

EU/Armenia Agreement: readmission of persons residing without authorisation

2012/0332(NLE) - 25/04/2013 - Legislative proposal

CONTENT: to conclude an Agreement between the European Union and the Republic of Armenia on the readmission of persons residing without authorisation.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: on 19 December 2011, the Council formally authorised the Commission to negotiate a readmission agreement between the European Union and Armenia. The first round of formal negotiations was held in Yerevan on 27-28 February 2012. Two further formal rounds of negotiations took place, lastly in Yerevan on 19 July 2012. The agreed text was subsequently initialled on 18 October 2012 in Brussels.

In accordance with a Council Decision, the Agreement between the European Union and the Republic of Armenia on readmission of persons residing without authorisation was signed, subject to its conclusion at a later date.

Member States have been regularly informed and consulted at all (informal and formal) stages of the readmission negotiations.

It is now necessary to conclude this Agreement on behalf of the European Union.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: Article 79(3), in conjunction with Article 218 (6)(a) of Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposed decision constitutes the legal instrument for the conclusion of the readmission agreement.

The proposed decision concerning the conclusion of the Agreement sets out the necessary internal arrangements for its practical application. In particular, it specifies that the Commission, assisted by experts from Member States, represents the Union within the Joint Readmission Committee set up by Article 19 of the Agreement. Under Article 19(5), the readmission committee shall adopt its own rules of procedure. As in the case for the other readmission agreements so far concluded by the Union, the Union 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 Union position shall be established in accordance with the applicable provisions of the Treaty.

The Commission considers that the objectives set by the Council in its negotiating directives were attained and that the draft Readmission Agreement is acceptable to the Union.

The **final content** of this Agreement can be summarised as follows:

- the agreement contains an opening clause, reaffirming that the agreement shall be applied so as to ensure respect for human rights, and for the obligations and responsibilities of the Requested State and Requesting State under relevant international instruments applicable to them, and reiterating that the Requested State shall in particular ensure the protection of the rights of persons readmitted to its territory in compliance with those international instruments. The same clause confirms that the Requesting State should give preference to **voluntary return over forced return**;
- the readmission obligations set out in the Agreement (Articles 3 - 6) are drawn up in a **fully reciprocal** way, comprising own nationals (Articles 3 and 5) as well as third country nationals and stateless persons (Articles 4 and 6);
- the **obligation to readmit** own nationals includes also former own nationals who have renounced their nationality without acquiring the nationality of another State;
- the **readmission obligation** with regard to own nationals covers also **family members** (i.e. spouses and minor unmarried children) regardless of their nationality and who do not have an independent right of residence in the Requesting State;
- the obligation to readmit third country nationals and stateless persons (Articles 4 and 6) 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 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;
- for own nationals as well as for third country nationals or stateless persons, in case of expiry of the specified delay, Armenia accepts the use of the EU's **standard travel document** for expulsion purposes (Articles 3(5) and 4(3));
- Section III of the Agreement (Articles 7 to 13 in conj. with annexes 1 to 5) contains the **necessary technical provisions regarding the readmission procedure** (readmission application, means of evidence, time limits, transfer modalities and modes of transportation) and 'readmission in error' (Article 13). 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 travel document or identity card (Article 7(2));
- in its Article 7(3), the Agreement sets out the so-called **accelerated procedure**, which has been agreed upon for persons apprehended in the "border region", i.e. within an area which extends up to 15 kilometres from the territories of seaports including custom zones and from international airports of the Member States or Armenia. Under the accelerated procedure, readmission applications have to be submitted within 2 days, and replies have to be given within 2 working days whereas under the normal procedure, the time limit for replies is 12 calendar days (Article 11(2));
- the Agreement contains a section on transit operations (Articles 14 and 15 in conjunction with annex 6);
- Articles 16, 17 and 18 contain the necessary rules on costs, data protection and the relation to other international obligations;
- the Joint Readmission Committee will be composed, and have the tasks and powers, in accordance with Article 19;
- in order to facilitate the implementation of this Agreement, Article 20 creates the possibility for Armenia and individual Member States to conclude bilateral implementing Protocols. The relation between the bilateral implementing Protocols and this Agreement is clarified by Article 21;
- the final provisions (Articles 22 to 24) contain the necessary rules on entry into force, duration, possible amendments, suspension, termination and the legal status of the annexes to the agreement.

Territorial provisions: the specific situation of Denmark is reflected in the Agreement. The close association of Norway, Iceland, Liechtenstein and Switzerland to the implementation, application and development of the Schengen *acquis* has been taken into account and, in the case of Iceland, reflected in a relevant joint declaration to the Agreement.

BUDGETARY IMPLICATION: this proposal has no impact on the EU budget.

