## Basic information

| | |
|---|---|
| **2009/0036(NLE)**<br><br>NLE - Non-legislative enactments<br>Decision | Procedure completed |
| EC/Pakistan agreement: readmission agreement<br><br>**Subject**<br><br>6.40.08 Relations with Asian countries<br>7.10.04 External borders crossing and controls, visas<br>7.10.08 Migration policy<br><br>**Geographical area**<br><br>Pakistan | |

## Key players

### European Parliament

| Committee responsible | Rapporteur | Appointed |
|---|---|---|
| LIBE Civil Liberties, Justice and Home Affairs | SÓGOR Csaba (PPE) | 06/10/2009 |

| Former committee responsible | Former rapporteur | Appointed |
|---|---|---|
| LIBE Civil Liberties, Justice and Home Affairs | | |

| Committee for opinion | Rapporteur for opinion | Appointed |
|---|---|---|
| AFET Foreign Affairs | ALBERTINI Gabriele (PPE) | 16/09/2009 |

| Former committee for opinion | Former rapporteur for opinion | Appointed |
|---|---|---|
| AFET Foreign Affairs | | |

### Council of the European Union

| Council configuration | Meetings | Date |
|---|---|---|
| General Affairs | 2997 | 2010-02-22 |
| Justice and Home Affairs (JHA) | 2946 | 2009-06-04 |
| Justice and Home Affairs (JHA) | 3034 | 2010-10-07 |

### European Commission

| Commission DG | Commissioner |
|---|---|

| | |
|---|---|
| Justice and Consumers | MALMSTRÖM Cecilia |

## Key events

| Date | Event | Reference | Summary |
|---|---|---|---|
| 06/03/2009 | Legislative proposal published | COM(2009)0106 | Summary |
| 12/11/2009 | Committee referral announced in Parliament | | |
| 02/12/2009 | Additional information | | Summary |
| 13/07/2010 | Vote in committee | | Summary |
| 15/07/2010 | Committee report tabled for plenary, 1st reading/single reading | A7-0231/2010 | |
| 20/09/2010 | Debate in Parliament | | |
| 21/09/2010 | Decision by Parliament | T7-0323/2010 | Summary |
| 21/09/2010 | Results of vote in Parliament | | |
| 07/10/2010 | Act adopted by Council after consultation of Parliament | | |
| 07/10/2010 | End of procedure in Parliament | | |
| 04/11/2010 | Final act published in Official Journal | | |

## Technical information

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| **Procedure reference** | 2009/0036(NLE) |
| **Procedure type** | NLE - Non-legislative enactments |
| **Procedure subtype** | Consent by Parliament |
| **Legislative instrument** | Decision |
| **Legal basis** | Treaty on the Functioning of the European Union TFEU 079-p3<br>Treaty on the Functioning of the European Union TFEU 218-p6a |
| **Stage reached in procedure** | Procedure completed |
| **Committee dossier** | LIBE/7/00267 |

## Documentation gateway

**European Parliament**

| Document type | Committee | Reference | Date | Summary |
|---|---|---|---|---|
| Committee draft report | | PE439.903 | 26/05/2010 | |
| Committee opinion | AFET | PE439.420 | 07/06/2010 | |
| Committee report tabled for plenary, 1st reading/single reading | | A7-0231/2010 | 15/07/2010 | |
| Text adopted by Parliament, 1st reading/single reading | | T7-0323/2010 | 21/09/2010 | Summary |

**Council of the EU**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Document attached to the procedure | 08793/2009 | 12/05/2009 | |
| Supplementary legislative basic document | 05942/2010 | 16/02/2010 | Summary |

**European Commission**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Legislative proposal | COM(2009)0106 | 06/03/2009 | Summary |

**Additional information**

| Source | Document | Date |
|---|---|---|
| National parliaments | IPEX | |
| European Commission | EUR-Lex | |

**Final act**

Decision 2010/0649
OJ L 287 04.11.2010, p. 0050 Summary

# EC/Pakistan agreement: readmission agreement

2009/0036(NLE) - 16/02/2010 - Supplementary legislative basic document

PURPOSE: to conclude the Agreement between the European Community and Pakistan on the readmission of persons residing without authorisation.

PROPOSED ACT: Council Decision.

CONTENT: the aim of this proposal is to conclude, on behalf of the Union, the Agreement between the European Community and Pakistan on the readmission of persons residing without authorisation.

The Agreement was signed, on behalf of the European Community, on 26 October 2009 subject to its conclusion. For details of the content of the Agreement, please refer to the initial document of 06/03/2009 as well as Council document 08793/2009.

As consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community. The procedures to be followed by the Union in order to conclude the Agreement are governed by Article 218(6) (a) of the Treaty on the Functioning of the European Union (TFEU) which states that the Council shall adopt a decision concluding the agreement.

