

COMMISSION OF THE EUROPEAN COMMUNITIES

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2006/0064(CNS)

Proposal for a

COUNCIL DECISION

concerning the signing of the Agreement between the European Community and the Russian Federation on readmission

Proposal for a

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(presented by the Commission)

EXPLANATORY MEMORANDUM

I. Political and legal framework

In the common EU strategy of 4 June 1999 on Russia, the conclusion of a readmission agreement with this country was one of the measures proposed. On 18 September 2000, the General Affairs Council formally authorised the Commission to negotiate a readmission agreement between the European Community and the Russian Federation. In April 2001, the Commission transmitted a draft text to the Russian authorities and, following the political agreement reached on the Kaliningrad transit issue at the EU-Russia summit in November 2002, Russia stated its willingness to enter into formal negotiations. The first negotiating round took place in Moscow on 23 January 2003 and nine further sessions were held on 27/28 February 2003, 13/14 October 2003, 24/25 February 2004, 21 October 2004, 7 December 2004, 15 March 2005, 3 May 2005, 12 July 2005 and 8 September 2005, alternately in Moscow and Brussels and, since October 2004, in parallel ("back-to-back") with negotiations on a EC-Russia visa facilitation agreement. Moreover formal negotiations were occasionally prepared by informal expert meetings.

At a meeting with Presidential aide Victor Ivanov in the Kremlin on 16 September 2005, a high level delegation of the European Commission led by Vice-President Franco Frattini managed to strike a "package deal" and reach political agreement on the final texts of the visa facilitation and readmission agreements. This final compromise was subject of in-depth discussions in COREPER on 21 and 29 September 2006 and, following some last minute negotiations with the Russian side on, in particular, the time limits for replies to readmission applications, the final texts of the two agreements were eventually approved by the General Affairs Council on 3 October 2005 and, one day later, by the EU-Russia summit. The texts of the readmission and visa facilitation agreements were initialled (first and last page) at the occasion of the PPC JHA Troika meeting between the Russian Federation and the EU on 13 October 2005 in Luxembourg. The formal initialling of the complete texts of the two agreements took place in Moscow on 4 April 2006.

Member States have regularly been informed and consulted at all (informal and formal) stages of the readmission negotiations.

On the part of the Community, the legal basis for the Agreement is Article 63 para. 3 lit. b), in conjunction with Article 300 TEC.

The attached proposals constitute the legal instrument for the signature and conclusion of the readmission agreement. The Council will decide by qualified majority. The European Parliament will have to be formally consulted on the conclusion of the Agreement, in accordance with Art. 300 para. 3 EC Treaty.

The proposed decision concerning the conclusion sets out the necessary internal arrangements for the practical application of the Agreement. In particular**,** it specifies that the Commission, assisted by experts from Member States, represents the Community within the Joint Readmission Committee set up by Article 19 of the Agreement. Under Article 19 (5), the readmission committee may adopt its own rules of procedure. As in the case for the other readmission agreements so far concluded by the Community, the Commission position in this regard shall be established by the Commission in consultation with a special committee

designated by the Council.[1] As regards other decisions to be taken by the Joint Committee, the Community position shall be established in accordance with the applicable provisions of the Treaty.

II. Outcome of the negotiations

The Commission considers that the objectives set by the Council in its negotiating directives were attained and that the draft Readmission Agreement is acceptable to the Community.

The final content of it can be summarised as follows:

- The Agreement is divided into 8 sections with 23 articles altogether. It also contains 6 annexes, which form an integral part of it, and 4 joint declarations.

- The readmission obligations set out in the Agreement (Articles 2 to 5) are drawn up in a fully reciprocal way, comprising own nationals (Articles 2 and 4) as well as third country nationals and stateless persons (Articles 3 and 5).

- The obligation to readmit own nationals (Articles 2 and 4) includes also former own nationals who have renounced their nationality without acquiring the nationality or a residence authorisation of another State. In addition, Articles 2 and 4 are supplemented by a joint declaration concerning the deprivation of nationality.

- The obligation to readmit third country nationals and stateless persons (Articles 3 and 5) is linked to the following prerequisites: (a) the person concerned holds at the time of submission of the readmission application a valid visa issued by the requested State and has entered directly from this State's territory, or (b) the person concerned holds at the time of submission of the readmission application a valid residence authorisation issued by the requested State, or (c) the person concerned entered the territory of the requesting State directly from the territory of the requested State. Exempted from these obligations are persons in airside transit and all persons to whom the requesting State has either granted visa-free access or issued a visa or residence authorisation with a longer period of validity. The interpretation of the term "entering directly" has been clarified in a joint declaration.

- In return for the Russian Federation agreeing to the aforementioned obligation regarding the readmission of third-country nationals and stateless persons (Articles 3 and 5), the European Community accepted the Russian request to delay for 3 years after the entry into force of the Agreement the applicability of these obligations (Article 23 para. 3). During that three-year transitional period, Articles 3 and 5 of the Agreement shall only become applicable to stateless persons and nationals from third-countries with which the Russian Federation has concluded bilateral treaties or arrangements on readmission.

- With regard to third-country nationals and stateless persons for whom it has given a positive reply to the readmission application, the Russian Federation accepts the use of the EU's standard travel document for expulsion purposes (Article 3 para. 3);

[1] By Decision of 19 December 2002, the Council appointed the Migration and Expulsion Working Party as the responsible body for assistance and consultations to the Commission in relation to the negotiation of readmission agreements (Council doc. 15649/02 MIGR 143).

