Basic information

2003/0801(CNS) CNS - Consultation procedure Directive	Procedure completed
Third-countries nationals: removal by air, assistance in cases of transit. Initiative Germany **Subject** 7.10.08 Migration policy 7.30.05 Police cooperation	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	KIRKHOPE Timothy (PPE-DE)	18/02/2003

Former committee responsible	Former rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	KIRKHOPE Timothy (PPE-DE)	18/02/2003

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	GIL-ROBLES GIL-DELGADO José María (PPE-DE)	27/05/2003

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	2546	2003-11-25

Key events

Date	Event	Reference	Summary
10/12/2002	Decision by Parliament	14848/2002	Summary
10/12/2002	Legislative proposal published	14848/2002	Summary
29/01/2003	Committee referral announced in Parliament		
25/03/2003	Vote in committee		Summary
25/03/2003	Committee report tabled for plenary, 1st reading/single reading	A5-0104/2003	

08/04/2003	Debate in Parliament		
10/04/2003	Report referred back to committee		
09/09/2003	Vote in committee		Summary
09/09/2003	Committee report tabled for plenary, 1st reading/single reading	A5-0291/2003	
22/09/2003	Debate in Parliament		
23/09/2003	Decision by Parliament	T5-0399/2003	Summary
25/11/2003	Act adopted by Council after consultation of Parliament		
25/11/2003	End of procedure in Parliament		
06/12/2003	Final act published in Official Journal		

Technical information

Procedure reference	2003/0801(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 063-p3
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/19618 LIBE/5/19120

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0104/2003	25/03/2003	
Committee report tabled for plenary, 1st reading/single reading		A5-0291/2003	09/09/2003	
Text adopted by Parliament, 1st reading/single reading		T5-0399/2003	23/09/2003	Summary

Council of the EU

Document type	Reference	Date	Summary
Legislative proposal	14848/2002 OJ C 004 09.01.2003, p. 0004-0008	10/12/2002	Summary

Additional information

Source	Document	Date

European Commission	EUR-Lex	

Final act
Directive 2003/0110 OJ L 321 06.12.2003, p. 0026-0031 Summary

Third-countries nationals: removal by air, assistance in cases of transit. Initiative Germany

2003/0801(CNS) - 10/12/2002 - Legislative proposal

PURPOSE : to present the German initiative with a view to adopting a Council Directive on assistance on cases of transit for the purposes of removal by air. CONTENT : this initiative is presented keeping in mind the Council recommendation of 22 December 1995 on concerted action and cooperation in carrying out removal measures and to the Decision of the Schengen Executive Committee of 21 April 1998 on cooperation between the contracting parties in returning third-country nationals by air. Mutual assistance for the purposes of removal takes into consideration the common objective of ending the illegal residence of third-country nations who are the subject of removal orders. Rules binding on all the Member States contribute furthermore to legal certainty and standardisation of procedures. Removal by air is increasingly gaining in importance for the purpose of terminating the residence of third-country nationals. Despite the efforts of the Members States to give priority to using direct flights, it may be necessary, from an economic viewpoint or insufficient availability of direct flights to use flight connections via airports of transit of other Member States. More specifically, the Directive shall cover measures enabling the competent authorities a European Union airports of transit to assist with unescorted and escorted removals. In cases in which removal to a transit State or State of destination is unsuccessful, requested Member State shall also assist with the readmission of the third-country national to the requesting State under this Directive. It should be made clear that, for the purposes of this Directive, the definition of a "third-country national" shall mean any person who is not a national of a Member States of the EU, the Republic of Iceland or the Kingdom of Norway. The requested Member States (the Member State via whose airport of transit the transit is to be effected) shall assist the transit of third-country nationals to be removed in accordance with the provisions of this Directive. The requesting Member State (the one which enforces a removal order in respect of a third-country national and requests transit via the airport of another Member State) shall give priority to examining whether removal to the State of destination using a direct flight is possible. An application for transit shall in principle not be made if the measure for removal requires a change of airport on the territory of a Member States. On the other hand, an application shall not be made, or may be refused, if in the State of destination or another transit State the third-country national faces the threat of inhumane or humiliating treatment, torture or the death penalty, or of his life or liberty would be at the risk by reason of this race, religion, nationality, membership and a particular social group or political conviction. Transit may be refused if certain charges would have to be brought against the third-country national, transit through other States or admission by the State of destination cannot be guaranteed or if it was impossible for organisational reasons. The requesting Member States shall undertake to readmit the third-country national is the transit authorisation was refused or revoked, the third-country national entered the requestedMember States without authorisation during transit, removal of the third-country national to another transit State or to the State of destination was unsuccessful or lastly transit is not possible for another reason. The requested Member State shall effect the return of the third-country national to the requesting Member State in the cases mentioned above and the it shall be the requesting Member States who shall bear the costs incurred in returning the third-country national. It is clearly pointed out that it shall be the requested Member State who shall take assistance measures necessary from landing and the opening of the aircraft doors until is it ensured that the third-country national has left. This relates to various assistance measures such as meeting the third-country national at the airport, placing in a detention room, provide emergency medical care, etc. As regards the costs of services, these shall be borne by the requesting Member States. The remaining costs shall be borne by the requested Member State. It should also be noted that this draft Directive shall be without prejudice to the obligations arising from the Geneva Convention relating to the status of refugees from the Convention determining the State responsible for examining applications.

