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NOTE

From:	Presidency
To:	Delegations
Subject:	Presidency paper on enhancing returns through more effective readmission cooperation from third countries

Delegations will find attached a Presidency paper on enhancing returns through more effective readmission cooperation from third countries.

Introduction

Achieving an effective return policy continues to be high on our political agenda. Over the last five years, a number of positive developments have occurred in terms of return policy, notably the establishment of the visa leverage mechanism through the new Article 25a of the Visa Code; the expansion of the mandate of the European Border and Coast Guard in the field of return to cover the whole return process; the adoption of the EU strategy on voluntary return and reintegration; the appointment of the EU Return Coordinator; and the introduction of return alerts in the Schengen Information System (SIS).

Nevertheless, the number of effective returns remains unsatisfactory. After a significant drop during the COVID-19 pandemic, *the number of effective returns is admittedly picking up*. In 2024, according to Eurostat, 107 280 irregular migrants were returned to third countries, which represents a notable increase compared to 91 465 in 2023. This resulted in a rise in the return rate¹ from 19 % to 24 %. *However*, this still means that the great majority of those ordered to return do not leave the Union, and *further efforts are needed to improve the situation*.

New common system for returns

By submitting the proposal for a return regulation on 11 March 2025, the Commission responded to the Member States' call. It is now up to the co-legislators to ensure that this file is dealt with as a priority, as requested by the March European Council.

The Polish Presidency considers this to be a priority file. Discussions at the working party level will continue, including after the June Justice and Home Affairs Council meeting. However, the proposal for a return regulation is a very complex file, the examination of which will require sufficient time. It is also important to realise that an effective return system operating at the EU level will help strengthen public trust in the actions we take on migration policy. Therefore, we should make every effort to ensure that this system is operational as quickly as possible and is very effective.

It is the ambition of the current and incoming presidency to do everything possible to ensure the Council is ready to start interinstitutional negotiations on this file by the end of this year.

¹ Calculated on the basis of Eurostat data.

External dimension of returns

In addition to the focus on the proposal for a return regulation, *work has to continue on the external dimension as well*, as in most cases returns are not possible without the cooperation of third countries. *Effective cooperation with third countries will be particularly important for the successful implementation of the return border procedure*, as returning third country nationals within 12 weeks will be highly dependent on good readmission cooperation by third countries.

A number of third countries expected to fall within the scope of the return border procedure (due to low asylum recognition rates) are countries whose current level of cooperation is not satisfactory. Even if the cooperation with some of these third countries results in the issuance of travel documents and effective returns, the process can be too lengthy. In practice this would mean that returnees would have to be channelled from the return border procedure into a regular return procedure, which would undermine the whole purpose of the border procedure.

Furthermore, an additional challenge has emerged, namely the instrumentalisation of migration by hostile state actors. The fact that these actors are attempting to set up agreements or open direct flights with certain third countries is particularly concerning, as this facilitates the recruitment of individuals to serve as instruments of political influence and hybrid attacks. These attacks are designed to undermine our solidarity and unity. Such actions necessitate a concerted and decisive response and should also be taken into account in our efforts to improve readmission cooperation with migrants' countries of origin.

Over the past years substantial efforts have been invested into *establishing different leverages* to improve third country cooperation on readmission, but few of them have borne fruit. The interinstitutional negotiations on the EU Generalised Scheme of Preferences (GSP) Regulation, through which trade leverage should be established, have yet to restart.

Visa leverage

The only effective means of leverage currently available is visa leverage. For countries that are visa-free, the visa suspension mechanism, currently being revised, provides for the possibility to suspend the visa exemption if there is a decrease in readmission cooperation from a third country. So far, the visa suspension mechanism has never been triggered on the grounds of decreased readmission cooperation and in the two cases where it has been triggered under Regulation 2018/1806, this was done on different grounds.

For visa-bound third countries, the main visa leverage tool is that set out in Article 25a of the Visa Code. The restrictive visa measures available under this mechanism are mild, concerning only the visa issuing process and, as a second step, a higher visa fee. They do not provide for a possibility to limit or stop issuing visas for certain nationalities or categories of applicants. However, the power of the mechanism lies in the political message conveyed by the proposals to take restrictive visa measures, and the EU's subsequent engagement with the third countries concerned. It thus provides an incentive to reinvigorate readmission cooperation.

Since the entry into application – five years ago – of Article 25a of the revised Visa Code, it ***has proven effective in improving readmission cooperation with some important third countries of origin.***

It has allowed the EU and third countries to establish and intensify dialogues on readmission, achieve a better understanding of the importance of effective returns for the EU and of the challenges faced by third countries in readmitting returnees, and in most cases, it has led to improved cooperation. In none of the cases where proposals for restrictive visa measures were tabled or adopted has it led to decreased cooperation.

The visa leverage exercise has evolved over the past five years, with some substantial improvements. The exercise has been streamlined – the time period from data collection to the issuance of the annual Commission Article 25a report and tabling of proposals for restrictive visa measures has been significantly shortened, to reduce the gap between the assessment of a third country's cooperation on readmission and the data available. The process for handling the proposals for restrictive visa measures in the Council has also been improved. Also, some useful lessons have been learned on how to maximise the impact of the EU's message on the basis of the proposals already on the table.

However, there is room for further improvement. We should continue work to increase the credibility of the mechanism and its strategic use and to ensure that this is a true EU mechanism, delivering improved cooperation to all Member States and not just to some of them. Recent discussions in the Visa Working Party on Article 25a of the Visa Code demonstrated that many Member States considered that the focus should be on the implementation of the current provisions and a better strategic use of the visa leverage mechanism.

Using visa leverage more extensively and consistently

One important aspect of possible future improvements to the visa leverage exercise concerns ***the extent of its use.*** Given the proven effectiveness of visa leverage to improve readmission cooperation by third countries, ***the Presidency considers that we should be prepared to use this mechanism more extensively,*** by targeting more third countries with proposals for restrictive visa measures, notably those which over the years have been assessed in the annual Article 25a reports as not cooperating sufficiently on readmission.

Each year the Commission issues its annual report on the level of third countries' cooperation on readmission (***Article 25a report***), which analyses the readmission cooperation of some 30 visa-bound third countries. This assessment ***demonstrates that a number of third countries have been found not to be sufficiently cooperating over the years and there seem to be a number of potential candidates for new proposals concerning restrictive visa measures.*** The legislation provides for the consideration of overall relations with the third countries concerned. Whilst this should obviously be taken into account, it should not prevent the use of the mechanism when other attempts to improve readmission cooperation fail.

There are different ways in which the use of the mechanism could be increased. Apart from the most used practice so far, where the Commission issues a proposal for restrictive visa measures on its own initiative, based on Member States' contributions to the annual assessment report, it is also possible for a Member State to notify the Commission of insufficient cooperation by a specific third country, after which the Commission might issue a proposal for restrictive visa measures. This possibility has so far been used once and led to a Commission proposal for restrictive visa measures. It is also possible for a ***simple majority of Member States to ask the Commission to put forward a proposal for restrictive visa measures, upon which the Commission is obliged to present such a proposal.*** The activation of this provision would send a strong signal to third countries.

Against this background, the Presidency invites delegations to discuss the following two questions:

1. *Given that the European Council has recently described the proposal for a return regulation as a priority file and has highlighted the urgency of having a modern return system, do you agree that the Council should strive to achieve a general approach on this file by the end of 2025?*
2. *Do you agree that more third countries, notably those which over the years have been assessed in the annual Article 25a reports as not cooperating sufficiently on readmission, should be the subject of proposals for restrictive visa measures in order to improve readmission cooperation?*
