



PRAGUE PROCESS
ПРАЖСКИЙ ПРОЦЕСС

Prague Process Handbook and Guidelines on Concluding Readmission Agreements and Organising Returns

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The Prague Process is a targeted migration dialogue promoting migration partnerships and information exchange among the countries of the European Union, Schengen Area, Eastern Partnership, Western Balkans, Central Asia, Russia and Turkey.

This document was produced in the framework of the Pilot Project on Illegal Migration (PP1), implemented from August 2012 until July 2014 within the Prague Process Targeted Initiative – a project funded by the European Union. Twenty Prague Process countries participated in the project and contributed to the development of this Handbook. Opinions expressed in this document are those of participants of PP1 and do not necessarily reflect the views of the European Union and its Member States, nor are they bound by its conclusions.

The electronic version of this document is available at www.pragueprocess.eu.

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Foreword

The “Prague Process Handbook and Guidelines on Concluding Readmission Agreements and Organising Returns” has been developed with the aim of acquainting policy-makers and practitioners dealing with readmission and return with basic knowledge on how to conclude and effectively execute Readmission Agreements and organise safe and orderly forced returns. It can be perceived as a vade mecum or instruction on readmission and return, accompanied by chosen examples of good practices and a set of non-binding guidelines to help streamlining the readmission and return practice.

This publication is the result of the fruitful cooperation among the twenty Prague Process States, which took part in the Pilot Project on Illegal Migration (PP1), implemented from August 2012 until July 2014 within the Prague Process Targeted Initiative. Representatives of relevant state authorities of Armenia, Austria, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Georgia, Hungary, Kosovo*, Liechtenstein, the former Yugoslav Republic of Macedonia, Moldova, Norway, Poland, Romania, Russia, Serbia, Slovakia, Turkey and Ukraine took part in the project and contributed to this Handbook.

This Handbook combines international practice with the national experience of the PP1 participating States, which have been facing different migration challenges. In view of the varying experience in readmission and organising returns across the participating States, the project provided a suitable platform to exchange know-how, discuss the different national approaches and current practices, thus strengthening the common understanding of the main concepts shaping readmission and return policies. Most importantly, the States participating in the project could directly apply the gained knowledge in practice while negotiating and concluding new Readmission Agreements.

The knowledge gained during the project and condensed in this Handbook should also be used after the project has ended. The publication explores some theoretical aspects of readmission (e.g. types of Readmission Agreements and elements thereof) and examines how readmission and related procedures are applied in practice. For that reason it can be useful in trainings provided to readmission and migration management experts.

List of Acronyms

AVR	Assisted Voluntary Return
AVRR	Assisted Voluntary Return and Reintegration
BMP	“Building Migration Partnerships” project
EC	European Commission
EU	European Union
EURA	European Union Readmission Agreement(s)
EU MS	European Union Member State(s)
GAMM	Global Approach to Migration and Mobility
ICMPD	International Centre for Migration Policy Development
IOM	International Organisation for Migration
JRC	Joint Readmission Committee
MFA	Ministry for Foreign Affairs
MOI	Ministry of Interior
NGO	Non-governmental organisation
PP	Prague Process
PP1	Pilot Project on Illegal Migration of the Prague Process Targeted Initiative
PP AP	Prague Process Action Plan 2012–2016
PP TI	Prague Process Targeted Initiative
RA	Readmission Agreement

* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Main Definitions

Illegal Entry

Crossing borders without complying with the necessary requirements for legal entry into the receiving State¹.

Illegal Migration

Movement that takes place outside of the regulatory norms of the sending, transit and receiving countries.

Illegal Stay

The presence on the territory of a State of an alien who does not fulfil, or no longer fulfils the conditions for entry, stay or residence in that State.

Irregular Migrant

Someone who, owing to illegal entry or the expiry of his or her legal basis for entering and residing, lacks legal status in a transit or host country.

Readmission Agreement

An agreement between the States, on the basis of reciprocity, establishing rapid and effective procedures for the identification and safe and orderly return of persons who do not, or no longer, fulfil the conditions for entry to, presence in, or residence on the territories of the States being Parties to the agreement and to facilitate the transit of such persons in a spirit of cooperation.