- The Agreement contains a section on transit operations (Articles 14 and 15 in conj. with annex 6);

- Section III of the Agreement (Articles 6 to 13 in conj. with annexes 1 to 5) contains the necessary technical provisions regarding the readmission procedure (readmission application, means of evidence, time limits, transfer modalities and modes of transportation). Some procedural flexibility is provided by the fact that no readmission will be needed in cases where the person to be readmitted is in possession of a valid national passport and, if he or she is a third-country national, also holds a valid visa or residence authorisation of the State which has to readmit him or her (Article 6 para. 2). In its paragraph 3, Article 6 contains another important procedural element, the so-called accelerated procedure, which has been agreed upon for persons apprehended in the "border region", i.e. within an area which extends up to 30 kilometres from the common land border between a Member State and the Russian Federation or within the territories of seaports and International airports of Member States or the Russian Federation. Under the accelerated procedure, readmission applications have to be submitted, and replies have to be given, within 2 working days whereas under the normal procedure, the time limit for replies is25 calendar days with the right to an extension of up to 60 calendar days in duly motivated cases.

- Articles 16 to 18 contain the necessary rules on costs, data protection and the relation to other International obligations;

- The Joint Readmission Committee will be composed, and have the tasks and powers, as set out in Article 19;

- In order to execute this Agreement in practice, Article 20 obliges the Russian Federation to conclude bilateral implementing Protocols with all Member States. In deviation from previous Community readmission agreements, this provision also foresees a possibility to agree on specific bilateral time limits for the handling of readmission applications (Article 20 para. 1 lit. f in conj. with Article 11 para. 2). This possibility has been inserted as a last minute compromise in order to satisfy those Member States whose maximum detention period under their national immigration laws is equal or inferior to 60 calendar days. The relation between the bilateral implementing Protocols and this Agreement is clarified by Article 18 para. 2;

- The final provisions (Art. 21 to 23) contain the necessary rules on entry into force, duration, termination and the legal status of the annexes to the agreement. Article 23 para. 2, which is mirrored by a similar provision in the visa facilitation agreement, ensures that the readmission agreement and the visa facilitation agreement can only enter into force jointly, i.e. at the same date. However, the obligations set out in Articles 3 and 5 relating to the readmission of third country nationals and stateless persons will only become applicable three years after the entry into force of the Agreement (see above).

- The specific situation of Denmark is reflected in the preamble, Article 1 lit. b), Article 21 and in a joint declaration attached to the Agreement. The close association of Norway and Iceland to the implementation, application and development of the Schengen Acquis is likewise reflected in a joint declaration to the Agreement.

III. Conclusions

In the light of the above-mentioned results, the Commission proposes that the Council

- decide that the Agreement be signed on behalf of the Community and authorise the President of the Council to appoint the person(s) duly empowered to sign on behalf of the Community;

- approve, after consultation of the European Parliament, the attached Agreement between the European Community and the Russian Federation on readmission.

Proposal for a

COUNCIL DECISION

concerning the signing of the Agreement between the European Community and the Russian Federation on readmission

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63, paragraph 3 lit. b), in conjunction with the first sentence of the first subparagraph of Article 300 (2) thereof,

Having regard to the proposal from the Commission[2],

Whereas:

(1) By its decision of 18 September 2000, the Council authorised the Commission to negotiate an agreement between the European Community and the Russian Federation on readmission.

(2) Negotiations for the Agreement took place between 23 January 2003 and 16 September 2005.

(3) Subject to its possible conclusion at a later date, the Agreement initialled in Moscow on 4 April 2006 should be signed.

(4) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom has notified its wish to take part in the adoption and application of this Decision.

(5) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Ireland has notified its wish to take part in the adoption and application of this Decision.

(6) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Decision and is not bound by it or subject to its application,

HAS DECIDED AS FOLLOWS:

Sole Article

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[2] OJ C […] […], p. […]

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the person(s) empowered to sign, on behalf of the European Community, the Agreement between the European Community and the Russian Federation on readmission.

Done in Brussels, the……..of……2006.

For the Council
The President

2006/0064(CNS)

Proposal for a

COUNCIL DECISION

concerning the conclusion of the Agreement between the European Community and the Russian Federation on readmission

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63, paragraph 3 lit. b), in conjunction with the first sentence of the first subparagraph of Article 300 (2) and the first subparagraph of Article 300 (3) thereof,

Having regard to the proposal from the Commission[3],

Having regard to the opinion of the European Parliament[4]

Whereas:

(1) The Commission has negotiated on behalf of the European Community an Agreement with the Russian Federation on readmission;

(2) This Agreement has been signed, on behalf of the European Community, on …….2006 subject to its possible conclusion at a later date, in accordance with Decision……../……/EC of the Council of [……].

(3) This Agreement should be approved.

(4) The Agreement establishes a Joint Readmission Committee which may adopt its rules of procedure. It is appropriate to provide for a simplified procedure for the establishment of the Community position in this case.

(5) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom has notified its wish to take part in the adoption and application of this Decision.

(6) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Ireland has notified its wish to take part in the adoption and application of this Decision.

(7) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European

[3] OJ C […] […], p. […]
[4] OJ C […] […], p. […]

Community, Denmark does not take part in the adoption of this Decision and is not bound by it or subject to its application,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the Russian Federation on readmission is hereby approved on behalf of the Community.

The text of the agreement is attached to this Decision.

Article 2

The President of the Council shall give the notification provided for in Article 23 paragraph 2 of the Agreement[5].

Article 3

The Commission, assisted by experts from Member States, shall represent the Community in the Joint Readmission Committee established by Article 19 of the Agreement.