The Agreement establishes a Joint Readmission Committee which may adopt its rules of procedure. It is appropriate to provide for a simplified procedure for the establishment of the European Union position in this case.

**Territorial application**: in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, the United Kingdom has notified its wish to take part in the adoption and application of this Decision. Ireland, in accordance with the same Protocol, has decided not to participate in the adoption of this Decision. In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

# EC/Pakistan agreement: readmission agreement

2009/0036(NLE) - 20/10/2010 - Final act

PURPOSE: conclusion of an Agreement with Pakistan on readmission.

LEGISLATIVE ACT: Council Decision 2010/649/EU on the conclusion of the Agreement between the European Community and the Islamic Republic of Pakistan on the readmission of persons residing without authorisation.

CONTENT: the proposed Decision aims to conclude an agreement on the arrangements for the readmission of nationals of each of the parties concerned, under a strict framework provided for in the agreement.

It should be noted that the Agreement previously concluded with the European Community has now been replaced by an Agreement with the 'European Union' as a consequence of the entry into force of the Lisbon Treaty on 1 December 2009.

The main provisions of the Agreement can be summarised as follows:

**Principle of readmission**: the Agreement provides for the principle of readmission on the basis of complete reciprocity. In principle, therefore, **the "Requesting State"** (Pakistan, in general) **is required to readmit to its territory its own nationals who do not fulfil or no longer fulfil the conditions for entry to the territory of the "Requested State"** (a Member States, in general), **upon the request of the latter**. The Requesting State must therefore provide without delay the travel document necessary for the return of the person to be readmitted, valid for a period of at least six months.

Similar provisions exist for the readmission of national of third countries and/or stateless persons residing without authorisation in the Requested State. The requirement to readmit third country nationals or stateless persons is linked to the following conditions:

> a) if the person has, at the time of submission of the readmission application, a valid visa or residence authorisation issued by the Requested State;
>
> b) the person entered the territory of the requesting state unlawfully coming directly from Pakistan by air or ship without having entered another country in-between.

These obligations do not apply to persons in airside transit nor to those to whom a Member State has issue a visa or residence authorisation before or after entering its territory.

Where it relates to its own nationals or nationals of a third country or stateless persons, in all cases, Pakistan is required to establish, without delay, a travel document necessary for the return of the persons concerned.

**Readmission procedure:** the Agreement lays down the technical aspects relating to the readmission procedure. In particular, it lays down the provisions relating to:

- the readmission application (in general, a demand from a Member State to Pakistan for readmission),
- the readmission form and the content of the request,
- means of evidence regarding nationality if the documents cannot be relied upon (specific provisions in the case of third country nationals and stateless persons),
- time limits for the application request and the response (normally 30 calendar days),
- transfer modalities (3 months from the day of the acceptance of the request) and modes of transportation (escort, etc;).

**Readmission in error**: Pakistan or a Member State shall take back without delay any person readmitted in error within three months of the erroneous transfer of the person in question.

**Transit operations**: the Agreement contains a section devoted to transit operations as well as specific rules regarding transport and transit costs of those to be readmitted. In principle, the Requested State may allow the transit of a third country national or Stateless person when such a national or person cannot be returned to the State of destination directly after being satisfied, on the basis of written evidence, that the State of destination has committed itself to readmitting its national or the person as the case may be.

The Requested State may revoke consent if the onward journey in possible States of transit or the readmission by the State of destination is no longer assured. In such cases, the Requesting State shall take back the third country national or the Stateless person at its costs.

**Other provisions**: the Agreement contains the usual provisions on the data protection and on consistency with other legal obligations.

**Entry into force and application**: with a view to practical application, the Agreement provides Pakistan with the option of concluding bilateral implementing protocols with all the Member States. Final provisions govern the entry into force, the duration, eventual amendment, suspension and termination of the Agreement and define the legal status of its annexes. The Agreement also provides for the establishment of a Joint Readmission Committee responsible for facilitating the implementation of the Agreement and cooperation and exchanges of information between the Parties.

**Annexes**: the following annexes are an integral part of the Agreement:

- common list of documents the presentation of which is considered as evidence of nationality,
- common list of documents the presentation of which shall initiate the process for establishing nationality,
- common list of documents which shall be considered as means of evidence of the conditions for the readmission of third country nationals and stateless persons,

- common list of documents which are considered as means of evidence to initiate the investigations for the readmission of third country nationals and stateless persons,
- type model of readmission application,
- type model of transit application,
- several joint declarations.

**Territorial provisions**: in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, the United Kingdom has notified its wish to take part in the adoption and application of this Decision, whereas Ireland has indicated it does not. Denmark, for its part, will not participate in the adoption of the decision nor in its application and the Agreement will not cover its territory (a declaration in the annex provides for the conclusion of a bilateral agreement between Denmark and Pakistan).

ENTRY INTO FORCE: the Agreement will enter into force when the necessary procedures will have been completed. The Decision enters into force on 7 October 2010.