Removal

The enforcement of the obligation to return, namely the physical transportation out of the country.

Return

The movement of a person returning to his/her country of origin, country of nationality or habitual residence, usually after spending a significant period of time

(i.e. typically considered to be more than three months) in another country. This return may or may not be voluntary.

Assisted Voluntary Return

The provision of (logistic, financial and/or other material) assistance for the voluntary return of a returnee.

Forced Return

The compulsory return of an individual to the country of origin, transit or third country, on the basis of an administrative or judicial act.

Voluntary Return

The assisted (in which case it would be **Assisted Voluntary Return**) or independent return to the country of origin, transit or third country, based on the free will of the returnee.

Return Decision

An administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return.

Return Programme

Programme to support (e.g. financial, organisational, counselling) the return, possibly including reintegration measures of a returnee by the State or by a third party, for example an international organisation.

Returnee

A migrant who moves to a country of return, whether voluntarily or involuntarily.

Smuggling of Migrants

The procurement of the illegal entry of a person into a State of which the person is not a national or a permanent resident in order to obtain, directly or indirectly, a financial or other material benefit.

Voluntary Departure

Compliance with the obligation to return within the time limit set for this purpose in the return decision.

¹ All definitions listed in this section were agreed among the PP1 participating states. Definitions of the respective terms were initially obtained from the "Glossary" which was developed and published by the European Migration Network in 2012 (please go to: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/docs/emn-glossary-en-version.pdf; last accessed in July 2014) and then adjusted in order to ensure their applicability for non-EU states.

Table of contents

Foreword	4
List of Acronyms	5
Main Definitions	6
Table of contents	8
Introduction	9
1. Migratory Situation and Policies on Readmission and Return in the PP1 Participating States	15
1.1. General illegal migration situation	15
1.1.1. Detections of irregular migrants	15
1.1.2. Main illegal migration routes	16
1.1.3. Smuggling of migrants	17
1.2. Policies on readmission and return	18
1.2.1. Readmission and return in international law	18
1.2.2. EU policy and its framework	18
1.2.3. Policies and objectives of EU MS	21
1.2.4. Policies and objectives of non-EU States	22
1.2.5. Cooperation with non-state agents	22
2. Readmission Agreements and Implementing Protocols	25
2.1. Types of readmission agreements	25
2.2. Main elements of readmission agreements and implementing protocols	26
2.3. Readmission clauses in other types of agreements	29
3. Readmission and Return: Good Practices and Model Solutions	31
3.1. Negotiations of readmission agreements and their implementing protocols	31
3.2. Intrastate cooperation	32
3.3. Interstate cooperation	32
3.4. Cooperation between state and non-state agents	34
3.5. Organisation of returns	35
3.6. Monitoring of readmission policies and returns	36
3.7. Combating The smuggling of migrants	37
4. Prague Process Guidelines on Readmission and Returns	39
Annex	41
Bibliography	56
Reference Documents	57

Introduction

Pilot Project on Illegal Migration of the Prague Process Targeted Initiative

Prague Process

The Prague Process is a political initiative that has emerged out of the “Building Migration Partnerships” (BMP) Ministerial Conference, which took place in Prague on 28 April 2009. At this conference, the participating States² adopted the Joint Declaration on principles and initiatives for promoting close migration partnerships. Moreover, the participating States agreed to do so through a comprehensive, balanced and pragmatic approach that respects the human rights of migrants and their family members, as well as of refugees. The text of the BMP Joint Declaration³ was prepared by participating States with the active participation of several EU bodies and international organisations. Specifically, the Joint Declaration established the following five areas as a basis for cooperation and the last, sixth area was added after the endorsement of the Prague Process Action Plan 2012–2016⁴ in Poznan in November 2011:

- preventing and fighting illegal migration;
- integration of legally residing migrants;
- readmission, voluntary return and sustainable reintegration;
- migration, mobility and development;
- legal migration with a special emphasis on labour migration;
- asylum and international protection.

