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WORKING PAPER

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From:	Presidency
To:	JHA Counsellors (Visa, Frontiers, Schengen)
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code) - Presidency compromise proposal on Article 25a

Delegations will find attached the Presidency compromise proposal on Article 25a in view of the JHA Counsellors (Visa) meeting on 14 January 2019.

The new text compared to the Council mandate is marked in **bold/underlined**.

*“Article 25a
Cooperation on readmission*

1. Article 14 (6), Article 16(1) and (5), point (b), Article 23(1), and Article 24(2) **and (2c)** shall not apply to applicants or categories of applicants, who are nationals of a third country that is considered not to be cooperating sufficiently with Member States on the readmission of irregular migrants, on the basis of relevant and objective data, in accordance with this Article. ~~This Article is without prejudice to the powers conferred on the Commission by Article 24(2d).~~
2. The Commission shall regularly assess, **at least once a year**, third countries' cooperation with regard to readmission, taking account, in particular, of the following indicators:
 - (a) the number of return decisions issued to persons illegally staying on the territory of the Member States from the third country in question;
 - (b) the number of actual **forced** returns of persons issued with return decisions as a percentage of the number of return decisions issued to citizens of the third country in question including, where appropriate, on the basis of Union or bilateral readmission agreements, the number of third country nationals who have transited through its territory;
 - (c) the number of readmission requests **per Member State** accepted by the third country as a percentage of the number of such applications submitted to it.
 - (d) **the level of practical cooperation in the area of return cooperation in the different stages of the return procedure, such as:**
 - i. **assistance provided in the identification of persons illegally staying on the territory of the Member States and in the timely issuance of travel documents**
 - ii. **acceptance of the EU travel document or laissez-passer;**
 - iii. **acceptance of charter flights;**
 - iv. **acceptance of joint return operations.**

Such an assessment shall be based on the use of reliable data provided by Member States, as well as by Union's institutions, organs, bodies and Agencies. The Commission shall regularly, at least once a year, report its assessment to the Council.
3. A Member State may also notify the Commission if it is confronted with substantial and persisting practical problems in the cooperation with a third country in the readmission of irregular migrants on the basis of the same indicators as those listed in paragraph 2. ***The Commission shall immediately inform the Council about the notification.***
4. The Commission shall examine any notification made pursuant to paragraph 3 within a period of one month. ***The Commission shall inform the Council of the results of its examination.***

5. Where, on the basis of the analysis referred to in paragraphs 2 and 4, ***and taking into account the steps taken by the Commission to improve the level of cooperation of the third country concerned in the field of readmission, the Union's overall relations with that third country, as well as its overall cooperation in the field of migration,*** the Commission decides that a country is not cooperating sufficiently and that action is therefore needed, ***or where, within 12 months, a simple majority of Member States have notified the Commission in accordance with paragraph 3, the Commission may, while continuing its efforts to improve the cooperation with the third country concerned, shall submit a proposal to the Council to adopt an implementing decision ;*** ~~taking also account of the Union's overall relations with the third country concerned, adopt an implementing act, in accordance with the examination procedure referred to in Article 52(2):~~
- (a) temporarily suspending the application of either Article 14(6), Article 16(5) point (b), Article 23(1), or Article 24(2) ***and (2c)***, or of some or all of those provisions, to all nationals on the third country concerned or to certain categories thereof, ***and/or-***
 - (b) applying, ***on a gradual basis, one of*** the visa fees set out in Article 16(2a) to all nationals of the third country concerned or to certain categories thereof.
6. The Commission shall continuously assess ***and report*** on the basis of the indicators set out in paragraph 2 whether ~~significant~~ ***substantial and sustained*** improvement in the given third country's cooperation on readmission of irregular migrants can be established and, taking also account of the Union's overall relations with the third country concerned, may decide to ***submit a proposal to the Council to*** repeal or amend the implementing ***decision*** ~~act~~ referred to in paragraph 5.
7. At the latest six months after the entry into force of the implementing ***decision*** ~~act~~ referred to in paragraph 5, the Commission shall report to the European Parliament and to the Council on progress achieved in that third country's cooperation on readmission.”;
8. **Where, on the basis of the analysis referred to in paragraph 2 and taking account of the Union's overall relations with the third country concerned, especially in cooperation in the field of readmission, the Commission decides that third country concerned is cooperating sufficiently, it may submit a proposal to the Council to adopt an implementing decision concerning applicants or categories of applicants who are nationals of that third country who apply for a visa on the territory of that third country , providing for one or more of the following:**
- (a) reduction of the visa fee referred to in Article 16(1) to EUR 60;**
 - (b) reduction of the time within which decisions on an application referred to in Article 23(1) are to be made to 10 days;**
 - (c) increase in the period of validity of multiple entry visas under Article 24(2).**