2019/0181(NLE)

13.1.2020

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DRAFT RECOMMENDATION

on the draft Council decision on the conclusion of the Agreement between the European Union and the Republic of Belarus on the readmission of persons residing without authorisation
(12158/2019 – C9-0004/2020 – 2019/0181(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Petar Vitanov
**Symbols for procedures**

* Consultation procedure  
*** Consent procedure  
***I Ordinary legislative procedure (first reading)  
***II Ordinary legislative procedure (second reading)  
***III Ordinary legislative procedure (third reading)  

(The type of procedure depends on the legal basis proposed by the draft act.)
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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Council decision on the conclusion of the Agreement between the European Union and the Republic of Belarus on the readmission of persons residing without authorisation
(12158/2019 – C9-0004/2020 – 2019/0181(NLE))

(Consent)

The European Parliament,

– having regard to the draft Council decision (12158/2019),
– having regard to the draft Agreement between the European Union and the Republic of Belarus on the readmission of persons residing without authorisation (12160/2019),
– having regard to the request for consent submitted by the Council in accordance with Article 79(3) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C9-0004/2019),
– having regard to Rule 105(1) and (4) and Rule 114(7) of its Rules of Procedure,
– having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2019),

1. Gives its consent to the conclusion of the agreement;

2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Republic of Belarus.
EXPLANATORY STATEMENT

The Union’s relations with the Republic of Belarus trace back to the signature of the Partnership and Cooperation Agreement (PCA) in 1995. However, due to Belarus’ lack of commitment to democracy and fundamental rights, the Union has not yet ratified the bilateral agreement. Later on, trade preferences were suspended and sanctions applied in the light of Belarus' violations of the core principles of the Union. Furthermore, the Union has excluded Belarus from its European Neighbourhood Policy (ENP), which was originally designed to strengthen relations with neighbouring countries to the east and south. In 2009, the Union launched a new initiative to deepen and strengthen relations with some countries to the east, including Belarus: the Eastern Partnership. Under this multilateral format, EU-Belarus relations have improved, especially in the last years. Belarus has been participating actively in the Eastern Partnership and the bilateral relationship will be strengthened through the EU-Belarus Partnership Priorities, which are currently being negotiated.

In the context of the Eastern Partnership Summit in May 2009, the Union reaffirmed its political support towards full liberalization of the visa regime in a secure environment, and towards promoting mobility by concluding visa facilitation and readmission agreements with Eastern Partnership countries. According to the common approach for the development of Union policy on visa facilitation agreed at the level of COREPER by the Member States in December 2005, a visa facilitation agreement would not be concluded without a readmission agreement being in place.

On that basis, the Commission presented on 12 November 2010 a recommendation to the Council with a view to obtaining directives to negotiate Agreements with the Republic of Belarus on, respectively, the facilitation of the issuance of short-stay visas, and readmission of persons residing without authorisation. On 28 February 2011, the Council officially authorised the Commission to negotiate the two agreements between the Union and Belarus.

The negotiations were formally launched on 30 January 2014 and the first round of formal negotiations was held in Minsk on 13 June 2014. It was followed by three rounds of negotiations, first in Brussels on 25 November 2014 and then on 11 March 2015 and on 20 June 2017 in Minsk. The chief negotiators initialled the text of the agreement on 17 June 2019 via exchange of emails.

During the negotiations, Belarus, the Union and seven participating Member States (Bulgaria, Romania, Lithuania, Poland, Hungary, Finland and Latvia) signed a Joint Declaration of Mobility Partnership on 13 October 2016. This partnership provides for measures to increase cooperation in the areas of legal and labour migration, asylum and the protection of refugees, the prevention and combating of irregular migration, including smuggling of migrants and human trafficking and also to maximise the development impact of migration and mobility.

The visa facilitation agreement and the readmission agreement operate in tandem. Both agreements were signed on 8 January 2020.

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Belarus has ratified a number of relevant international conventions, including the 1951
Geneva Convention relating to the status on refugees and the 1967 Protocol. It is a member of the Organisation for Security and Cooperation in Europe (OSCE) and a partner country within the framework of the Eastern Partnership, which is based on commitments to the principles of international law and to fundamental values, including the respect for human rights and fundamental freedoms. Nonetheless, tangible steps taken by Belarus to respect universal freedoms, the rule of law, and human rights, including the freedoms of speech, expression and of media, and labour rights, will remain fundamental criteria for shaping the Union’s policy towards Belarus.

The process of deepening relations between the Union and Belarus will certainly help extend the frontiers of the area of freedom, security and justice. The rapporteur is of the view that, in line with the opinion of the Commission and the Council, Belarus is, after several rounds of negotiations, now ready to conclude the Visa Facilitation Agreement and the Agreement on the readmission of persons residing without authorisation.

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With regard to the Readmission Agreement, it should be noted that the readmission commitments have been drawn up on the basis of complete reciprocity. Throughout the Agreement it is stressed that its application must be such as to guarantee compliance with human rights and relevant international instruments applicable to the parties.

The terms of the Agreement include the obligation to readmit nationals who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of a Member State. The rules on readmission shall also apply to persons who surrendered their nationality of Belarus since entering the territory of a Member State, persons who hold a residence permit or a valid visa issued by Belarus, and those who illegally entered the territory of a Member State directly after having stayed on, or transited through, the territory of Belarus.

The rapporteur also highlights the particular case of third-country nationals subject to readmission to Belarus according to the provisions of Article 4 of the Agreement. The rapporteur believes that future agreements should include provisions guaranteeing that an attempt would be made first to return them to the country whose nationality they hold in respect of the principle of non-refoulement and according to international law.

Section III of the Agreement sets out the technical arrangements for the procedure, and the Annexes contain model forms and a list of the documents required for the readmission procedure. A fast-track option is included, together with a section dealing with transit operations.

Section VII provides for the creation of a Joint Readmission Committee to ensure correct application of the Agreement and take decisions in connection with the arrangements for its uniform implementation.

The specific situations of Denmark, the United Kingdom and Ireland are reflected in the preamble. The Agreement contains a declaration specifying that the Agreement does not apply to Denmark, and a declaration concerning the close association of Iceland and Norway.
to the implementation, application and development of the Schengen acquis. It also contains two declarations determining relations with the Swiss Confederation and the Principality of Lichtenstein.

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The rapporteur insists that the Parliament should be involved in and informed about the opening and progress of negotiations of formal and informal readmission agreements in general and stresses that formal agreements should be concluded instead of informal arrangements. In this regard, the rapporteur regrets that Article 18 of the Readmission Agreement still includes the possibility to work on the basis of informal arrangements.

The rapporteur also stresses the need for a key role of the Parliament in the monitoring of the implementation of these readmission agreements in line with Article 19. The rapporteur highlights the fact that the Union is represented only by the Commission, assisted by experts from Member States, on the Joint Readmission Committee. As the institution which represents European citizens and as the defender of democracy and the principles of the European Union, the Parliament could be involved in the work of the Joint Committee. The rapporteur encourages the Commission to review the composition of the joint management committees in future agreements. The rapporteur calls on the Commission to inform the Parliament, at every stage, of the outcome of the implementation of the agreements, in accordance with the principle of cooperation between the institutions.

Finally, the rapporteur calls on the members of Parliament’s Committee on Civil Liberties, Justice and Home Affairs to give its support to the report and on Parliament to approve it.