EC/Russia Readmission Agreement

2006/0064(CNS) - 27/04/2006 - Legislative proposal

PURPOSE: the signing and conclusion of an Agreement between the European Community and the Russian Federation on readmission.

PROPOSED ACT: Council Decision.

BACKGROUND: this Council Decision is being proposed following a series of extensive negotiations between the European Community on the one hand and the Russian Federation on the other regarding readmission. The proposed Decision forms the legal instrument for the signature and conclusion of the Readmission Agreement and is being proposed alongside a proposed Agreement between the EU and Russia on the issuing of short-stay visas. (Please refer to CNS/2006/0062).

CONTENT: The Agreement, in summary, contains the following elements:

Scope and principle of readmission: Readmission obligations have been drawn up so as to be fully reciprocal, and refer to own nationals as well as third country nationals and stateless persons. The obligation to readmit own nationals includes former own nationals who have renounced their nationality without acquiring the nationality or a residence authorisation of another State. This is accompanied by a Joint Declaration on the deprivation of nationality.

Provisions on the readmission of third country nationals: The obligation to readmit third country nationals and stateless persons is linked to a number of prerequisites. These prerequisites are:

a) either the person concerned, at the time of submission, holds a valid visa issued by the requested State and has entered directly from this State's territory;

b) or the person concerned holds, at the time of requesting a readmission applications, a valid residence authorisation issued by the requested State;

c) or the person concerned entered the territory of the requesting State directly from the territory of the requested State. Those exempted from the requirement include transit passengers and all persons for whom the requesting State has already granted visa-free access or issued a visa or residence authorisation with a longer period of validity.

Those exempted from these obligations are persons transiting through airports and all persons to whom the requesting State has either granted visa-free access or issued a visa or residence authorisation with a longer period of validity. The interpretation of the term "entering directly" has been clarified and is set out in a Joint Declaration.

In return for Russian consent on the obligation of third-country nationals and stateless persons' readmission, the Community has accepted Russian demands to delay the applicability of the aforementioned obligations for three years, following the entry into force of the Agreement. During that three year transitional period only those provisions, relating to stateless persons and nationals from third-countries with which Russia has concluded bilateral treaties or arrangements on readmission, shall apply. In addition, Russia has accepted EU demands to use the EU standard travel documents for expulsion purposes.

Readmission procedures: The Agreement defines the necessary technical provisions regarding the readmission procedures (readmission, application, means of evidence, time limits, transfer modalities and modes of transportation. Some procedural flexibility if foreseen. For example no readmission will be needed in cases where the person to be readmitted is in possession of a valid national passport and, if he or she is a third-country national and also holds a valid visa or residence authorisation of the State which has to readmit him or her.

Accelerated procedure: The accelerated procedure applies to persons apprehended in the "border regions" – in other words within a 30 km limit from the common land border between a Member State and the Russian federation or within the territories of seaports and international airports of Member States or the Russian federation. Under the accelerated procedure, readmission applications have to be submitted and replies have to be given with two working days whereas under the normal procedure, the time limit for replies is 25 calendar days with the right to an extension of up to 60 calendar days in duly motivated cases.

Special readmission procedures: Special readmission procedures are spelt out as are the rules on costs, data protection as well as the Agreement's interaction with other International obligations.

Entry into force and final provisions: In order to execute this Agreement, the Russian Federation will have to conclude bilateral implementing Protocols with all Member States. In contrast to previous Community readmission Agreements, this provision also foresees a possibility to agree on specific bilateral time limits for the handling of readmission applications. This was inserted as a last minute compromise in order to satisfy those Member States whose maximum detention period under their national immigration laws is equal or inferior to 60 calendar days.

The final provisions contain the necessary rules on entry into force, duration, termination and the legal status of the annexes to the Agreement. Similar provisions have been inserted, which mirror similar provisions on the visa facilitation agreement ensuring that the readmission agreement and the visa facilitation agreement can only enter into force jointly; on the same day. However, obligations relating to the readmission of third country nationals and stateless persons will only become applicable three years after the entry into force of the Agreement

Territorial provisions: Denmark will not participate in the adoption or application of this Agreement. The close association of Norway and Iceland to the implementation, application and development of the Schengen acquis is likewise reflected in a Joint Declaration, attached to the Agreement.