Article 4

The position of the Community within the Joint Readmission Committee with regard to the adoption of its rules of procedure as required under Article 19 (5) of the Agreement shall be taken by the Commission after consultation with a special committee designated by the Council.

Done in Brussels, the……of……2006

For the Council
The President

[5] The date of entry into force of the Readmission Agreement will be published in the Official Journal of the European *Union* by the General Secretariat of the Council.

Annex

DRAFT AGREEMENT

between the European Community and the Russian Federation

on readmission

THE PARTIES,

THE EUROPEAN COMMUNITY, hereinafter referred to as "the Community",

and

THE RUSSIAN FEDERATION

Determined to strengthen their co-operation in order to combat illegal immigration more effectively,

Referring to the Agreement on Partnership and Co-operation between the Community and its Member States, on the one part, and the Russian Federation, on the other part, concluded in Corfu on 24 June 1994, and in particular Article 84 and the joint declaration in relation to Articles 26, 32 and 37 in the Final Act thereof,

Having regard to the Joint Statement agreed on the occasion of the St. Petersburg Summit held on 31 May 2003 stating that the European Union and the Russian Federation agree to conclude timely the negotiations on a readmission agreement;

Desiring to establish, by means of this Agreement and on the basis of reciprocity, rapid and effective procedures for the identification and return of persons who do not, or no longer, fulfil the conditions for entry to, presence in, or residence on the territories of the Russian Federation or one of the Member States of the European Union, and to facilitate the transit of such persons in a spirit of co-operation,

Emphasizing that this Agreement shall be without prejudice to the rights, obligations and responsibilities of the Community, the Member States of the European Union and the Russian Federation arising from International Law including International Human Rights law rules, as confirmed, in particular, by the Universal Declaration of Human Rights of 10 December 1948, the International Covenant on Civil and Political Rights of 16 December 1966, the Convention relating to the Status of Refugees of 28 July 1951 and the Protocol relating to the Status of Refugees of 31 January 1967, the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and Protocol N° 4 thereto of 16 September 1963, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984,

Taking account of the Protocol on the position of Denmark annexed to the Treaty on the European Union of 7 February 1992 and the Treaty establishing the European Community of 25 March 1957 and confirming that that the provisions of this agreement do not apply to the Kingdom of Denmark,

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

For the purpose of this Agreement:

(a) "*Readmission*" shall mean the transfer by the requesting State and admission by the requested State of persons (own nationals of the requested State, third-country nationals or stateless persons) who have been found illegally entering to, being present in or residing in the requesting State, in accordance with the provisions of this Agreement.

(b) *"Member State"* shall mean any Member State of the European Union with the exception of the Kingdom of Denmark.

(c) *"National of a Member State"* shall mean any person who holds the nationality, as defined for Community purposes, of a Member State.

(d) *"National of the Russian Federation"* or *"Russian National"* shall mean any person who holds the nationality of the Russian Federation in accordance with its legislation.

(e) *"Third-country national"* shall mean any person holding a nationality other than that of the Russian Federation or one of the Member States.

(f) *"Stateless person"* shall mean any person who does not hold the nationality of the Russian Federation or one of the Member States, and who has no evidence of holding the nationality of any other State.

(g) *"Residence authorisation"* shall mean an official permit of any type issued by the Russian Federation or one of the Member States entitling a person to reside on the territory of the Russian Federation or one of the Member States. This shall not include temporary permissions to remain on the territory of the said States in connection with the processing of an asylum application or an application for a residence authorisation.

(h) *"Visa"* shall mean an authorisation issued or a decision taken by the Russian Federation or one of the Member States, which is required with a view to entry in, or transit through, the territory of the Russian Federation or one of the Member States. This shall not include the specific category of airport transit visa.

(i) *"Requesting State"* shall mean the State (Russian Federation or one of the Member States) submitting a readmission application pursuant to section III or a transit application pursuant to section IV of this Agreement.

(j) *"Requested State"* shall mean the State (Russian Federation or one of the Member States) to which a readmission application pursuant to section III or a transit application pursuant to section IV of this Agreement is addressed;

(k) *"Competent Authority"* shall mean any national authority of the Russian Federation

or one of the Member States entrusted with the implementation of this Agreement, as designated in the bilateral implementing Protocol concluded between the Russian Federation and individual Member States in accordance with Article 20 (1) lit. a) of this Agreement.

(l) *"Border region"* shall mean an area which extends up to 30 kilometres from the common land border between a Member State and the Russian Federation, as well as the territories of seaports including custom zones, and International airports of the Member States and the Russian Federation.

(m) *"Border crossing point"* shall mean any crossing-point authorised by the Member States or the Russian Federation for the crossing of their respective land and sea borders, including at International airports and seaports.

(n) *"Transit"* shall mean the passage of a third country national or a stateless person through the territory of the requested State while travelling from the requesting State to the country of destination.

Section I. Readmission obligations by the Russian Federation

Article 2

Readmission of Russian nationals

(1) The Russian Federation shall admit, upon application by a Member State and in accordance with the procedure provided for in this Agreement, any person who does not, or no longer, fulfil the conditions in force for entry to, presence in, or residence on the territory of the requesting Member State provided it is established, in accordance with Article 9 of this Agreement, that such person is a national of the Russian Federation.

The same shall apply to illegally present or residing persons who possessed the nationality of the Russian Federation at the time of entering the territory of a Member State but subsequently renounced the nationality of the Russian Federation in accordance with the national laws of the latter, without acquiring the nationality or a residence authorisation of that Member State or any other State.

