EC/Bosnia and Herzegovina agreement: readmission agreement

2007/0142(CNS) - 08/11/2007 - Final act

PURPOSE: to conclude an Agreement on readmission with Bosnia and Herzegovina.

LEGISLATIVE ACT: Council Decision 2007/820/CE on the conclusion of the Agreement between the European Community and Bosnia and Herzegovina on readmission.

CONTENT: the decision aims to conclude an agreement on the readmission of own nationals of all parties, according to a strict framework set out in the agreement.

Principle of reciprocity and scope of application: the obligations in terms of readmission outlined in the agreement are established on the basis of complete reciprocity, applicable to all own nationals as well as third country nationals and stateless persons, including, in the case of Bosnia and Herzegovina, to all former nationals of the Socialist Federal Republic of Yugoslavia who have acquired no other nationality.

Criteria for readmission: the obligation for readmission with regards to own nationals covers:

- Former nationals who have given up their nationality or who have lost their nationality without obtaining nationality of another State;
- Family members (spouses and minor unmarried children) who hold a nationality other than that of 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 (Article 3) is linked to the following prerequisites: (a) the person concerned holds or at the time of entry held, a valid visa or residence permit issued by the Requested State, or (b) the person concerned illegally and directly entered the territory of the Requesting State after having stayed on or transited through the territory of the Requested State. Exempted from these obligations are persons 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.

The situation of nationals of the former Yugoslavia: these nationals were treated as a separate category. Their readmission shall be accepted by Bosnia and Herzegovina provided two conditions are met:

1. their place of birth was on Bosnia and Herzegovina's territory and
2. their place of permanent residence on the date of independence of Bosnia and Herzegovina (i.e. 6 April 1992) was on the territory of that State.

For own nationals as well as for third country nationals or stateless persons, in all cases, Bosnia and Herzegovina accepts the use of the EU's standard travel document for expulsion purposes.

Technical provisions regarding the readmission procedure: the agreement defines the necessary technical provisions regarding the readmission procedure (the form and content of the readmission application, means of evidence, time limits, transfer modalities and modes of transportation). Some procedural flexibility is provided by the fact that no readmission will be needed in cases where the person to be readmitted is in possession of a valid national passport and, if he or she is a third-country national,

also holds a valid visa or residence authorisation of the State which has to readmit them. The time limit for replies for all readmission applications is 10 calendar days with the right to an extension with up to 6 calendar days upon request and in duly motivated cases.

Other provisions: the agreement contains a section dedicated to transit operations as well as specific rules regarding costs, the protection of data, as well as the effect of the agreement on other international instruments. The agreement also provides details on the composition of the joint readmission committee as well as its tasks and powers.

In view of its practical implementation, this Agreement creates the possibility for Bosnia and Herzegovina and individual Member States to conclude bilateral implementing Protocols.

The final provisions contain the necessary rules on entry into force, duration (undetermined), possible amendments, suspension, termination and the legal status of the Annexes to the agreement.

Territorial provisions: the provision takes into account the particular situation of Denmark which does not participate in the Schengen acquis and is therefore not bound to comply with the provisions of the agreement. The close association of Norway, Iceland and Switzerland to the implementation, application and development of the Schengen Acquis is likewise reflected in joint declarations to the Agreement.

ENTRY INTO FORCE: the agreement will enter into force when all the necessary procedures to this effect have been completed. The agreement is planned to enter into force on the same day as the parallel agreement on the issuance of visas, which contains a similar provision (see CNS/2007/0140).