EC/China Macao SAR agreement: readmission of persons residing without authorisation

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PURPOSE : to conclude an Agreement between the European Community and the Macao Special Administrative Region of the People's Republic of China on the readmission of persons residing without authorisation. LEGISLATIVE ACT : Council Decision 2004/424/EC concerning the conclusion of the Agreement between the European Community and the Macao Special Administrative Region of the People's Republic of China on the readmission of persons residing without authorisation. CONTENT : to recall, the Justice and Home Affairs (JHA) Council authorised the Commission to negotiate a readmission agreement between the European Community and the Macao Special Administrative Region (SAR) of the People's Republic of China, by its decision of 28 May 2001. The Agreement was initialled in Brussels on 18 October 2002. The final content of the Agreement can be summarised as follows: - the readmission obligations set out in the Agreement are drawn up in a fully reciprocal manner, concerning own nationals and permanent residents respectively as well as persons subject to another jurisdiction. They all contain a formulation clarifying that readmission shall take place without any formalities other than those specified in this Agreement. Although the definition of "persons subject to another jurisdiction" in Article 1(d) does not explicitly state that this term includes stateless persons, their inclusion has been ensured through a joint declaration; - the obligation to readmit persons subject to another jurisdiction is linked to the following prerequisites: (a) the person to be readmitted held, at the time of entry, a valid residence authorisation of the requested Party, or (b) the person to be readmitted after having entered (lawfully or unlawfully) the territory of the requested Party proceeds to enter the territory of the requesting Party unlawfully directly from the territory of the requested Party. Exempted from these obligations are persons in airside transit and all persons to whom the requesting Party has issued a residence authorisation with a longer period of validity. The specific situation of persons merely transiting through Macao is also reflected in a joint declaration to the agreement; - under certain circumstances, the Macao SAR accepts the use of the EU's standard travel document for expulsion purposes; - the Agreement contains a section on transit operations; - Section III of the Agreement contains the necessary technical provisions regarding the readmission procedure (readmission application, means of evidence, time limits, transfer details and modes of transport). Some procedural flexibility is provided by the fact that in cases where the person to be readmitted is in possession of valid travel documents and willing to return voluntarily, a written communication only and no formal submission of a readmission application will be needed; - the Agreement contains the necessary rules on costs, data protection and the non-affection of other International rights and obligations applicable to the Parties; - in order to execute this Agreement in practice, Article 18 empowers Member States to conclude bilateral implementing Protocols with the Macao SAR. ENTRY INTO FORCE : this Agreement shall remain in forceindefinitely, unless terminated by one or other of the parties (or both). This Agreement shall be ratified or approved by the Contracting Parties in accordance with their respective procedures.