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NOTE

From: Presidency
To: Delegations

Subject: Presidency discussion paper on Return Centers

Delegations will find in annex the above-mentioned Presidency discussion paper to be presented and discussed at the forthcoming meeting of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) to be held on 9 July 2018.

RETURN CENTERS

The European Council Conclusions of June 2018 once again underlined the need to significantly step up the effective return of migrants irregularly staying in the EU.

Many initiatives have been taken at national, EU and international level during the last years, in order to improve the situation. In addition, next to introducing the concept of regional disembarkation platforms, the June European Council also welcomed the intention of the Commission to make legislative proposals for a more effective and coherent European return policy.

Since the entry into force of the Return Directive in 2008, the challenges in EU return policy have considerably changed and increased. Return of third country nationals staying irregularly in the EU is one of the priorities of the EU migration policy.

An enforceable return decision, for example following a final negative asylum decision or expiry of a residence title, constitutes an obligation to leave EU territory. However the eminent gap between orders to leave the EU and effectively implemented returns clearly indicates the need to **reinforce the current system**.

Therefore new approaches and innovative ideas are needed, in order to strengthen the rule of law, the credibility of our migration and asylum policies and to regain trust in governmental institutions. It is important to ensure the return of irregular migrants.

One additional element for a possible way forward could be the **establishment of Return Centers in third countries**. These centers should be explored for third-country nationals (TCNs) who are subject to a final and enforceable return decision and who cannot be returned to their country of origin due to the lack of cooperation of this country or the TCN concerned.

The current Return Directive foresees the possibility of return to a third country different from the country of origin. According to Article 2 (2 b) of the Return Directive member states can decide not to apply Return Directive to TCN, who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction. According to Article 3 (3) of the Return Directive, “return” also includes the removal to a transit country on the basis of a respective readmission agreement.

The **basic concept** of such Return Centers would include the following:

- Return Centers should be established within, as well as operated by, a third country, meet European standards and be compliant with applicable international and European human rights law. The principle of Non-Refoulement has to be safeguarded in all cases.
- Target group would be TCNs with an enforceable return decision, for example following a final negative asylum decision or expiry of a residence title.
- To avoid misuse of Return Centers, (subsequent) applications for international protection lodged at the Return Center should be handled by the host state.
- Within the Return Centers, return counseling and information on reintegration projects should be available.

It is crucial for the integrity of the European asylum and migration system to deliver the clear message that persons being denied international protection will not be able to stay on the territory of the EU. The local authorities of a chosen third country operating a Return Center would be supported through the exchange of know-how and technical equipment; in addition further cooperation on migration management should be offered, e.g. deployment of border guards. Possible incentives for third countries to agree on establishing and operating a Return Center on their territory should be considered.

For this new approach to be successful and to ensure that EU Member States and third countries benefit from enhancing the cooperation in the field of return, a balanced and carefully established concept is essential. The support of interested partners is crucial to work on novel ways to increase the return rate and better manage migration.

1. Against this background delegations are invited to discuss the idea of Return Centers in third countries as an additional tool to manage migration and increase returns. Member States are also invited to express their interest in participating in the implementation of a pilot project.
2. Delegations are also invited to give their opinion whether the possibilities offered by the Return Directive are considered to be sufficient or whether removals to third countries other than transit countries or countries of origin should be considered.
