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*Plenary sitting*

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**A9-0097/2020**

4.5.2020

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## **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 (A9-0097/2020),
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 IV 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 VIII 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.



## **MINORITY OPINION**

pursuant to Rule 55(4) of the Rules of Procedure by  
Tineke Strik on behalf of the Greens/EFA

The Greens/EFA have consistently called for human rights-compliant and dignified return procedures.

In order to ensure fundamental rights compliance, the potential impact on fundamental rights has to be assessed prior to the conclusion of a readmission agreement. The Greens/EFA regret that this has not been the case. Similarly, measures providing for the independent and practical monitoring of its implementation shall be included in any readmission agreement, to ensure that persons are not returned -or chain-returned- to countries where they may be at risk of persecution.

This Agreement includes the obligation to readmit persons who entered the EU after having stayed on, or transited through, the territory of Belarus. The Greens/EFA argue that readmission agreements should include provisions guaranteeing that third-country nationals are returned to the country whose nationality they hold and not to countries they merely transited through.

The Greens/EFA insist that democratic scrutiny should be guaranteed by ensuring that formal agreements are concluded instead of informal arrangements. In this respect, the Greens/EFA deplore that the terms of this Agreement do not exclude the possibility to work on the basis of informal arrangements.

Moreover, the conclusion of a readmission agreement should not be a precondition to enter into visa liberalisation.

21.2.2020

## **OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS**

for the Committee on Civil Liberties, Justice and Home Affairs

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))

Rapporteur for opinion: Petras Auštrevičius

### **SHORT JUSTIFICATION**

The rapporteur welcomes the proposal as a positive development in the EU-Belarus relations and highlights its importance for Belarusian people to acquire a simplified mobility regime with the EU and to enhance people-to-people contacts. Acknowledges that election processes and political system in Belarus do not adhere to European and international standards and do not secure and protect the universal fundamental freedoms. Parliamentary election in 2019 included significant procedural shortcomings, among which were restrictive measures towards the opposition parties and candidates, and demonstrated no improvement in democracy. Therefore, an enhanced mobility should be used for increasing the grassroots level cooperation and further strengthening and supporting Belarusian civil society.

Already in its Communication on Strengthening the European Neighbourhood Policy (ENP) of 4 December 2006, the Commission had recommended that negotiations on readmission and visa facilitation should be initiated with Eastern Neighbourhood countries.

The Prague Summit Joint Declaration of 7 May 2009 establishing the Eastern Partnership has underlined the importance of promoting the mobility of citizens in a secure environment, through visa facilitation and readmission agreements. It set visa liberalisation as the long-term objective that has to be accompanied by improvement in security conditions to fight cross border crime and irregular migration. The Warsaw Summit of September 2011 and the Vilnius Summit of November 2013 reconfirmed these objectives, stressing particularly that further cooperation and coordination should include the prevention of and the fight against illegal migration, the promotion of secure and well-managed migration and mobility and integrated border management as a goal. The Brussels Summit of November 2017 insisted that the conclusion of a Visa Facilitation Agreement and Readmission Agreement with Belarus would pave the way for further progress on mobility, while increasing security.

According to the common approach for the development of EU policy on visa facilitation

agreed at the level of COREPER by the Member States in December 2005, a visa facilitation agreement shall not be concluded without a readmission agreement being in place.

The proposed decision takes into account and reflects the existing framework for cooperation with Belarus, in particular the Mobility Partnership launched in 2016, the Declarations from the Eastern Partnership Summits, as well as the negotiations on the EU-Belarus Partnership Priorities. Similar agreements have been concluded already with Armenia, Azerbaijan, Georgia, Moldova and Ukraine.

The formal authorisation for negotiation of the Agreement on the facilitation of the issuance of visas with Belarus was given by the Council on 28 February 2011. The negotiations began in January 2014 and the agreed text was initialled on 17 June 2019. The European Union and Belarus finally signed the visa facilitation agreement and the readmission agreement on 8 January 2020.

The proposed decision for the conclusion of the agreement contains a set of standard elements included in the readmission agreements concluded between the EU and third countries. In the agreement, the signatories reaffirm that it shall be applied so as to ensure respect for human rights and for the obligations and responsibilities of the parties under the relevant international instruments applicable to them.

The readmission obligations are drawn in a fully reciprocal manner and comprise nationals, third country nationals and stateless persons, establishing also the prerequisites for the obligation to readmit the latter two. The agreement sets out the necessary technical provisions regarding the readmission procedure, including the establishment of a Joint Readmission Committee, procedural flexibility in cases where the person to be readmitted is in possession of a valid travel document, as well as conditions for an accelerated procedure for persons apprehended in the vicinity of the common land border between a Member State and Belarus or within the territory of their national airports, transit operations, clauses on costs, data protection and relation to the international obligations.

