EC/Pakistan agreement: readmission agreement

2009/0036(NLE) - 06/03/2009 - Legislative proposal

PURPOSE: to conclude a readmission agreement with Pakistan.

PROPOSED ACT: Council Decision.

BACKGROUND: on 18 September 2000, the General Affairs Council formally authorised the Commission to negotiate a readmission agreement between the European Community and Pakistan. In April 2001, the Commission transmitted a draft text to the Pakistan authorities. Following the Ministerial Troika meeting in Islamabad on 18 and 19 February 2004 and the establishment of the link between readmission and the ratification, by the EU, of the Cooperation Agreement between the European Community and the Islamic Republic of Pakistan on Partnership and Development, the first round of formal negotiations could be held in Islamabad in April 2004. Six further formal rounds of negotiations took place, the last one in Brussels on 17 September 2007.

Following the last round of negotiations, where all the outstanding issues could be resolved, both sides sought the endorsement of the agreed text from their respective constituencies. Following a lengthy consultation and approval process on both sides, the agreed text could finally be initialled on 9 September 2008 in Brussels by the Commission's Chief Negotiator and the Pakistani Ambassador to the EU.

CONTENT: the proposed Decision aims to conclude an agreement on the arrangements for the readmission of nationals of each of the parties concerned, under a strict framework provided for in the agreement. In particular, it specifies that the Commission, assisted by experts from Member States, represents the Community within the Joint Readmission Committee set up by Article 16 of the Agreement. As in the case for the other readmission agreements so far concluded by the Community, the Community position in this regard shall be established by the Commission in consultation with a special committee designated by the Council. As regards other decisions to be taken by the Joint Committee, the Community position shall be established in accordance with the applicable provisions of the Treaty.

The main provisions of the Agreement can be summarised as follows:

Principle of reciprocity and scope: the readmission obligations set out in the Agreement (Articles 2 and 3) are drawn up in a fully reciprocal way, comprising own nationals as well as third country nationals and stateless persons.

Conditions for readmission: the obligation to readmit third country nationals and stateless persons is linked to the following prerequisites:

(a) the person concerned holds, at the time of submission of the readmission application, a valid visa or residence authorisation issued by the requested State; or

(b) the person concerned unlawfully entered the territory of the requesting State coming directly from the territory of the requested State. Exempted from these obligations are persons in airside transit and all persons to whom the requesting State has either granted visa-free access or issued a visa or residence authorisation with a longer period of validity.

In return for Pakistan agreeing to the aforementioned obligation regarding the readmission of third-country nationals and stateless persons, the European Community agreed that the agreement shall only apply to persons who entered the territories of the Parties **after its entry into force**.

Technical provisions regarding the readmission procedure: the draft Agreement contains the necessary technical provisions regarding the readmission procedure:

- readmission application;
- means of evidence;
- time limits,;
- transfer modalities;
- modes of transportation.

The Agreement also contains the necessary provisions regarding "**readmission in error**". Some procedural flexibility is provided by the fact that no readmission application 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 him or her.

Other provisions: the Agreement contains a section on transit operations. It also contains the necessary rules on costs, data protection and the relation to other international obligations. Moreover, it sets out the composition and the tasks and powers of the Joint Readmission Committee.

Territorial provisions: the proposal takes account of the specific situation of Denmark, which is not part of the Schengen acquis and therefore is not required to comply with the provisions of the Agreement. The close association of Norway and Iceland to the implementation, application and development of the Schengen Acquis is likewise reflected in a joint declaration to the Agreement.

Final provisions: the final provisions contain the necessary rules on entry into force, duration, possible amendments, termination and the legal status of the Annexes to the agreement.

In order to execute this Agreement in practice, Article 17 creates the possibility for Pakistan and individual Member States to conclude bilateral implementing Protocols. The relation between the bilateral implementing Protocols and this Agreement is clarified by Article 18.