

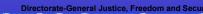
COMMON READMISSION POLICY

Francesco LUCIANI

European Commission

DG Justice, Freedom and Security
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I. INTRODUCTION

- Starting point of a common readmission policy: 1 May 1999 ➤ Entry into force of Amsterdam Treaty.
- Before 'Amsterdam': return of persons illegally residing in the EU a competence of Member States.
- After 'Amsterdam': explicit powers in this field conferred to European Community ►
- Article 63(3)(b) of Amsterdam Treaty: "The Council (...) shall (...) adopt measures on immigration policy within the following areas: (...) illegal immigration and illegal residence, including repatriation of illegal residents (...)".





I. INTRODUCTION

- Article 63(3)(b) EC falls within Title IV. This implies:
 - external competence for the Community (Commission) to conclude readmission agreements with relevant third countries;
 - Council authorises Commission to negotiate Community readmission agreements;
 - special position of UK, Ireland and Denmark i.e. UK and Ireland are only bound if they "optin", Denmark is always "out".

II. STATE OF PLAY JANUARY 2006

- Council has authorised Commission so far to negotiatie
 Community readmission agreements with 11 countries:
 Morocco, Sri Lanka, Russia, Pakistan, Hong Kong,
 Macao, Ukraine, Albania, Algeria, China and Turkey
- Agreements in force: Hong Kong, Macao and Sri Lanka.
- Agreements in process of ratification: Albania and Russia.
- Ongoing negotiations: Morocco, Pakistan, Turkey and Ukraine.
- Negotiations not yet formally launched: China and Algeria.
- Priority now to finalise existing mandates, but new mandates are expected in 2006 and following years.

- Recall: agreements <u>currently</u> in force: Hong Kong, Macao and Sri Lanka.
- What do Community readmission agreements entail for EU Member States?
- To start three principles:
 - (1) All Community readmission agreements are reciprocal i.e. all the obligations included therein are equally applicable to both Contracting Parties;
 - (2) Community readmission agreements are not standard ▶ they are 'tailor made' for the third country in question.

- (3) Community readmission agreements are without prejudice to rights, obligations and responsabilities arising from International Law.
- Now concretely: what do they mean for Mermber States?

(1) Readmission obligations for Member States (MS):

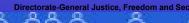
- MS shall readmit, upon application by the third country in question, <u>its own nationals</u> who fulfil the criteria stipulated in agreement;
 - MS shall readmit **third country nationals and stateless persons** who fulfil the criteria stipulated in the

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- MS shall issue the person(s) to be readmitted with a **travel document** required for his return;
- MS shall use for the purpose of readmission a commonly agreed <u>readmission application form</u>;
- for the purpose of establishing nationality and/or means of evidence regarding third country nationals and stateless persons, MS shall accept <u>commonly agreed</u> <u>lists</u>
 - MS shall adhere to the <u>time limits</u> stipulated in the agreement;
 - MS shall authorise the <u>transit of third country</u> <u>nationals or stateless persons</u> if so requested.



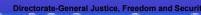


(2) Data protection:

- personal data protection will have to be ensured by MS pursuant to Directive 95/46/EC (the 'data protection directive').

(3) Joint Readmission Committee and Implementing **Protocols:**

- Community readmission agreements foresee establishment of a 'joint readmission committee' which has the task of monitoring the agreement. MS' experts assist the Commission in its role as cochair of the Committee;

















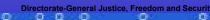


- MS <u>may</u> draw up, under the EC agreement, bilateral implementing protocols with the third country in question, to arrange practical details such as contact points, etc.

(4) Relation to bilateral readmission agreements or arrangements of MS:

- Once Council has given readmission mandate to Commission, MS should <u>abstain</u> from negotiating a bilateral arrangement or agreement;
- Once EC readmission agreement has entered into force it **takes precedence** over any existing bilateral agreement or arrangement between a MS and the third country in question;





EC agreement also always takes precedence over bilateral implementing protocols.













IV. CONCLUSION

- Community readmission agreements set out reciprocal readmission obligations on the Community and the third country in question.
- Community readmission agreements contain detailed administrative and operational procedures to facilitate the return and transit of illegally residing persons.
- Thus: Community readmission agreements requires MS to dispose of a sufficient and well functioning administrative capacity in order to ensure proper implementation.















































































































