Third-country nationals: joint flights for removals of illegal emigrants. Initiative Italy

2003/0821(CNS) - 09/09/2003 - Initial legislative proposal

PURPOSE : to rationalise operations for removals of third-country nationals who are the subject of removal orders taken by two or more Member States, through the organisation of joint flights. PROPOSED ACT : Council Decision, Initiative of the Italian Presidency. CONTENT : since the entry into force of the Treaty of Amsterdam, immigration and asylum issues have fallen within the competence of the European Community under Title IV of the Treaty establishing the European Community. The comprehensive plan to combat illegal immigration and trafficking in human beings, adopted on 28 February 2002, emphasises, among other things, that readmission and return policy is an integral and vital component of the fight against illegal immigration and states that a Community return policy needs to be based on common principles and common measures. The return action programme, approved by the Council on 28 and 29 November 2002, recommends that the return of illegally resident third-country nationals should be made as efficient as possible by sharing existing capacities for such returns. Consequently, the Italian Presidency has presented an initiative aiming to organise of joint flights for removals of third-country nationals illegally present in the territory of two or more Member States. In this respect, each Member State shall designate a competent authority with a view to organising these flights. The national authorities shall adopt the measures necessary to ensure that joint flights are conducted properly. In particular they shall: - inform the other Member States in good time whenever joint flights are organised, indicating the number of seats available on board the plane used; - notify the national authority organising the flight whether or not they wish to participate in the joint flight; - having contacted the other national authorities, arrange a preliminary meeting with representatives of the participating Member States, where this is necessary for the organisation of the joint flights; - establish the organisational details, the procedures to be followed and the numbers of third-country nationals, who are the subject of removal orders, and escort personnel, including medical staff and interpreters, to be carried on the joint flight; - identify the air carrier to be used for the joint operation for the removal of the said third-country nationals; - obtain the necessary authorisation for the joint flight from the competent authorities of the third country for which the flight is bound; - establish with the selected carrier the cost of the return operation, indicating expenditure arising from the chartering of the aircraft, catering, and any additional costs, and determine how costs are to be shared among the Member States taking part in the joint flight, dealing directly with those concerned; - appoint the leader of the escort for the joint flight; - ensure that the air carrier selected submits the relevant flight plan, having obtained the necessary flyover, landing and, where required, transit authorisations, and that it provides assistance to the said third-country nationals and the escortpersonnel on the flight throughout the entire transport operation. The national authorities shall obtain the following information before such flights are organised: - whether the third-country national concerned has a criminal record, with particular reference to the type of offence that the person has committed, if any; - third-country nationals' behaviour while detained in facilities provided for under the respective national legislation before removal or otherwise during the time spent pending adoption of the removal orders (for example, aggressive, rebellious or violent behaviour). Once the information has been obtained, the national authorities shall assess the level of risk attaching to the operation. On the basis of that assessment the nature and number of the staff to be deployed shall be determined, using personnel specially trained in advance. In the case of any third-country nationals on board who may seriously disrupt the flight, arrangements shall be made for an appropriate escort service capable of dealing with violent behaviour which could endanger the safety of the flight itself.