Third-country nationals: removal, mutual assistance in cases of transit. Initiative Italy

2003/0822(CNS) - 09/09/2003 - Legislative proposal

PURPOSE : Italian initiative to define measures on assistance between Member States in cases of escorted transit through the territory of one or more Member States of third-country nationals who are the subject of removal orders by a Member State. CONTENT : The justification for this initiative is the need terminate the illegal residence of third coutnry nationals subject to removal orders, using direct and mutual assistance procedures between Member States. - The decision to remove a third-country national, who is the subject of a removal order, through the territory of one or more Member States shall be taken on the basis of practical considerations such as the geographical proximity to another Member State of the third-country national's country of origin or destination. - Before removing third-country nationals, who are the subject to removal orders, through the territory of one or more Member States, Member States shall first examine whether it is possible to use direct air or sea links with the country of origin or destination of the said nationals. - the requested Member State may refuse transit if, inter alia: - the third country national in question is subject to criminal proceedings in the requested Member State or has been condemned to serve a prison sentence; - transit through the territory of one or more Member States is not possible for any reason; - the requested assistance is impossible for practical reasons; - the third country national will be a threat to public order, public security or public health or to the international relations of the requested Member State; - the third country of origin or destination has a border with the requesting Member State. Requests for transit must be made on a prescribed form. There are time limits for making and acceding to the request. As a general rule, the transit operation must take place within 36 hours. The draft initiative makes provision for the assistance measures that the requested State will give to the requesting State. The latter must also readmit the third country national under certain circumstances. The draft also lays down provisions on the escort for such removals. Escort personnel powers will be limited to legitimate defence. They may also tale action to prevent the escape of the third country national. They must not carry weapons and will wear civilian clothes. Finally, there is a safeguard clause with regard to obligations towards asylum, and a clause stating that the initiative must be implemented with full respect for human rights.