(2) After the Russian Federation has given a positive reply to the readmission application, the competent diplomatic mission or consular office of the Russian Federation shall irrespective of the will of the person to be readmitted, as necessary and without delay, issue a travel document required for the return of the person to be readmitted with a period of validity of 30 calendar days. If, for any reason, the person concerned cannot be transferred within the period of validity of that travel document, the competent diplomatic mission or consular office of the Russian Federation shall issue a new travel document with a period of validity of the same duration without delay.

Article 3

Readmission of third-country nationals and stateless persons

(1) The Russian Federation shall admit, upon application by a Member State and in

accordance with the procedure provided for in this Agreement, any third-country national or stateless person who does not, or no longer, fulfil the conditions in force for entry to, presence in, or residence on the territory of the requesting Member State provided that evidence can be furnished, in accordance with Article 10 of this Agreement, that such person

a) holds, at the time of submission of the readmission application, a valid visa issued by the Russian Federation entering the territory of a Member State directly from the territory of the former; or

b) holds, at the time of submission of the readmission application, a valid residence authorisation issued by the Russian Federation ; or

c) unlawfully entered the territory of the Member States directly from the territory of the Russian Federation.

(2) The readmission obligation provided for in paragraph 1 of this Article shall not apply if :

a) the third-country national or stateless person has only been in airside transit via an International airport of the Russian Federation; or

b) the requesting Member State or another Member State has issued to the third country national or stateless person a visa or residence authorisation unless that person is in possession of a visa or residence authorisation, issued by the Russian Federation, which has a longer period of validity.

c) the third-country national or stateless person enjoyed visa-free access to the territory of the requesting Member State.

(3) After the Russian Federation has given a positive reply to the readmission application, the requesting Member State issues to the person concerned a travel document recognized by the Russian Federation (EU standard travel document for expulsion purposes in line with the form set out in EU Council recommendation of 30 November 1994).

Section II. Readmission obligations by the Community

Article 4

Readmission of nationals of the Member States

(1) A Member State shall admit, upon application by the Russian Federation and in accordance with the procedure provided for in this Agreement, any person who does not, or no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of the Russian Federation provided that it is established, in accordance with Article 9 of this Agreement, that such person is a national of that Member State.

The same shall apply to illegally present or residing persons who possessed the nationality of the Member State at the time of entering the territory of the Russian

Federation but subsequently renounced the nationality of the Member State in accordance with the national laws of the latter, without acquiring the nationality or a residence authorisation of the Russian Federation or any other State.

(2) After a Member State has given a positive reply to the readmission application, the competent diplomatic mission or consular office of the Member State concerned shall irrespective of the will of the person to be readmitted, as necessary and without delay, issue a travel document required for the return of the person to be readmitted with a period of validity of 30 calendar days. If, for any reason, the person concerned cannot be transferred within the period of validity of that travel document, the Member State concerned shall issue a new travel document with a period of validity of the same duration without delay.

Article 5

Readmission of third-country nationals and stateless persons

(1) A Member State shall admit, upon application by the Russian Federation and in accordance with the procedure provided for in this Agreement, any third-country national or stateless persons who does not, or no longer, fulfil the conditions in force for entry to, presence in, or residence on the territory of the Russian Federation provided that evidence can be furnished in accordance with Article 10 of this Agreement that such person

a) holds, at the time of submission of the readmission application, a valid visa issued by the requested Member State entering the territory of the Russian Federation directly from the territory of the former; or

b) holds, at the time of submission of the readmission application, a valid residence authorisation issued by the requested Member State; or

c) unlawfully entered the territory of the Russian Federation directly from the territory of the requested Member State.

(2) The readmission obligation provided for in paragraph 1 of this Article shall not apply if

(a) the third-country national or stateless person has only been in airside transit via an International airport of the requested Member State;

(b) the Russian Federation has issued to the third country national or stateless person a visa or residence authorisation unless that person is in possession of a visa or residence permit, issued by the requested Member State, which has a longer period of validity**.**

(c) the third-country national or stateless person enjoyed visa-free access to the territory of the Russian Federation.

(3) The readmission obligation in paragraph 1 of this Article is for the Member State that issued a visa or residence authorisation. If two or more Member States issued a visa or residence authorisation, the readmission obligation in paragraph 1 of this Article is

for the Member State that issued the document with a longer period of validity or, if one or several of them have already expired, the document that is still valid. If all of the documents have already expired, the readmission obligation in paragraph 1 of this Article is for the Member State that issued the document with the most recent expiry date.

(4) After the requested Member State has given a positive reply to the readmission application, the Russian Federation issues to the person to be readmitted a travel document recognized by the Member State concerned.

Section III. Readmission procedure

Article 6

Readmission application

(1) Subject to paragraph 2, any transfer of a person to be readmitted on the basis of one of the obligations contained in Articles 2 to 5 of this Agreement shall require the submission of a readmission application to the competent authority of the requested State.

(2) By derogation of Articles 2 to 5 of this Agreement, no readmission application shall be needed where the person to be readmitted is in possession of a valid national passport and, in case such person is a third-country national or stateless person, also holds a valid visa or residence authorisation of the State which has to admit this person.

(3) If a person has been apprehended in the border region of the requesting State after illegally crossing the border coming directly from the territory of the requested State, the requesting State may submit a readmission application within 2 working days following this persons apprehension (accelerated procedure).

Article 7

Content of readmission applications

(1) Any readmission application is to contain the following information:

a) the particulars of the person concerned (e.g. given names, surnames, date of birth, and – where possible – place of birth, and the last place of residence);

b) indication of the evidence regarding nationality, unlawful entry and residence, and the grounds for the readmission of third-country nationals and stateless persons as set forth in Articles 3 (1) and 5 (1) of this Agreement.

