

EU/Azerbaijan Agreement: readmission of persons residing without authorisation

2013/0358(NLE) - 14/04/2014 - Final act

PURPOSE: to conclude the Agreement between the European Union and Azerbaijan on the readmission of persons residing without authorisation.

NON-LEGISLATIVE ACT: Council Decision 2014/239/EU on the conclusion of the Agreement between the European Union and the Republic of Azerbaijan on the readmission of persons residing without authorisation

BACKGROUND: in accordance with Council Decision 2014/242/E, the Agreement between the European Union and Azerbaijan on the readmission of persons residing without authorisation was signed, on behalf of the Union, subject to its conclusion at a later date.

The Agreement should be approved.

CONTENT: this Decision provides that the Council, with the approval of the European Parliament, approves on behalf of the EU, the Agreement with Azerbaijan on the readmission of persons residing without authorisation.

Scope of the Agreement: the main elements of the Agreement are as follows:

- the agreement should be applied so as to ensure respect for human rights, and respect for the obligations and responsibilities of the Requested State and Requesting State under relevant international instruments applicable to them. 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 are based on **complete reciprocity**, applying to own nationals as well as third country nationals and stateless persons. The obligation to readmit own nationals also includes former own nationals who have renounced their nationality without acquiring the nationality of another State;
- the **readmission obligation** with regard to own nationals also covers **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 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 and persons who enjoy visa free access to the territory of the Member State;

- whether for own nationals, in case of expiry of the specified time limit, or for third country nationals or stateless persons, Azerbaijan accepts the use of the **EU's standard travel document** for expulsion purposes as set out in the Annex;

- the Agreement 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'. 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;
- the Agreement also sets out the **accelerated procedure**, which has been agreed upon for persons apprehended in an area which extends up to 15 kilometres from and including the territories of seaports and international airports, including custom zones, of the Member States or Azerbaijan. 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 15 calendar days.

Other provisions: the Agreement contains a section on transit operations as well as rules on costs, data protection and the relation to other international obligations.

Joint Readmission Committee: the Agreement establishes a Joint Readmission Committee, which must adopt its own rules of procedure. There is a simplified procedure for the definition of the EU's position in the Committee.

Territorial provisions: the United Kingdom, Ireland and Denmark will not take part in the adoption of the Agreement and are not bound by it or subject to its application.

ENTRY INTO FORCE: 14.04.2014. The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.