



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 25 February 2011

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NT 8**

OUTCOME OF PROCEEDINGS

of: Council (Justice and Home Affairs on 24 February 2011)

Subject: Council Conclusions on the EU-Turkey Readmission Agreement and related issues

Delegations will find attached, in Annex I, the above mentioned conclusions as agreed by the Council and in Annex II, the related statements to the Council minutes.

Council Conclusions on the EU-Turkey Readmission Agreement and related issues

The Council underlines the importance it attaches to making further progress in its relations with Turkey and to work together to meet the common challenges of managing migration flows. Taking into account and building on Turkey's obligations and efforts as a negotiating candidate country this cooperation will express the commitment of both sides to work on a basis of solidarity, joint responsibility and common understanding.

In this context the Council,

- welcomes the finalisation of the negotiations on an EU-Turkey readmission agreement and looks forward to its swift conclusion and effective implementation after its entry into force and invites the Commission to regularly report to the Council on the implementation;
- reiterates obligation for the full implementation of the existing bilateral readmission agreements until the entry into force of the EU-Turkey readmission agreement as well as during the 3-year transitional period as required in that Agreement;
- invites the Commission, the Member States and Turkey to intensify their cooperation on visa issues, ensuring harmonised implementation of practical improvements for Turkish visa applicants within the framework of the EU Visa Code and asks the Commission to regularly report to the Council in this respect;
- calls for a reinforced cooperation between Turkey and the EU to tackle irregular immigration, with priority to be given to strengthening border controls, fighting trafficking in human beings, increasing reception capacity and enhancing institution and capacity building;
- reiterates that finalizing the negotiations of the working arrangement between Turkey and FRONTEX and the proper implementation of this arrangement is considered a priority.
- in the light of the above, takes note of the Commission's intention to initiate a dialogue on visa, mobility and migration with Turkey and invites the Commission to regularly report to the Council.

Statements to the Council minutes

Statement by the Bulgarian delegation

Re: Art. 7 (1) ("Every Effort")

The Bulgarian delegation declares that the implementation of the principle of "every effort to return a person referred to in Articles 4 and 6 directly to the country of origin" is without prejudice to the obligations of the Requested State to readmit upon application persons residing without authorisation in the Requesting State in line with the provisions of the Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorization.

Statement by the Cyprus delegation

The successful conclusion of the readmission agreement with Turkey is a matter of utmost importance to us and we recognize the efforts of the Commission to advance this difficult task. It is with satisfaction that we welcome the Declaration of the Commission regarding the application of the Agreement by the Republic of Turkey without any discrimination between the member states of the Union. We continue to have however some serious concerns regarding the finalized text as well as the prospect of bona fide implementation of the agreement by Turkey.

1. The provision of Article 24.3 regarding the transition period until full implementation begins, is unnecessarily long. Furthermore, the transition period postpones Turkey's responsibilities and obligations for several years, while our own responsibilities are immediate.
2. Regarding the Joint Declaration on the Article 7(1), we take note of the improvement achieved and expect its bona fide implementation by Turkey. Shall this not be the case, we await the Commission's appropriate response.

3. The joint declaration on the cooperation in the area of visa policy, appears to establish a direct link between the readmission agreement and a visa dialogue. Our understanding is that the implementation in good faith of the readmission agreement is a sine qua non condition for the pursuit of such dialogue. Furthermore it has to be clear that the readmission agreement and the joint declaration do not commit the EU in a dialogue aiming towards a visa facilitation or liberalization.
4. We maintain serious misgivings regarding Turkey's intentions to implement the agreement with Cyprus and in this regard we take note of, and count on, the Commission's reassurances on monitoring closely the comprehensive and inclusive implementation of the agreement and on taking appropriate action to remedy possible shortcomings.

Statements by the United Kingdom delegation

The United Kingdom delegation notes that any measures resulting from this EU-Turkey dialogue that fall within the scope of Title V of the Treaty on the Functioning of the European Union do not bind the United Kingdom as part of the European Union, until the United Kingdom notifies Turkey that it has become bound as part of the European Union in accordance with Protocol No.21 on the position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union.

The United Kingdom delegation welcomes the ongoing dialogue between the Commission and Turkey on visa, mobility and migration issues and notes that this gives effect to the pre-existing agreement between the European Union and Turkey to undertake a regular dialogue on these issues. The United Kingdom notes that for these purposes the Commission dialogue with Turkey must be based on matters falling within the European Union's exclusive competence or in respect of areas of supporting or shared competence to the extent that the European Union has exercised its competence.

Statements by the Commission

Re: the definition of "border region" under the future Agreement between the European Union and the Republic of Turkey on the Readmission of Persons Residing without Authorization

The Commission declares that the definition of the "border region" included in the text of the Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorization is for the purpose of the application of this agreement and, hence, does not imply any amendment to the definitions of the "border region" in the Member States' legislations or to the related provisions of the Member States' legislation concerning the exercise of competences of the Member States' authorities within this area other than those covered by the Agreement.

Re: the territorial applicability of the future Agreement between the European Union and the Republic of Turkey on the Readmission of Persons Residing without Authorization

1. Subject to Paragraphs 2 and 3 of the present declaration, **the Commission** confirms that the Agreement in question shall, when it enters into force, apply to the whole territory of the Republic of Turkey and the whole territory of each Member State of the Union in which the Treaty on European Union is applicable, as defined in Article 52 of that Treaty and Article 355 of the Treaty on the Functioning of the European Union, and should be applied without discrimination between the Member States of the Union.
2. The Agreement shall not apply to the territory of the Kingdom of Denmark.
3. The Agreement shall apply to the territory of Ireland and of the United Kingdom only pursuant to their "opt-in" in accordance with the Protocol on the position of the United Kingdom and Ireland in Respect of the Area of Freedom, Security and Justice Annexed to the Treaty on European Union and the Treaty on the functioning of the European Union.

4. The Commission commits for all the ongoing EU readmission negotiations with other third countries as well for all EU readmission negotiations to be opened in the future with third countries, to adequately reflect the position of the United Kingdom, Ireland and Denmark under Title V of Part Three of the Treaty on the functioning of the European Union in accordance with the relevant Protocols attached to that Treaty and to the Treaty on European Union.

Re: the Council Conclusions on the EU-Turkey Readmission Agreement and related issues

The Commission acknowledges that the last indent of the Council conclusions does not legally constitute a negotiating mandate.