(2) To the extent possible, the readmission application should also contain the following information:

a) a statement indicating that the person to be transferred may need help or care, provided the person concerned has explicitly consented to the statement;

b) any other protection or security measure which may be necessary in the individual transfer case.

(3) A common form to be used for readmission applications is attached as Annex 1 to this Agreement.

Article 8

Reply to the readmission application

A reply to the readmission application shall be given in writing.

Article 9

Evidence regarding nationality

(1) Nationality pursuant to Article 2 (1) and Article 4 (1) of this Agreement can be established by means of at least one of the documents listed in Annex 2 to this Agreement, even if its period of validity has expired. If such documents are presented, the Member States and the Russian Federation shall mutually recognise the nationality without further verification being required.

(2) If none of the documents listed in Annex 2 to this Agreement can be presented, nationality pursuant to Article 2 (1) and Article 4 (1) of this Agreement can be established by means of at least one of the documents listed in Annex 3 to this Agreement, even if its period of validity has expired.

- If documents listed in Annex 3 A to this Agreement are presented, the Member States and the Russian Federation shall mutually deem the nationality to be established unless they can prove otherwise;

- If documents listed in Annex 3 B to this Agreement are presented, the Member States and the Russian Federation shall mutually deem it as a ground to start an appropriate verification.

(3) Nationality cannot be established by means of false documents.

(4) If none of the documents listed in Annexes 2 or 3 to this Agreement can be presented, the competent diplomatic representation or consular post of the Russian Federation or the Member State concerned shall, upon request, make arrangements with the competent authority of the requesting State to interview the person to be readmitted without undue delay in order to establish his or her nationality. The procedure for such interviews is to be established in the implementing Protocols provided for in Article 20 of this Agreement.

Article 10

Evidence regarding third-country nationals and stateless persons

(1) Proof of the grounds for the readmission of third-country nationals and stateless persons laid down in Article 3 (1) and Article 5 (1) of this Agreement can be

furnished through at least one of the documents listed in Annex 4 to this Agreement. Any such proof shall be mutually recognised by the Member States and the Russian Federation without any further verification being required.

(2) Indirect evidence of the grounds for the readmission of third-country nationals and stateless persons pursuant to Article 3 (1) and Article 5 (1) of this Agreement can be furnished through at least one of the documents listed in Annex 5 to this Agreement.

– If means of evidence listed in Annex 5 A to this Agreement are presented, the Member States and the Russian Federation shall deem the conditions to be established unless they can prove otherwise;

– If means of evidence listed in Annex 5 B to this Agreement are presented, the Member States and the Russian Federation shall deem it as a ground to start an appropriate verification.

(3) Proof of the grounds for readmission of third-country nationals and stateless persons cannot be furnished through false documents.

(4) The unlawfulness of entry, presence or residence shall be established by means of the travel documents of the person concerned in which the necessary visa or residence authorisation for the territory of the requesting State is missing. A duly motivated statement by the requesting State that the person concerned has been found not having the necessary travel documents, visa or residence authorisation shall likewise provide prima facie evidence of the unlawful entry, presence or residence.

Article 11

Time limits

(1) The application for readmission must be submitted to the competent authority of the requested State within a maximum of 180 calendar days from the date when the requesting State's competent authority has gained knowledge that a third-country national or a stateless person does not, or no longer, fulfil the conditions in force for entry, presence or residence.

(2) A readmission application must be replied to within a maximum of 25 calendar days from the date of confirmed receipt of the readmission application. Without prejudice to specific arrangements to be agreed upon in the framework of implementing protocols concluded in accordance with Article 20, where there are legal or factual obstacles to the application being replied to in time, the time limit shall, upon duly motivated request, be extended up to 60 calendar days.

(3) In the case of a readmission application submitted under the accelerated procedure in accordance with Article 6 (3) of this Agreement, a reply has to be given within 2 working days (defined in accordance with the legislation of the requested State) from the confirmed receipt of the readmission application.

(4) Upon expiry of the time limits referred to in paragraphs 2 and 3 of this Article, the readmission shall be deemed to have been agreed to.

(5) The person concerned shall be transferred within 90 calendar days. In the case of a transfer under the accelerated procedure in accordance with Article 6 (3) of this Agreement, the person concerned shall be transferred within 2 working days. Upon duly motivated request, this time limit may be extended by the time taken to deal with legal or practical obstacles. The time limits provided for in this paragraph begin to run with the date of receipt of a positive reply to the readmission application.

Article 12

Refusal of a readmission application

Reasons shall be given for refusal of a readmission application.

Article 13

Transfer modalities and modes of transportation

(1) Before transferring a person, the competent authorities of the Russian Federation and the Member State concerned shall make arrangements in writing and in advance regarding the transfer date, the border crossing point and possible escorts.

(2) All means of transportation, whether by air, land or sea, shall be allowed for the purpose of transfer. Return by air is not restricted to the use of the national carrier or the staff of the requesting State and may take place by using scheduled flights as well as charter flights.

Section IV. Transit operations

Article 14

General principles

(1) The Member States and the Russian Federation shall restrict the transit of third-country nationals or stateless persons to cases where such persons cannot be returned to the State of destination directly.

(2) The Russian Federation shall allow the transit of third-country nationals or stateless persons if a Member State so requests, and a Member State shall authorise the transit of third-country nationals or stateless persons if the Russian Federation so requests, if the onward journey through other States of transit and the admission by the State of destination is assured.