# EC/Pakistan agreement: readmission agreement

2009/0036(NLE) - 06/03/2009 - Legislative proposal

PURPOSE: to conclude a readmission agreement with Pakistan.

PROPOSED ACT: Council Decision.

BACKGROUND: on 18 September 2000, the General Affairs Council formally authorised the Commission to negotiate a readmission agreement between the European Community and Pakistan. In April 2001, the Commission transmitted a draft text to the Pakistan authorities. Following the Ministerial Troika meeting in Islamabad on 18 and 19 February 2004 and the establishment of the link between readmission and the ratification, by the EU, of the Cooperation Agreement between the European Community and the Islamic Republic of Pakistan on Partnership and Development, the first round of formal negotiations could be held in Islamabad in April 2004. Six further formal rounds of negotiations took place, the last one in Brussels on 17 September 2007.

Following the last round of negotiations, where all the outstanding issues could be resolved, both sides sought the endorsement of the agreed text from their respective constituencies. Following a lengthy consultation and approval process on both sides, the agreed text could finally be initialled on 9 September 2008 in Brussels by the Commission's Chief Negotiator and the Pakistani Ambassador to the EU.

CONTENT: the proposed Decision aims to conclude an agreement on the arrangements for the readmission of nationals of each of the parties concerned, under a strict framework provided for in the agreement. In particular, it specifies that the Commission, assisted by experts from Member States, represents the Community within the Joint Readmission Committee set up by Article 16 of the Agreement. As in the case for the other readmission agreements so far concluded by the Community, the Community position in this regard shall be established by the Commission in consultation with a special committee designated by the Council. As regards other decisions to be taken by the Joint Committee, the Community position shall be established in accordance with the applicable provisions of the Treaty.

The main provisions of the Agreement can be summarised as follows:

**Principle of reciprocity and scope**: the readmission obligations set out in the Agreement (Articles 2 and 3) are drawn up in a fully reciprocal way, comprising own nationals as well as third country nationals and stateless persons.

**Conditions for readmission**: the obligation to readmit third country nationals and stateless persons is linked to the following prerequisites:

(a) the person concerned holds, at the time of submission of the readmission application, a valid visa or residence authorisation issued by the requested State; or

(b) the person concerned unlawfully entered the territory of the requesting State coming directly from the territory of the requested State. Exempted from these obligations are persons in airside transit 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.

In return for Pakistan agreeing to the aforementioned obligation regarding the readmission of third-country nationals and stateless persons, the European Community agreed that the agreement shall only apply to persons who entered the territories of the Parties **after its entry into force**.

**Technical provisions regarding the readmission procedure**: the draft Agreement contains the necessary technical provisions regarding the readmission procedure:

- readmission application;
- means of evidence;
- time limits,;
- transfer modalities;
- modes of transportation.

The Agreement also contains the necessary provisions regarding "**readmission in error**". Some procedural flexibility is provided by the fact that no readmission application 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, also holds a valid visa or residence authorisation of the State which has to readmit him or her.

**Other provisions**: the Agreement contains a section on transit operations. It also contains the necessary rules on costs, data protection and the relation to other international obligations. Moreover, it sets out the composition and the tasks and powers of the Joint Readmission Committee.

**Territorial provisions**: the proposal takes account of the specific situation of Denmark, which is not part of the Schengen acquis and therefore is not required to comply with the provisions of the 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 to the Agreement.

**Final provisions**: the final provisions contain the necessary rules on entry into force, duration, possible amendments, termination and the legal status of the Annexes to the agreement.

In order to execute this Agreement in practice, Article 17 creates the possibility for Pakistan and individual Member States to conclude bilateral implementing Protocols. The relation between the bilateral implementing Protocols and this Agreement is clarified by Article 18.

# EC/Pakistan agreement: readmission agreement

2009/0036(NLE) - 21/09/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 382 votes to 250, with 23 abstentions, a legislative resolution in which it gives its consent to the proposal for a Council decision on the conclusion of the Agreement between the European Union and the Islamic Republic of Pakistan on the readmission of persons residing without authorisation.

The resolution is accompanied by a Commission declaration in which it recalls that EU law requires Member States to ensure that third country nationals present on the territory of the Member States may apply for international protection if they so wish and that in particular the Treaty, the Asylum Qualification and the Return Directive make it clear that Member States must respect the principle of non-refoulement in accordance with their international obligations. The Commission also recalls that EU Member States are in particular obliged to ensure, in all cases, that no return is effected in violation of the European Human Rights Convention and the EU Charter of Fundamental Rights, which oblige States to ensure that a person should not be returned if he or she would be likely to suffer serious harm on his or her return to a country of origin or transit.

Lastly, the Commission will report every 6 months to the European Parliament on the implementation of the EU readmission agreements and will establish contacts with relevant international organisations active in Pakistan as regards the situation of persons readmitted under the EU agreement.