Basic information

2003/0019(CNS) CNS - Consultation procedure Decision	Procedure completed
Third-country nationals: recognition of decisions on expulsion, compensation of financial imbalances (Directive 2001/40/EC) Repealed by 2025/0059(COD) **Subject** 7.10.08 Migration policy	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs		

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	GIL-ROBLES GIL-DELGADO José María (PPE-DE)	18/02/2003

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2562	2004-02-23
Justice and Home Affairs (JHA)	2538	2003-11-06

European Commission

Commission DG	Commissioner
Justice and Consumers	

Key events

Date	Event	Reference	Summary
03/02/2003	Legislative proposal published	COM(2003)0049	Summary
10/03/2003	Committee referral announced in Parliament		
20/05/2003	Vote in committee		Summary
20/05/2003	Committee report tabled for plenary, 1st reading/single reading	A5-0166/2003	

03/06/2003	Decision by Parliament	T5-0230/2003	Summary
03/06/2003	Results of vote in Parliament		
06/11/2003	Debate in Council		
23/02/2004	Act adopted by Council after consultation of Parliament		
23/02/2004	End of procedure in Parliament		
27/02/2004	Final act published in Official Journal		

Technical information

Procedure reference	2003/0019(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Amendments and repeals	Repealed by 2025/0059(COD)
Legal basis	EC Treaty (after Amsterdam) EC 063-p3
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/19236

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0166/2003	20/05/2003	
Text adopted by Parliament, 1st reading/single reading		T5-0230/2003 OJ C 068 18.03.2004, p. 0022-0081 E	03/06/2003	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2003)0049	03/02/2003	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0756/2003 OJ C 220 16.09.2003, p. 0077-0082	18/06/2003	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act	
Decision 2004/0191 OJ L 060 27.02.2004, p. 0055-0057	Summary

Third-country nationals: recognition of decisions on expulsion, compensation of financial imbalances (Directive 2001/40/EC)

2003/0019(CNS) - 03/06/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Marcelino OREJA ARBURUA (EPP-ED, Spain) and rejected the Commission's proposal. (Please see the document dated 20/05/03).

Third-country nationals: recognition of decisions on expulsion, compensation of financial imbalances (Directive 2001/40/EC)

2003/0019(CNS) - 03/02/2003 - Legislative proposal

PURPOSE : to present a proposal for a Council Decision setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Council Directive 2001/40/EC on the mutual recognition of decisions on the expulsions of third country nationals. CONTENT : Directive 2001/40/EC was adopted on 28 May 2001 (please refer to the procedure reference CNS/2000/0819) to make possible the recognition of an expulsion decision issued by a competent authority of another Member State. It underlined the need to ensure greater effectiveness in enforcing expulsion decisions and better co-operation between Member States, including the mutual recognition of expulsion decisions. The application of Council Directive 2001/40/EC may result in financial imbalances where expulsion decisions cannot be effected at the expense of the third country national concerned. Member States shall, therefore, compensate each other for any financial imbalances, which may result from such mutual recognition. To that end, Article 7 of the Directive requests the Council to adopt appropriate criteria and practical arrangements. Therefore, it is the purpose of the proposed Council Decision to introduce the required mechanism for the bilateral compensation of financial imbalances between Member States. The core principle of this Decision is that the issuing Member State should reimburse the enforcing Member State on the basis of the actual costs. Preliminary discussions in the Council highlighted the need for a set of guiding principles both in relation to expenditure during the enforcement as well as in relation to the actual procedure of reimbursement. Reimbursements would be necessary in relation to three types of costs incurred: - transport costs for the returnee and up to two escorts; - administrative costs such as fees for issuing visas and return travel documents; - accommodation costs during the enforcement either in a transit area of a third country or in the country of origin. In principle, these elements represent an exhaustive list of recoverable costs in order to define a clear ceiling for reimbursement in order to keep costs reasonable, comparable and balanced. Member states can also agree on a bilateral basis to reimburse costs exceeding the minimum costs or to reimburse other additional costs. This clause permits that for instance, charter flights, which exceed the defined ceiling, can be subject for reimbursement when the member States concerned agree. Provisions are also set out for the procedure that must be followed by Member States when submitting and processing claims for reimbursement. It establishes a transparent procedure for legal certainty and clarity. It limits reimbursement to enforcement measures carried out within three years of an expulsion decision being issued in order to define the time of the responsibility of the issuing Member State. To ensure that any reimbursement requests are made promptly, this Decision allows for the rejection of any reimbursement requests submitted more than one year after the enforcement. The requests are channelled through national contact points in order to identify the competent authority or responsible body for payment. The national contact points ensure the orderly deliveryof the request and inform the enforcing authority about the responsible body for payment. Notifications of payment and motivations for refusals shall also be forwarded to the national contact points in order to enable national contact points to comply with the reporting obligations. Lastly, the proposal obliges the national contact points of Member States to register and report annually to the Commission the total number of forced returns, the number of enforcement measures made under the articles of Directive 2001/40/EC and the number of expulsion decisions which could be recognised and enforced by other Member States.

