

11259/95

~~LIMITE~~

ASIM 302

NOTE

from : Presidency

to : Migration Working Party (Expulsion)

Subject: Proposal for a Recommendation on national practices concerning assistance for the voluntary repatriation of third-country nationals residing illegally in the territory of the Member States of the European Union

During the first half of 1995 a questionnaire was given to delegations in the Migration Working Party (Expulsion) to ascertain Member States' practices concerning assistance for the voluntary repatriation of third-country nationals residing illegally in their territory.

The following conclusions may be drawn from delegations' replies:

1. Generally speaking, Member States do not have specific rules governing the general matter system of assistance for the voluntary repatriation of third-country nationals residing illegally.
2. In each Member State there are specific bodies which provide information on and administer this type of assistance.
3. The people receiving such assistance in the various Member States are very varied: rejected asylum-seekers, third-country nationals residing illegally (whether or not expelled) and third-country nationals who have completed custodial sentences.

4. Conditions are set for third-country nationals to be eligible to receive such assistance: requirement of having to leave the country, lack of financial resources, formal agreement not to return and plans to establish themselves in their country of destination.
5. The assistance may extend to family members when they are with the third-country national in the territory of the Member States.
6. The assistance is financial and covers travel costs, living costs for a specific time in the country of destination and spending money.
7. The assistance is paid to the third-country national or to a third party who customarily assists with the transfer of the third-country national to the country of destination.
8. In specific cases, non-governmental organizations help to organize assistance programmes for the voluntary repatriation of groups of third-country nationals.

On the basis of this information and bearing in mind that assistance for voluntary repatriation helps to reduce the presence of third-country nationals residing illegally in the territory of the Member States, the Presidency has drafted the following proposal, which will be submitted to the Migration Working Party (Expulsion) for its meeting on 10 November 1995.

PROPOSAL FOR A RECOMMENDATION ON NATIONAL PRACTICES
CONCERNING ASSISTANCE FOR THE VOLUNTARY REPATRIATION
OF THIRD-COUNTRY NATIONALS RESIDING ILLEGALLY IN THE TERRITORY
OF THE-MEMBER STATES OF THE EUROPEAN UNION

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on European Union and in particular Article K.3(2) thereof,

Whereas Article K.1(3)(c) of the Treaty on European Union states that the Member States shall regard as matters of common interest, inter alia, combating unauthorized immigration, residence and work by nationals of third countries on the territory of Member States,

Whereas, the Member States have already adopted measures to ensure better control of migratory flows and to avoid third-country nationals entering their territory illegally or remaining in it illegally,

Whereas the existence of national practices on the granting of assistance for repatriation to their countries of origin helps to reduce the number of third-country nationals residing illegally in the Member States;

Whereas the provisions of this recommendation are without prejudice to the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as amended by the New York Protocol of 31 January 1967,

HEREBY RECOMMENDS that the Member States should apply these principles for the granting of assistance for the voluntary repatriation of third-country nationals who wish to return to their place of origin, in accordance with the following guidelines:

1. This Recommendation shall not apply to citizens of the European Union or nationals of the EFTA countries parties to the Agreement on the European Economic Area, or members of their families who are covered by Community law.
 2. The necessary procedures shall be laid down to ensure that Member States' legislation provides for the possibility that third-country nationals residing illegally in those States can request assistance to return to their countries of origin.
 3. When Member States have made provision for such assistance, they shall designate the body responsible for administration and the provision of information to eligible persons.
 4. Applications for such assistance may be made by third-country nationals residing illegally in the Member State, including rejected asylum-seekers, third-country nationals on whom expulsion decisions have been taken or third-country nationals who have completed sentences.
 5. Assistance shall be granted to applicants subject to the following conditions:
 - They must have the documents necessary to be admitted to the country of destination.
 - They must agree formally to leave the territory of the Member State and not to return.
 - They must lack the financial resources to travel to their country.
 6. Assistance granted to third-country nationals may include travel costs, and living costs for a specific period in the country of destination.

The amount of assistance may vary depending on whether the third-country national has family members in the Member State who are also returning to their country.
 7. In specific cases, non-governmental organizations may collaborate in the preparation of programmes including assistance for the voluntary repatriation of third-country nationals.
 8. The Council shall regularly examine the progress made in the implementation of these principles by the Member States.
-