The main aim of the Prague Process has been to promote migration partnerships between the States of the European Union/Schengen area, Western Balkans, Eastern Partnership, Central Asia, Russia and Turkey. Its methodology is based on three pillars: it combines policy dialogue at ministerial level with policy development at expert level and the implementation of concrete initiatives in the framework of its Declaration and Action Plan. This approach shall ensure that the political dialogue does not decouple from the practical experience gained while “working on the ground”. It shall also guarantee that the findings of concrete projects do not get

2 Participants (50 in total): Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Kazakhstan, Kosovo (UNSCR 1244/1999), Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, the former Yugoslav Republic of Macedonia, Malta, Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, United Kingdom, Uzbekistan, and the EC. Leading state: Poland; Secretariat: ICMPD.

3 The text of the BMP Joint Declaration is available on the Prague Process website. Please go to: http://www.pragueprocess.eu/fileadmin/PPP/BMP_Joint_Declaration_EN.pdf; last accessed in May 2014.

4 The text of the Prague Process Action Plan 2012–2016 is available on the Prague Process website. Please go to: http://www.pragueprocess.eu/fileadmin/PPP/PP_AP_POZNAN_EN.pdf; last accessed in May 2014.

lost but are translated into general guidelines and concepts that are available for all Prague Process participating States.

The Prague Process is – with the exception of the important role of the European Union – a state-driven initiative. It is steered by ministries responsible for migration and led by Poland, while the Core Group advises the Senior Officials' Meetings, which constitute the decisive body of the Prague Process. The declared intention of the Prague Process is to keep the dialogue open for cooperation on the six above-listed topics among responsible state agencies. Since the dialogue emphasizes an operational approach, practical know-how and the development of joint standards are of special relevance in this respect.

Prague Process Targeted Initiative

The Prague Process Action Plan 2012–2016 adopted during the “Building Migration Partnerships in Action” Ministerial Conference in Poznan on 4 November 2011 outlines 22 concrete activities in 6 thematic areas to be implemented during that period. The preparatory meetings for the Action Plan resulted in extending the thematic scope of the Process's agenda to the area of asylum and international protection, which has evolved into an additional area of cooperation. From August 2012 Poland and six other leading States have been implementing the EU-funded initiative “Support for the Implementation of the Prague Process and its Action Plan”, also known as the Prague Process Targeted Initiative (PP TI). This initiative is led by Poland together with the Czech Republic, Germany, Hungary, Romania, Slovakia and Sweden, which also take the lead in the Pilot Projects of PP TI. PP TI will end in January 2016.

The Prague Process Targeted Initiative aims at enhancing cooperation in the area of migration and asylum between the participating States through the implementation of the Process and its Action Plan. The website www.pragueprocess.eu serves as the main source of information on the Prague Process and its Targeted Initiative.

PP TI is focused on three main specific objectives. It was developed to ensure continued expert-level dialogue and targeted information exchange among States participating in the Process (through, among others, organisation of yearly Senior Officials' and National Contact Points' meetings). Maintaining, updating and improving of the BMP knowledge base through the gathering of information in the form of Migration Profiles for countries in Eastern Europe, Southern Caucasus, Central Asia and Russia constitute the second main objective of PP TI. Additionally, concrete projects have been implemented within the framework of PP TI, including four Pilot Projects on Illegal Migration, Legal Migration, Migration and Development as well as Asylum and International Protection.

Pilot Project on Illegal Migration

The main objective of the Pilot Project on Illegal Migration (PP1) implemented from August 2012 till July 2014 was to strengthen the capacities of countries participating in the Prague Process in the field of combating illegal migration through the transfer of knowledge on the process of concluding Readmission Agreements, as well as through sharing of experience in organising returns of migrants. The pro-

ject offered unique opportunity to the participating countries to exchange information and share experience in the framework of a series of meetings.

The project was led by Poland with the support of Slovakia and Romania. In total twenty States participated in the Pilot Project: Armenia, Austria, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Georgia, Hungary, Kosovo (UNSCR 1244/1999), Liechtenstein, the former Yugoslav Republic of Macedonia, Moldova, Norway, Poland, Romania, Russia, Serbia, Slovakia, Turkey and Ukraine. IOM, Frontex and experts from academia supported their efforts.