Third-country nationals: recognition of decisions on expulsion, compensation of financial imbalances (Directive 2001/40/EC)

2003/0019(CNS) - 23/02/2004 - Final act

PURPOSE : to set out the rules on the payment of compensation where there are financial imbalances resulting from the expulsion of third-country nationals. LEGISLATIVE ACT : Council Decision 2004/191/EC setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals. CONTENT : This Decision lays down the appropriate criteria and practical arrangements for the bilateral compensation of Member States in cases where the application of Directive 2001/40/EC results in financial imbalances. This will happen where expulsion decisions, despite the efforts made by the enforcing Member State, cannot be effected at the expense of the third country national concerned or of a third party. The Decision provides that the issuing Member State must compensate the enforcing Member State for such financial imbalances. The enforcing Member State will provide the issuing Member State with general information about the indicative costs of the removal operations. The reimbursement will take place at the request of the enforcing Member State on the basis of the minimum actual costs and on the basis of the following principles: - transport costs : these include the actual costs for flight tickets up to the amount of the official IATA tariff for the respective flight at the time of enforcement. The actual costs for land or maritime transport by car, train or boat can be claimed on the basis of a second-class train or boat ticket for the respective distance at the time of enforcement; - administrative costs : these include the actual costs for visa fees and the fees for the issuing of return travel documents (laissez-passer); - mission allowances per diem for the escorts : these are to be determined in accordance with the applicable national legislation and/or practice; - accommodation costs for the escorts : these include actual costs for these persons' stay in a transit area of a third country and for their strictly necessary short stay for the implementation of their mission in the country of origin. For the purpose of reimbursement, the number of escorts must not exceed two persons per returnee, unless, on the basis of the assessment of the enforcing Member State and in agreement with the issuing Member State, more escorts are required; - accommodation costs for the returnee : these include the actual costs for the returnee's stay in an appropriate facility in accordance with the applicable national legislation and/or practice of the enforcing Member State. A maximum period of three months of stay will be reimbursed. Where the returnee's stay is expected to last longer than three months, the enforcing Member State and the issuing Member State must agree to the additional costs; - medical costs : these include the actual costs for the provision of medical treatment to the returnee and the escorts in emergency cases, including necessary hospitalisation expenses. Where necessary, the enforcing Member State may consult the issuing Member State and agree on additional costs. This clause permits that for instance, charter flights, which exceed the defined ceiling, can be subject for reimbursement when the member States concerned agree. Provisions are also set out for the procedure that must be followed by Member States when submitting and processing claims for reimbursement. The Decision limits reimbursement to enforcement measures carried out within three years of an expulsion decision being issued in order to define the time of the responsibility of the issuing Member State. To ensure that any reimbursement requests are made promptly, this Decision allows for the rejection of any reimbursement requests submitted more than one year after the enforcement. Reimbursement cannot be claimed for the enforcement of expulsion decisions, issued more than four years prior to their enforcement. The requests are channelled through national contact points in order to identify the competent authority or responsible body for payment. The national contact points ensure the orderly delivery of the request and inform the enforcing authority about the responsible body for payment. Payments must be made within a maximum of three months from the acceptance of the payment by the national contact point of the issuing Member State. Notifications of payment and motivations for refusals will also be forwarded to the national contact points in order to enable national contact points to comply with the reporting obligations. Lastly, the Decision obliges the national contact points of Member States to register and report annually to the Commission the total number of forced returns, the number of enforcement measures made under the articles of Directive 2001/40/EC and the number of expulsion decisions which could be recognised and enforced by other Member States. ENTRY INTO FORCE : 28 February 2004.