(3) Transit can be refused by the Russian Federation or a Member State

a) if the third-country national or the stateless person runs the risk of being subjected to torture or to inhuman or degrading treatment or punishment or the death penalty or of persecution because of his race, religion, nationality, membership of a particular social group or political conviction in the State of destination or another State of transit; or

b) if the third-country national or the stateless person shall be subject to criminal

prosecution or sanctions in the requested State or in another State of transit; or

c) on grounds of public health, domestic security, public order or other national interests of the requested State.

(4) The Russian Federation or a Member State may revoke any authorisation issued if circumstances referred to in paragraph 3 of this Article subsequently arise or come to light which stand in the way of the transit operation, or if the onward journey in possible States of transit or the readmission by the State of destination is no longer assured. In this case, the requesting State shall take back the third-country national or the stateless person, as necessary and without delay.

Article 15

Transit procedure

(1) An application for transit operations must be submitted to the competent authorities in writing and is to contain the following information:

a) type of transit (by air, land or sea), possible other States of transit and intended final destination;

b) the particulars of the person concerned (e.g. given name, surname, date of birth and – where possible – place of birth, nationality, type and number of travel document);

c) envisaged border crossing point, time of transfer and possible use of escorts;

d) a declaration that from the viewpoint of the requesting State the conditions pursuant to Article 14 (2) of this Agreement are met, and that no reasons for a refusal pursuant to Article 14 (3) of this Agreement are known of.

A common form to be used for transit applications is attached as Annex 6 to this Agreement.

(2) The requested State shall, in writing, inform the competent authorities of the requesting State of the consent to admission, confirming the border crossing point and the envisaged time of admission, or inform it of the admission refusal and of the reasons for such refusal.

(3) If the transit operation is effected by air, the person to be readmitted and possible escorts shall be exempted from having to obtain a specific airport transit visa.

(4) The competent authorities of the requested State shall, subject to mutual consultations, support the transit operations, in particular through the surveillance of the persons in question and the provision of suitable amenities for that purpose.

Section V. Costs

Article 16

Transport and transit costs

Without prejudice to the right of the competent authorities to recover the costs associated with the readmission from the person to be readmitted or third parties, all transport costs incurred in connection with readmission and transit as far as the border-crossing point of the requested State shall be borne by the requesting State.

Section VI. Data protection

Article 17

Data Protection

The communication of personal data shall only take place if such communication is necessary for the implementation of this Agreement by the competent authorities of the Russian Federation or a Member State as the case may be. When communicating, processing or treating personal data in a particular case, the competent authorities of the Russian Federation shall abide by the relevant legislation of the Russian Federation, and the competent authorities of a Member State shall abide by the provisions of Directive 95/46/EC and by the national legislation of that Member State adopted pursuant to this directive. Additionally the following principles shall apply:

a) personal data must be processed fairly and lawfully;

b) personal data must be collected for the specified, explicit and legitimate purpose of implementing this Agreement and not further processed in a way incompatible with that purpose.

c) personal data must be adequate, relevant and not excessive in relation to the purpose for which they are collected and/or further processed; in particular, personal data communicated may concern only the following:

- the particulars of the person to be readmitted (e.g. surname, given name, any previous names, other names used/by which known or aliases, date and place of birth, sex, current and any previous nationality),
- identity card or passport (type, number, period of validity, date of issue, issuing authority, place of issue),
- stop-overs and itineraries.
- other information needed to identify the person to be readmitted or to examine the readmission requirements pursuant to this Agreement.

d) personal data must be accurate and, where necessary, kept up to date.

e) personal data must be kept in a form which permits identification of data subjects for no longer than it is necessary for the purpose for which the data were collected or for which they are further processed.

f) Both the competent authority communicating personal data and the competent authority receiving personal data shall take every reasonable step to ensure as appropriate the rectification, erasure or blocking of personal data where its processing

does not comply with the provisions of lit. c) and d) of this Article, in particular because that data are not adequate, relevant, accurate, or they are excessive in relation to the purpose of processing. This includes the notification of any rectification, erasure or blocking of such data to the other Party.

g) Upon request, the competent authority receiving personal data shall inform the competent authority communicating personal data of the use of the communicated data and of the results obtained therefrom.

h) Personal data may only be communicated to the competent authorities entrusted with the implementation of this Agreement. Further communication to other bodies requires the prior consent of the competent authority communicating personal data.

i) The competent authority communicating personal data and the competent authority receiving personal data are under the obligation to make a written record of the communication and receipt of personal data.

Section VII. Implementation and application

Article 18

Relation to other International obligations

(1) This Agreement shall be without prejudice to the rights, obligations and responsibilities of the Community, the Member States and the Russian Federation arising from International Law, and in particular from

a) the Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the Status of Refugees;

b) the European Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms;

c) the Convention of 10 December 1984 against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;

d) International treaties on extradition and transit;

e) Multilateral international treaties containing rules on the readmission of foreign nationals, such as the Convention on International Civil Aviation of 7 December 1944.

(2) The provisions of this Agreement shall take precedence over the provisions of any bilateral treaties or arrangements on readmission which have been or may, under Article 20 of this Agreement, be concluded between individual Member States and the Russian Federation insofar as the provisions of the latter treaties or arrangements cover issues that are dealt with by the present Agreement.

(3) Nothing in this Agreement shall prevent the return of a person under other formal or informal arrangements.

Article 19

Joint readmission committee

(1) The Parties shall set up a joint readmission committee (hereinafter referred to as "the Committee") which will, in particular, have the task

a) to monitor the application of this Agreement;

b) to decide on arrangements necessary for the uniform execution of this Agreement;

c) to have a regular exchange of information on the implementing Protocols concluded by individual Member States and the Russian Federation pursuant to Article 20 of this Agreement;

d) to decide on amendments to the Annexes to this Agreement;

e) to propose amendments to this Agreement;

f) to examine and, if deemed necessary, propose amendments to this Agreement in case of new accessions to the European Union.