Third-countries nationals: removal by air, assistance in cases of transit. Initiative Germany

2003/0801(CNS) - 25/11/2003 - Final act

PURPOSE : to define measures on assistance between the competent authorities at Member State airports of transit with regard to unescorted and escorted removals by air. LEGISLATIVE ACT : Council Directive 2003/110/EC on assistance in cases of transit for the purposes of removal by air. CONTENT : the Council adopted the Directive on assistance in cases of transit for the purposes of removal by air. The objective of this Directive is to create a set of rules aimed at facilitating the transit of persons subject to removal in an airport of a Member State other than the Member State which has adopted and implemented the removal decision. To that purpose it defines under which conditions the transit operations may take place and indicates what measures of assistance the requested Member State should provide. The Directive stipulates that a Member State wishing to return a third-country national by air shall examine whether it is possible to use a direct flight to the country of destination. If a Member State wishing to return a third-country national cannot for reasonable practical circumstances use a direct flight to the country of destination, it can request transit by air via another Member State. An application for transit by air shall in principle not be made if the removal measure requires a change of airport on the

territory of the requested Member State. The requested Member State may refuse transit by air if: - the third-country national under national legislation in the requested Member State is charged with criminal offences or is wanted for the carrying out of a sentence; - transit through other States or admission by the country of destination is not feasible; - the removal measure requires a change of airport on the territory of the requested Member State; - the requested assistance is impossible at a particular moment for practical reasons, or - the third-country national will be a threat to public policy, public security, public health or to the international relations of the requested Member State. The request for escorted or unescorted transit by air and the associated assistance measures under Article 5(1) shall be made in writing by the requesting Member State. It shall reach the requested Member State as early as possible, and in any case no later than two days before the transit. This time limit may be waived in particularly urgent and duly justified cases. The requested Member State shall inform the requesting Member State forthwith of its decision within two days. This time limit may be extended in duly justified cases by a maximum of 48 hours. Transit by air shall not be started without the approval of the requested Member State. Where no reply is provided by the requested Member State within the deadline referred to in the first subparagraph, the transit operations may be started by means of a notification by the requesting Member State. Member States may provide on the basis of bilateral or multilateral agreements or arrangements that the transit operations may be started by means of a notification by the requesting Member State. Member States shall notify the Commission regarding the agreements or arrangements referred to in the third subparagraph.The Commission shall regularly report to the Council on such agreements and arrangements. The central authorities shall appoint contact points for all the relevant airports of transit who can be contacted throughout the transit operations. The requesting Member State shall take appropriate arrangements to ensure that the transit operation takes place in the shortest possible time. The transit operation shall take place at a maximum within 24 hours. The requested Member State, subject to mutual consultations with the requesting Member State within available means and in compliance with relevant international standards, shall provide all the assistance measures necessary from landing and the opening of the aircraft doors until it is ensured that the third-country national has left. However, mutual consultations are not required in specific cases mentioned in this Directive. Assistance measures are as follows: - meeting the third-country national at the aircraft and escorting him/her within the confines of the transit airport, in particular to his/her connecting flight; - providing emergency medical care to the third-country national and, if necessary, his/her escort; - providing sustenance for the third-country national and, if necessary, his /her escort; - receiving, keeping and forwarding travel documents, particularly in the case of unescorted removals; - in cases of unescorted transit, informing the requesting Member State of the place and time of departure of the third-country national from the territory of the Member State concerned; - informing the requesting Member State if any serious incidents took place during the transit of the third-country national. The requested Member State may, in accordance with its national law: - place and accommodate the third-country nationals in a secure facility; - use legitimate means to prevent or end any attempt by the third-country national to resist the transit. It should be stated that this Directive shall be without prejudice to the obligations arising from the Geneva Convention relating to the status of refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967, from international conventions on human rights and fundamental freedoms and from international conventions on the extradition of persons. In addition, the Decision of the Executive Committee of 21 April 1998 on cooperation between the Contracting Parties in returning foreign nationals by air (SCH/Com-ex (98) 10) shall be repealed. ENTRY INTO FORCE : 6 December 2003. IMPLEMENTATION : 6 December 2005.

Third-countries nationals: removal by air, assistance in cases of transit. Initiative Germany

2003/0801(CNS) - 23/09/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution based on the report drafted by Timothy KIRKHOPE (EPP-ED, UK) and made some amendments to the Commission's proposal. (Please refer to the document dated 09/09/03.)