The agreement applies to the territories of Belarus and the EU, with the exclusion of the Kingdom of Denmark, Ireland and the United Kingdom.

Over the past four years, there has been progress in EU-Belarus relations. Belarus has been participating in the Eastern Partnership, notably within its multilateral formats, which promote our commitment to the principles of international law and to fundamental values, including the respect for human rights and fundamental freedoms. More efforts need to be made, and further, tangible steps by Belarus to respect universal fundamental freedoms, rule of law and human rights, will remain key for the shaping of the EU's future policy vis-à-vis Belarus, in a spirit of "critical engagement". At the initiative of the Belarusian authorities, an annual EU-Belarus Human Rights Dialogue resumed in 2015. A Mobility Partnership was launched in 2016; it turned out to be a key instrument in developing our cooperation on migration, while enhancing the mobility of EU and Belarusian citizens in a well-managed and secure environment.

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.

Considering the above elements, the Rapporteur of the opinion thus believes that sufficiently sound framework is in place in Belarus to ensure that the rights of those persons treated under the agreement will be respected.

The readmission agreement should be concluded in a timely manner and enter into force simultaneously with the agreement on visa facilitation, since the two agreements are linked.

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The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to recommend approval of 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.

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Conclusion of the Agreement between the European Union and the Republic of Belarus on the readmission of persons residing without authorisation						
<b>References</b>	12158/2019 – C9-0004/2020 – 2019/0181(NLE)						
<b>Committee responsible</b>	LIBE						
<b>Opinion by</b> Date announced in plenary	AFET 16.1.2020						
<b>Rapporteur</b> Date appointed	Petras Auštrevičius 30.9.2019						
<b>Date adopted</b>	19.2.2020						
<b>Result of final vote</b>	<table> <tr> <td>+: </td><td>53</td></tr> <tr> <td>–: </td><td>10</td></tr> <tr> <td>0: </td><td>0</td></tr> </table>	+:	53	–:	10	0:	0
+:	53						
–:	10						
0:	0						
<b>Members present for the final vote</b>	Alviina Alametsä, Maria Arena, Petras Auštrevičius, Traian Băsescu, Lars Patrick Berg, Anna Bonfrisco, Fabio Massimo Castaldo, Włodzimierz Cimoszewicz, Katalin Cseh, Tanja Fajon, Anna Fotyga, Michael Gahler, Kinga Gál, Sunčana Glavak, Klemen Grošelj, Sandra Kalniete, Dietmar Köster, Stelios Kouloglou, Ilhan Kyuchyuk, Miriam Lexmann, Nathalie Loiseau, Jaak Madison, Lukas Mandl, Thierry Mariani, David McAllister, Vangelis Meimarakis, Sven Mikser, Francisco José Millán Mon, Javier Nart, Urmas Paet, Demetris Papadakis, Kostas Papadakis, Tonino Picula, Kati Piri, Giuliano Pisapia, Jérôme Riviére, Nacho Sánchez Amor, Andreas Schieder, Radosław Sikorski, Sergei Stanishev, Hermann Tertsch, Hilde Vautmans, Harald Vilimsky, Thomas Waitz, Witold Jan Waszczykowski, Charlie Weimers, Isabel Wiseler-Lima, Salima Yenbou, Željana Zovko						
<b>Substitutes present for the final vote</b>	Arnaud Danjean, Özlem Demirel, Engin Eroglu, Evin Incir, Andrey Kovatchev, Sergey Lagodinsky, Katrin Langensiepen, Gabriel Mato, Kris Peeters, Paulo Rangel, Ernest Urtasun, Nils Ušakovs, Mick Wallace						
<b>Substitutes under Rule 209(7) present for the final vote</b>	Tudor Ciuhodaru						

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

53	+
ECR	Anna Fotyga, Hermann Tertsch, Witold Jan Waszczykowski, Charlie Weimers
ID	Lars Patrick Berg, Anna Bonfrisco, Jaak Madison, Thierry Mariani, Jérôme Rivière, Harald Vilimsky
NI	Fabio Massimo Castaldo
PPE	Traian Băsescu, Arnaud Danjean, Michael Gahler, Kinga Gál, Sunčana Glavak, Sandra Kalniete, Andrey Kovatchev, Miriam Lexmann, David McAllister, Lukas Mandl, Gabriel Mato, Vangelis Meimarakis, Francisco José Millán Mon, Kris Peeters, Paulo Rangel, Radosław Sikorski, Isabel Wiseler-Lima, Željana Zovko
RENEW	Petras Auštrevičius, Katalin Cseh, Engin Eroglu, Klemen Grošelj, Ilhan Kyuchyuk, Nathalie Loiseau, Javier Nart, Urmas Paet, Hilde Vautmans
S&D	Maria Arena, Włodzimierz Cimoszewicz, Tudor Ciuhodaru, Tanja Fajon, Evin Incir, Dietmar Köster, Sven Mikser, Demetris Papadakis, Tonino Picula, Kati Piri, Giuliano Pisapia, Nacho Sánchez Amor, Andreas Schieder, Sergei Stanishev, Nils Ušakovs