(2) The decisions of the Committee shall be binding on the Parties.

(3) The Committee shall be composed by representatives of the Community and the Russian Federation; the Community shall be represented by the European Commission, assisted by experts from Member States.

(4) The Committee shall meet where necessary at the request of one of the Parties.

(5) The Committee shall establish its rules of procedures.

Article 20

Implementing Protocols

(1) The Russian Federation and Member States shall conclude implementing Protocols which shall cover rules on

a) the competent authorities, the border crossing points, the exchange of information on contact points and the languages in communication;

b) the modalities for readmission under the accelerated procedure;

c) the conditions for escorted transfers, including the transit of third-country nationals and stateless persons under escort;

d) proofs and evidence additional to those listed in the Annexes 2 to 5 to this Agreement.

(e) the procedure for interviews provided for in Article 9 of this Agreement.

(f) where necessary, specific arrangements concerning time limits for the handling of readmission applications in accordance with Article 11 (2) of this Agreement.

(2) The implementing Protocols referred to in paragraph 1 of this Article shall enter into force only after the Committee has been notified.

(3) The Russian Federation shall agree to apply any provision of an implementing Protocol concluded with one Member State also in its relations with any other Member State, upon request of the latter and subject to the practical feasibility of its application to the Russian Federation. The Member States shall agree to apply any provision of an implementing Protocol concluded by one of them also in their relations with the Russian Federation, upon request of the latter and subject to the practical feasibility of its application to other Member States.

This shall not apply to provisions containing specific arrangements referred to in paragraph 1 lit. (f) of this Article.

Section VIII. Final provisions

Article 21

Territorial application

(1) Subject to paragraph 2 of this Article, this Agreement shall apply to the territory of the Russian Federation and to the territory in which the Treaty establishing the European Community is applicable.

(2) This Agreement shall not apply to the territory of the Kingdom of Denmark**.**

Article 22

Annexes

Annexes 1 to 6 shall form an integral part of this Agreement.

Article 23

Entry into force, duration and termination

(1) This Agreement shall be ratified or approved by the Parties in accordance with their internal procedures.

(2) Subject to paragraph 3 of this Article, this Agreement shall enter into force on the first day of the second month following the date on which the Parties notify each other that the procedures referred to in paragraph 1 of this Article have been completed. If this date is before the date of the entry into force of the agreement between the Russian Federation and the European Community on the facilitation of the issuance of visas to the citizens of the Russian Federation and the European Union, this Agreement shall only enter into force on the same date as the latter.

(3) The obligations set out in Articles 3 and 5 of this Agreement shall only become applicable 3 years after the date referred to in paragraph 2 of this Article. During that

3-year period, they shall only be applicable to stateless persons and nationals from third-countries with which the Russian Federation has concluded bilateral treaties or arrangements on readmission.

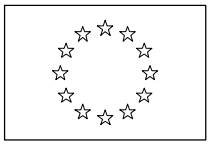
(4) This Agreement is concluded for an unlimited period.

(5) Each Contracting Party may denounce this Agreement by officially notifying the other Contracting Party. This Agreement shall cease to be in force six months after the date of receipt of such notification.

Done at ..... on the ..... day of ..... in the year ..... in duplicate each in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish, Swedish and Russian languages, each of these texts being equally authentic.

For the European Community
(...)
For the Russian Federation
(...)

Annex 1 to the Agreement between the European Community and the Russian Federation on readmission



[Emblem of the Russian Federation]

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(Place and date)

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(Designation of the competent authority of the requesting State)

Reference: .....……

☐ **ACCELERATED PROCEDURE**

To

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(Designation of the competent authority of the requested State)

1. READMISSION APPLICATION

pursuant to Article 7 of the Agreement of ..... between the

European Community and the Russian Federation on readmission

A. Personal details

Photograph

1. Full name (underline surname):

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2.Maiden name:

.....

3.Date and place of birth:

.....

4.Sex and physical description (height, colour of eyes, distinguishing marks etc.):

.....

5.Also known as (earlier names, other names used/by which known or aliases):

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6.Nationality and language:

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7.Civil status (where possible) married single divorced widowed

If married: name of spouse.....

Names and age of children (if any).....

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8.Last address in the requesting State:

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9.Last place of residence in the requested State

.....

B.Special circumstances relating to the transferee

1.State of health

(E.g. possible reference to special medical care; latin name of contagious disease):

.....

2.Indication of particularly dangerous person

(e.g. suspected of serious offence; aggressive behaviour):

.....

C.Means of evidence attached

1..... .....

(Passport No.) (date and place of issue)

....

(issuing authority) (expiry date)

2..... .....

(Identity card No.) (date and place of issue)

....

(issuing authority) (expiry date)

3..... .....

(Driving licence No.) (date and place of issue)

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(issuing authority) (expiry date)

4..... .....

(Other official document No.) (date and place of issue)

....

(issuing authority) (expiry date)

D. Observations

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(Signature of the competent authority of the requesting State) (Seal/stamp)

Annex 2 to the Agreement between

the European Community and the Russian Federation on readmission

List of documents

for proof of nationality

- passports of any kind of the Russian Federation or the Member States (e.g. domestic passports, citizens' foreign passports, national passports, diplomatic passports, service passports and surrogate passports including children's passports);
- certificate for return to the Russian Federation;
- national identity cards of EU Member States;
- citizenship certificates or other official documents that mention or indicate citizenship (e.g. birth certificate);
- service books and military identity cards;
- seaman's registration books, skippers' service cards and seamen's passports;

Annex 3 to the Agreement between

the European Community and the Russian Federation on readmission

List of documents

for indirect evidence of nationality

ANNEX 3 A

– official photocopies of any of the documents listed in annex 2 to this Agreement;

– official statements made for the purpose of the accelerated procedure, in particular, by border authority staff and witnesses who can testify to the person concerned crossing the border.

ANNEX 3 B

– driving licenses or photocopies thereof;

– any other official document issued by the authorities of the requested State;

– company identity cards or photocopies thereof;

– written statements by witnesses;

– written statements made by the person concerned and language spoken by him or her, including by means of an official test result.

Annex 4 to the Agreement between

the European Community and the Russian Federation on readmission

List of documents for proof of the grounds for the

readmission of third country nationals and stateless persons

valid visa and/or residence authorisation issued by the requested State;

– entry/departure stamps or similar endorsement in the travel document of the person concerned or other evidence of entry/departure (e.g. photographic, electronic or biometric).

Annex 5 to the Agreement between

the European Community and the Russian Federation on readmission

List of documents for indirect evidence of the conditions

for the readmission of third country nationals and stateless persons

ANNEX 5 A

– official statements made for the purpose of the accelerated procedure, in particular, by border authority staff and witnesses who can testify to the person concerned crossing the border;

ANNEX 5 B

– name tickets of air, train, coach or boat passages which show the presence and the itinerary of the person concerned from the territory of the requested state to the territory of the requesting State;

– passenger lists of air, train, coach or boat passages which show the presence and the itinerary of the person concerned from the territory of the requested state to the territory of the requesting State;

– tickets as well as certificates and bills of any kind (e.g. hotel bills, appointment cards for doctors/dentists, entry cards for public/private institutions, etc.) which clearly show that the person concerned stayed on the territory of the requested State;

– official statements made, in particular, by border authority staff and witnesses who can testify to the person concerned crossing the border;

– official statement by the person concerned in judicial or administrative proceedings;

– description of place and circumstances under which the person concerned has been intercepted after entering the territory of the requesting state;

– information showing that the person concerned has used the services of a courier or travel agency;

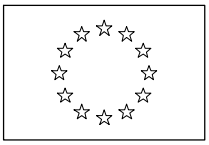
– information related to the identity and/or stay of a person which has been provided by an International Organisation;

– reports/confirmation of information by family members, travelling companions, etc;

– statement by the person concerned;

Annex 6 to the Agreement between

The European Community and the Russian Federation on readmission



[Emblem of the Russian Federation]

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(Place and date)

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(Designation of the competent authority of the requesting State)

Reference

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To

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(Designation of the competent authority of the requested State)

TRANSIT APPLICATION

pursuant to Article 15 of the Agreement of ..... between

the European Community and the Russian Federation on readmission

A. Personal details

Photograph

1. Full name (underline surname):

.....

2.Maiden name:

.....

3.Date and place of birth:

.....

4.Sex and physical description (height, color of eyes, distinguishing marks etc.):

……
…….

5.Also known as (earlier names, other names used/by which known, or aliases):

.....……
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6.Nationality and language:

.....……
……..

7.Type and number of travel document:

.....……

B.Special circumstances relating to the transferee

1.State of health

(E.g. possible reference to special medical care; latin name of contagious disease):

.....……
……

2.Indication of particularly dangerous person
(e.g. suspected of serious offence; aggressive behaviour):

.....……
……

C. Transit operation

1. Type of transit

- ❑ by air
- ❑ by sea
- ❑ by land

2. State of final destination

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3.Possible other States of transit

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4.Proposed border crossing point, date, time of transfer and possible escorts

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5.Admission assured in any other transit State and in the State of final destination (Article 14 (2) of the
Agreement between the Russian Federation and the European Community on readmission)

- ❑ yes
- ❑ no

6.Knowledge of any reason for a refusal of transit (Article 14 (3) of the Agreement between the Russian
Federation and the European Community on readmission)

- ❑ yes
- ❑ no

D.Observations

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(Signature of the competent authority of the requesting State) (Seal/stamp)

Joint Declaration concerning Articles 2 (1) and 4 (1)

"The Contracting Parties take note that, according to the nationality laws of the Russian Federation and the Member States, it is not possible for a citizen of the European Union or the Russian Federation to be deprived of his or her nationality.

The Parties agree to consult each other in due time, should this legal situation change. "

Joint Declaration concerning Articles 3 (1) and 5 (1)

"The Parties agree that a person is "*entering directly*" from the territory of the requested State within the meaning of these provisions if such person arrived by air, land or sea on the territory of the requesting State without having entered a third-country in-between. Airside transit stays in a third-country shall not be considered as entry."

Joint Declaration concerning the Kingdom of Denmark

"The Parties take note that this Agreement does not apply to the territory or to the nationals of the Kingdom of Denmark. In such circumstances it is appropriate that the Russian Federation and the Kingdom of Denmark conclude a readmission agreement in the same terms as this Agreement."

Joint Declaration concerning the Republic of Iceland and the Kingdom of Norway

"The Parties take note of the close relationship between the European Community and the Republic of Iceland and the Kingdom of Norway, particularly by virtue of the Agreement of 18 May 1999 concerning the association of these countries with the implementation, application and development of the Schengen acquis. In such circumstances it is appropriate that the Russian Federation concludes a readmission agreement with the Republic of Iceland and the Kingdom of Norway in the same terms as this Agreement."