Following the Pilot Project's kick-off meeting held in Lvov on 8–9 November 2012, three expert-level workshops, a study visit and an expert mission were organised in 2013 and 2014. The main objective of the first expert-level meeting organised in Warsaw on 11–12 March 2013 was to share experience and good practices related to the legal aspects of Readmission Agreements, negotiations of such agreements and Implementing Protocols as well as cooperation on readmission and return between state and non-state agents. The second expert-level workshop was organized in Bratislava on 24–25 September 2013 and its main focus was combating human smuggling and assessing the impact of this phenomenon on readmission and returns. The last thematic workshop was held in Bucharest on 4–5 March 2014 and was focused solely on cooperation on readmission and return and, more specifically, on factors shaping state-to-state cooperation – including through diplomatic missions – as well as the organisation of safe, humane and sustainable returns. The debates were informed by background notes on the current state of play concerning readmission and return policies as well as human smuggling, provided by the States participating in the Pilot Project.

In addition to the workshops, in June 2013 a group of representatives of 10 States participating in the project took part in a study visit to Poland, focusing on the exchange of practices and experiences in the field of readmission and returns, including expulsion by land and air. The practical cooperation between various actors (state and non-state ones) in return policy, including voluntary and forced returns of migrants of different profiles, was also discussed during the visit.

Finally, on 16–18 June 2014 experts from the project leading States – Poland, Slovakia and Romania – participated in an expert mission to Georgia to investigate the migratory situation and migration management system of the country. Special emphasis during the mission was put on readmission and returns, including the execution of the EU–Georgia Readmission Agreement and organisation of returns of Georgian citizens. Findings of the mission were subsequently used in the present Handbook and Guidelines.

Scope of the document and sources of information

The presented Handbook and Guidelines to a great extent build on the experience of the States which participated in PP1, and are focused on illegal migration and – in a smaller part – on human smuggling. Issues related to legal migration, migration and development, and asylum and international protection are out of the scope of this document.

National information and data used in this Handbook and Guidelines were provided mostly directly by the States which participated in PP1, in the form of notes

shared either prior to the meetings or during the workshops and other activities. However, the text refers also to other sources, which are duly indicated and described in footnotes.

Drafting process

The implementation of PP1 enabled its participants to gather sufficient knowledge to develop a handbook and a collection of guidelines on concluding Readmission Agreements and organising migrants' returns. Information, facts and data gathered in the course of the project implementation were first processed, analysed and structured by the Project Officer and national experts from the project leading States and then presented as a draft text of the Prague Process Handbook and Guidelines to the participating States. Every State participating in PP1 was provided with the opportunity to propose changes to the text via online consultations on the draft. Eventually, the final text of this Handbook and Guidelines was endorsed by the project participants during the concluding workshop organised in Warsaw on 8–9 July 2014.

Target readers

The presented Handbook and Guidelines was developed for policy-makers and practitioners dealing with readmission and return. It can be perceived as a *vade mecum* or instruction on readmission and return, accompanied by chosen examples of good practices identified in the PP1 participating States and a set of non-binding guidelines to help streamlining readmission and return practice according to the routine discussed among the project participating States.

Structure of the document

This Handbook and Guidelines consist of four main sections, starting with a set of important definitions, which were agreed between the States participating in the project.

The first section is dedicated to the migratory situation and policies on readmission and returns in the PP1 participating States and provides an analysis of current trends related to illegal migration and human smuggling. Relevant international documents, EU documents and the policy of the European Union regarding readmission and returns, as well as policies and objectives of both EU and non-EU States in this sphere, are also described in this part of the document. Additionally, cooperation in the afore-mentioned area with non-state agents such as international and non-governmental organisations (NGOs) is also shortly characterised at the end of the first section.

Theoretical and conceptual aspects of Readmission Agreements, as seen from the legal perspective, are presented in the second section. The third section of the document contains practical information on legal and administrative procedures related to readmission and returns as well as human smuggling applied in the States, which participated in PP1. Each thematic subsection of this chapter contains recommendations on how to improve readmission and returns' regulatory,

institutional and practical frameworks in order to guarantee effective and smooth implementation of Readmission Agreements while ensuring that the human rights of migrants are safeguarded.

