



**COUNCIL OF
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NOTE

from :	Presidency
to :	Expulsion Working Party
Subject :	The mandate concerning readmission agreements between the European Community and a third country

Introduction

In the autumn of 1998 Austria introduced a draft proposal for the creation of a standard readmission agreement procedure between Member States of the European Union and third countries. This proposal was subsequently discussed in the Expulsion Working Party during the Austrian and German Presidencies. It should be noted, however, that the Council of the European Union had, as early as 30 September 1994, adopted a recommendation concerning a specimen bilateral readmission agreement between a Member State and a third country. Additionally, on 24 July 1995, the Council adopted a recommendation on the guiding principles to be followed in the drawing up of protocols implementing readmission agreements in general.

Readmission questions constitute a segment of those 3rd pillar policy issues that, on the entry into force of the Treaty of Amsterdam, subsequently became part of the *acquis* of the 1st pillar. With this change, competence to conclude readmission agreements on behalf of Member States of the European Union was thereby shifted to the European Community. The Council recommendation of September 1994, however, concerns only bilateral agreements between a single Member State of the European Union and a notional third country, whereas the Austrian proposal originally covered agreements between Member States of the European Union, acting as a group, and a notional third country. Consequently, none of the above-mentioned documents can be directly applied in a situation where the Community itself, given its new competence in this area, concludes a readmission agreement.

Alternatives for future work

With this in mind, turning to future Community readmission agreements, the Presidency is currently of the view that various lines of approach over this issue remain open, and thus that a clearer view of how to proceed should be developed through the discussion of existing alternatives. It is the view of the Presidency that the list of possible scenarios could include situations where:

1. The Council drafts the basic elements for the structure of the readmission agreement. The Council could, for example, enumerate the necessary provisions, which should be more closely defined by the Commission, during the readmission negotiation. Given such a wide-ranging mandate, the Commission would subsequently retain flexibility even in the detailed drafting of such agreements.
2. The Council gives the Commission a general mandate based on the specimen bilateral readmission agreement between a Member State and a third country adopted by the Council in September 1994. The specimen agreement would thus establish a set of frameworks from which the Commission could negotiate further agreements.
3. Discussion of the Austrian draft proposal continues in the Expulsion Working Party. If the Council subsequently reaches agreement on the proposal, the Commission could then be given a mandate to negotiate on readmission procedures referring specifically to the adopted document. The Commission would thus negotiate all subsequent agreements on the basis of the Council

document.

4. The Expulsion Working Party prepares a very detailed mandate for the Council. If the Council subsequently reaches agreement on the proposal, the Commission could then be given a mandate naming also the specific third country, which is to participate in the agreement.

Moreover, when concluding readmission agreements, the Community should, as a matter of course, consider more closely the readmission responsibilities that are necessarily created between the Member States.

The Presidency is of the opinion that the Expulsion Working Party should address this issue and thus decide on how to proceed with the mandate concerning the Community readmission agreement. This should be done with a view to introducing the Working Party's recommendations to the Council within the next five years, in the context of the Action Plan on the implementation modalities of the area of freedom, security and justice, approved at the Vienna European Council.