10	-
GUE/NGL	Özlem Demirel, Stelios Kouloglou, Mick Wallace
NI	Kostas Papadakis
VERTS/ALE	Alviina Alametsä, Sergey Lagodinsky, Katrin Langensiepen, Ernest Urtasun, Thomas Waitz, Salima Yenbou

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Conclusion of the Agreement between the European Union and the Republic of Belarus on the readmission of persons residing without authorisation						
<b>References</b>	12158/2019 – C9-0004/2020 – 2019/0181(NLE)						
<b>Date of consultation / request for consent</b>	10.1.2020						
<b>Committee responsible</b> Date announced in plenary	LIBE 16.1.2020						
<b>Committees asked for opinions</b> Date announced in plenary	AFET 16.1.2020						
<b>Rapporteurs</b> Date appointed	Petar Vitanov 21.10.2019						
<b>Discussed in committee</b>	28.1.2020						
<b>Date adopted</b>	23.4.2020						
<b>Result of final vote</b>	<table> <tr> <td>+: </td><td>54</td></tr> <tr> <td>–: </td><td>13</td></tr> <tr> <td>0: </td><td>0</td></tr> </table>	+:	54	–:	13	0:	0
+:	54						
–:	13						
0:	0						
<b>Members present for the final vote</b>	Magdalena Adamowicz, Katarina Barley, Pernando Barrena Arza, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Patrick Breyer, Saskia Bricmont, Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Damien Carême, Caterina Chinnici, Clare Daly, Marcel de Graaff, Anna Júlia Donáth, Lena Düpont, Laura Ferrara, Nicolaus Fest, Sylvie Guillaume, Andrzej Halicki, Balázs Hidvéghi, Evin Incir, Sophia in 't Veld, Patryk Jaki, Livia Járóka, Marina Kaljurand, Assita Kanko, Fabienne Keller, Peter Kofod, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Nuno Melo, Roberta Metsola, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Nicola Procaccini, Emil Radev, Paulo Rangel, Diana Riba i Giner, Ralf Seekatz, Michal Šimečka, Birgit Sippel, Sylwia Spurek, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Cristian Terheș, Tomas Tobé, Dragoș Tudorache, Milan Uhrík, Tom Vandendriessche, Bettina Vollath, Jadwiga Wiśniewska, Elena Yoncheva, Javier Zarzalejos						
<b>Substitutes present for the final vote</b>	Ondřej Kovařík, Kostas Papadakis, Anne-Sophie Pelletier, Miguel Urbán Crespo, Petar Vitanov, Tatjana Ždanoka						
<b>Date tabled</b>	4.5.2020						

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

54	+
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Lena Düpont, Andrzej Halicki, Balázs Hidvéghi, Livia Járóka, Jeroen Lenaers, Lukas Mandl, Nuno Melo, Roberta Metsola, Nadine Morano, Emil Radev, Paulo Rangel, Ralf Seekatz, Tomas Tobé, Javier Zarzalejos
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Juan Fernando López Aguilar, Javier Moreno Sánchez, Brigit Sippel, Sylwia Spurek, Cristian Terheș, Bettina Vollath, Elena Yoncheva, Petar Vitanov
RENEW	Anna Júlia Donáth, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Maite Pagazaurtundúa, Michal Šimečka, Ramona Strugariu, Dragoș Tudorache, Ondřej Kovářik
ID	Nicholas Bay, Nicolaus Fest, Peter Kofod, Annalisa Tardino, Tom Vandendriessche
ECR	Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Patryk Jaki, Assita Kanko, Nicola Procaccini, Jadwiga Wiśniewska
NI	Laura Ferrara, Milan Uhrík

13	-
ID	Marcel De Graaff
VERTS/ALE	Patrick Breyer, Saskia Briemont, Damien Carême, Alice Kuhnke, Tatjana Ždanoka, Diana Riba I Giner, Tineke Strik
GUE/NGL	Pernando Barrena Arza, Clare Daly, Anne-Sophie Pelletier, Miguel Urbán Crespo
NI	Kostas Papadakis

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention