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Committee on Civil Liberties, Justice and Home Affairs

PROVISIONAL
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31.5.2005

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DRAFT REPORT

on the proposal for a Council decision on concerning the conclusion of the Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorisation
(COM(2004)0092 – C6-0053/2005 – 2004/0033(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Ewa Klamt

Symbols for procedures

*	Consultation procedure *majority of the votes cast*
**I	Cooperation procedure (first reading) *majority of the votes cast*
**II	Cooperation procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***	Assent procedure *majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
***I	Codecision procedure (first reading) *majority of the votes cast*
***II	Codecision procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***III	Codecision procedure (third reading) *majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision on concerning the conclusion of the Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorisation
(COM(2004)0092 – C6-0053/2005 – 2004/0033(CNS))

(Consultation procedure)

The European Parliament,

– having regard to the proposal for a Council decision (COM(2004)0092)[1],

– having regard to the Council decision (05614/2005),

– having regard to Article 63(3)(b) and 300(2), first subparagraph, second sentence of the EC Treaty,

– having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0053/2005),

– having regard to Rules 51 and 83(7) of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A6-0000/2005),

1. Approves conclusion of the agreement;

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

[1] OJ C ... / Not yet published in OJ.

EXPLANATORY STATEMENT

Political and legal context of the readmission agreement with Albania

The readmission agreement between the European Community and the Republic of Albania is the forth readmission agreement negotiated and concluded by the European Community with a non-Member State.

Agreements of this type form part of the wider strategy of combating illegal immigration, agreed upon by the Summits held in Tampere (15-16 October 1999), Laeken (14-15 December 2001), Seville (21-22 June 2002) and Thessaloniki (19-20 June 2003) and set out in the Council's action plan of 28 February 2002.

Based on the Community's new powers under Article 63(3)(b) TEC, the Council has so far authorised the Commission to negotiate Community readmission agreements with 11 third countries/entities: Morocco, Sri Lanka , Russia, Pakistan (September 2000), Hong Kong, Macao (May 2001), Ukraine (June 2002) and Albania, Algeria, China, Turkey (November 2002).

To date, negotiations have been completed with four countries: Hong Kong (November 2001), Macao (October 2002), Sri Lanka (May 2002) and Albania (November 2003). Agreements with Hong Kong and Macao entered already into force respectively on 1 March 2004 and 1 June 2004. Agreements with Sri Lanka and Albania would enter into force in 2005.

The European Commission in the Hague Programme: Ten priorities for the next five years (COM(184)2005) indicates the creation of a Commission Special Representative for a common readmission policy in *2005*. In the same programme the Commission foresees "specific recommendations for negotiating directives on visa facilitation with third countries in the context of the EC readmission policy, where possible and on the basis of reciprocity, in view of developing a real partnership on migration management issues". It appears in the programme that the Commission intend to launch new mandate for further readmission agreements.

The agreement with Albania

According to the International Organisations for migrants (IOM), Albania will face considerable difficulties in implementing the EC/ Albania Readmission Agreement when it comes into force in 2005. In particular it faces a shortage of human and material resources, which are necessary to process requests from EC member states. Furthermore, the newly created entity responsible for the implementation of Readmission Agreements lacks experience in implementing existing bilateral agreements and in implementing forced return in general.

Regarding the coming into force of the third country clause in 2007, the Albanian authorities have already expressed their concern that removal is simply not possible due to the high costs this incurs. Mechanisms for the handling of irregular migrants remain weak, and an assessment is ongoing concerning the creation of reception facilities for third country nationals prior to removal.

The provisions of the Agreement are little known both within the entities responsible for the implementation of the Agreement, but also by the public at large and by civil society.

Preparatory actions are ongoing under the B7-667 (HLWG) intervention for 2003, to assist the Government of Albania to prepare for the Agreement to come into force. The project includes a component of research, capacity building and a pilot intervention; to institutionalise assistance to return migrants through local employment offices and local NGOs.

Community funds utilised for the implementation of the EC/ Albania Readmission Agreement need to be consistent and long term in particular in the *implementation* of the Agreement.

Consideration should be made by the EC of the possibility for Albania to access existing and future return funds to implement the return of third country nationals from Albania.[1]. Current funding tools such as Aeneas have so far provided only limited possibility for return assistance, where as CARDS funds are not to be used for that purpose. Furthermore, without corresponding agreements, either between countries of the region, or with countries of origin, there is a risk of creating a readmission trap in which third country nationals find themselves stranded in the region. This inevitably will create pressure for irregular migrants to make their way back to the EU.

Community funds should be *staggered* to avoid large amounts of funds in Albania the absorption capacity and rate is low, and the injection of extra funds could be counterproductive. (case in point being Aeneas and CARDS funds).

The European Commission should provide support to Albania in the negotiation of future readmission agreements with countries of origin and transit. Particular assistance should be taken into consideration with countries with which the EC is already in the process of negotiating multilateral agreements.

Community support should be set aside to reintegrate Albanian citizens returning to Albania through the implementation of reintegration Assistance with the European Union in order to achieve sustainable return. A strong link needs to be made between readmission issues and the development of Albania.

Consideration could also be made of rewarding Albania for the signing and future implementation of the Agreement, potentially with visa facilitation at the bilateral level, or in other spheres of the EU's relations with Albania.

[1] Reference is made to the "Proposal for a Decision of the European Parliament and Council establishing the European Return Fund for the period 2008-2013 as part of the General Programme "Solidarity and Management of Return Flows" 2005/0049 (COD)