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NOTE

From: Presidency
To: Working Party on Integration, Migration and Expulsion (Expulsion)
Subject: Commission assessment on third countries' level of cooperation on
readmission in 2019

Delegations will find in annex the Presidency paper concerning the Commission assessment on third countries' level of cooperation on readmission in 2019 for the forthcoming Integration, Migration and Expulsion Working Party meeting on 24 February 2021.

**COMMISSION ASSESSMENT OF THIRD COUNTRIES' LEVEL OF COOPERATION
ON READMISSION IN 2019**

Several European Council conclusions, most recently in October 2018, invited the EU and the Member States to do more 'to facilitate effective returns', through 'creating and applying the necessary leverage by using all relevant EU policies, instruments and tools, including development, trade and visa'¹.

The recently revised Visa Code², in force since 2 February 2020, is the first concrete step taken to create tangible and structural measures aimed at improving cooperation on return and readmission. Its Article 25a introduces a mechanism whereby the EU can use various visa-related measures as leverage to get third countries to fully comply with their obligation under international law to readmit their own nationals.

This visa leverage mechanism is composed of two distinct steps. First, under this mechanism, the Commission is tasked to regularly, at least once a year, on the basis of data provided by Member States, as well as Union institutions, bodies, offices and agencies, assess third countries' cooperation on readmission. A Member State may also notify the Commission if it is confronted with substantial and persisting practical problems in cooperation with a third country on readmission.

¹ 13/18 CO EUR 16 CONCL 5

² Regulation (EU) 2019/1155 of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code)

The second step is the possible Council decision to apply visa measures - where the Commission considers that a third country is not cooperating sufficiently, the Commission shall propose the Council to adopt an implementing decision applying specific restrictions related to visa processing and, possibly, a higher visa fee. At the same time, if the Commission finds a third country to be cooperating sufficiently on readmission, it may propose to the Council to adopt an implementing decision providing for a reduction of the visa fees, a reduction of the processing time or an increase in the period of validity of multiple-entry visas.

On 10 February 2021 the Commission published its first assessment of third country cooperation on readmission, covering the year 2019 (doc. 6032/21), accompanied by a communication "Enhancing cooperation on return and readmission as a part of fair, effective and comprehensive EU migration policy (doc. 6088/21) .

The assessment covers the visa-bound third countries that are most relevant to the EU in the context of readmission cooperation. During the previous discussions at the Integration, Migration and Expulsion (IMEX Expulsion) working party meetings, the Commission proposed to use the number of return decisions issued per calendar year by all Member States for determining which third countries should be covered in the forthcoming assessment. The threshold for the assessment of cooperation in 2019 has been set at 1000 return decisions issued in 2018 in the whole EU³, resulting in 39 visa-bound third countries. This includes third countries which have concluded readmission agreements or arrangements with the EU, countries with which the Commission is negotiating such instruments, countries with which the EU has engaged in a dialogue to improve cooperation but also countries with which the EU has not yet engaged in this respect.

³ As per Eurostat data in August 2019

The above-mentioned Commission communication concludes that out of 39 visa-bound countries assessed, for *almost one third of the countries cooperation works well with most Member States*, for almost another one third the level of cooperation is average, with improvements needed with regard to a number of Member States, *while for more than one third the level of cooperation needs to be improved with most Member States concerned*.

The communication also underlines that all EU *readmission agreements bring significant added value* in facilitating cooperation on readmission. This is also the case for four out of the six informal readmission arrangements. As regards Member States bilateral readmission instruments, the communication concludes that they are mostly respected by third countries; however, the level of cooperation varies depending on the instrument and cooperation is rarely extended to Member States that do not have such an instrument in place. This can result in an overall weaker level of cooperation for the EU as a whole.

According to the communication, the *main obstacles in readmission cooperation with third countries are the identification of irregular migrants and issuance of travel documents by the authorities of the third countries concerned*. Once these processes are successfully completed, the organisation of flights and the actual return are usually carried out successfully. At the same time, the refusal of non-voluntary returnees by certain third countries and non-acceptance of charter flights present important challenges. The communication also notes that chances of a successful and swift cooperation increase with the deployment of electronic platforms for processing readmission applications and European Return and Migration Liaison Officers (EURLO), who can facilitate the readmission process locally.

The Commission's assessment of third country cooperation on readmission also serves as a trigger for the comprehensive leverages mechanism which was endorsed by COREPER in June 2020 (doc. 8954/1/20 REV1). This informal mechanism foresees that additional leverage can be taken in addition to visa measures, in the absence of visa measures, or when visa measures did not deliver the desired result. The Commission included a similar formal comprehensive leverages mechanism in Article 7 of the proposed Asylum and Migration Management Regulation.

At the forthcoming Integration, Migration and Expulsion (IMEX Expulsion) working party meeting delegations are invited to share their general comments on the first Commission's assessment of third countries' level of cooperation on readmission in 2019.
