who have renounced, or who have been deprived of, their nationality without acquiring the nationality of another State;
- the obligation to readmit own nationals covers family members (i.e. spouses and minor unmarried children) who hold a nationality other than the person to be readmitted and who do not have an independent right of residence in the Requesting State;
- the obligation to readmit third country nationals and stateless persons in linked to a number of prerequisites, such as: the person concerned holds, or at the time of entry held, a valid visa or resident permit issued by the Requested State; or the person concerned illegally and directly entered the territory of the Requesting State after having stayed on or transited through he territory of the Requested State. Those in airside transit and all persons to whom the Requesting State has issued a visa or residence authorisation before or after entry to its territory are exempted from these obligations;
- former nationals of the Socialist Federal Republic of Yugoslavia who have acquired no other nationality will be treated as a separate category. It is proposed that their readmission will be accepted by Montenegro on condition that firstly, their place of birth was on Montenegro's territory and secondly their place of permanent residence on the date of independence (27 April 1992) was on the territory of that State. It is worth noting that the specific conditions for the readmission of this category of person was applied horizontally in all of the Readmission Agreement with the other Western Balkan countries;
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Montenegro agrees to accept the use of the EU's standard travel documents for expulsion purposes – both for own nationals as well as for third country nationals or stateless persons;

- Section III sets out the necessary technical provisions regarding the readmission procedure. The time limit for replies for all readmission applications is 12 calendar days with the right to an extension of up to 6 calendar days in duly motivated cases;
- a section on transit operations is foreseen as are sections on costs, data protection and relationship to other international obligations;
- Montenegro as well as individual Member States will be allowed to conclude bilateral implementing Protocols.

The United Kingdom and Ir eland have notified their wish to take part in the adoption and application of this Agreement. Denmark, however, will not.