The recommendations are collected in the fourth section of this Handbook and Guidelines in order to allow the users to easily navigate between the various topics and quickly find the guidelines in which they are most interested.

The text of the document is supplemented with a list of contact points and relevant authorities from the States, which participated in PP1 and a compilation of bibliography and useful reference documents.

The structure of this Handbook and Guidelines was discussed and agreed among the States, which participated in PP1.

1. Migratory Situation and Policies on Readmission and Return in the PP1 Participating States

1.1. General illegal migration situation

1.1.1. Detections of irregular migrants

According to the information published in the Communication from the Commission to the Council and the European Parliament on Return Policy of 28 March 2014⁵, the general **number of apprehensions of irregular migrants in the European Union** has fallen every year since 2008. A cumulative decline of almost 30% was noted between 2008 and 2012: the figure has gone down from about 610 000 apprehensions to around 440 000. According to the Communication, factors such as the improved controls at the external borders, the economic crisis in Europe and an improved economic situation in some source countries have contributed to the discussed change.

On the other hand, Frontex in its annual risk analysis⁶ informed that **the number of people detected trying to enter the EU illegally** in 2013 rose by nearly half since 2012. The biggest group of irregular migrants were Syrians (25 500 persons detected trying to enter illegally), followed by Eritreans, Afghans and Albanians. In 2013 a total of 107 000 detections were registered by Frontex, compared to 72 500 in 2012 (increase by 48%). Most irregular migrants in 2013 attempted to reach the EU *via* the Central Mediterranean sea route.

According to Frontex data, **detections of illegal border crossing** increased on the Western Balkan route, from approximately 6 400 in 2012 to 19 500 in 2013. Detections of illegal border crossing at the EU eastern land border remained at a low level (1 300). The agency also informed that in 2013 there were about 345 000 detections of illegal stay in the EU, which is consistent with a slightly declining long-term trend over the past years.

The Eurostat statistics showed that in 2013 the highest number of third country nationals found to be illegally present on the territory of the EU MS was noted in Germany (86 305) followed by the United Kingdom (57 195), France (48 965), Spain (46 195) and Austria (25 960).

Due to the relaxation of visa restrictions in the Balkans, in 2013 Hungary noted a sharp increase in illegal crossings at its border with Serbia. The country also confirmed that the number of detections as well as returned persons has been

⁵ The Communication can be accessed on: http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/immigration/return-readmission/docs/communication_on_return_policy_en.pdf; last accessed in June 2014.

⁶ The Annual Risk Analysis 2014 is available on the Frontex website: http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2014.pdf; last accessed in May 2014.

increasing over the recent years and that citizens of Afghanistan, Algeria and Pakistan formed the most numerous groups of irregular migrants. An increase in the volume of illegal migration was also noted in other EU MS participating in PP1, such as Romania and Slovakia.

Additionally, according to Eurostat data, the **number of third country nationals refused entry at the external EU border** increased significantly in 2013 in comparison with 2012 in Spain (192,775 in 2013), followed by Poland (40,385), United Kingdom (13,435), France (11,745) and Hungary (10,055).

In its Communication the European Commission emphasized that, regardless of the declining trend, illegal migration would continue to present challenges to the EU since it is likely to be subject to unpredictable quantitative, geographic and qualitative fluctuations.

The declining trend in illegal migration was also noticeable in case of most non-EU States, which participated in PP1. The decline in **number of apprehensions of irregular migrants** was noted in Western Balkans (e.g. in Serbia 14,960 in 2012 and 8,257 in 2013, in Bosnia and Herzegovina – 520 in 2012 and 274 in 2013) and Turkey (47,510 in 2012 and 39,890 in 2013), while it increased considerably in Belarus (the number almost doubled from 74 in 2012 to 130 in 2013). According to the statistics delivered by PP1 participating States, in general terms **the number of people detected trying to enter territories of these States illegally** also decreased in 2013 in comparison to 2012, likewise the number of **detections of illegal border crossing**.

Nevertheless, in case of source States such as Serbia, Bosnia and Herzegovina or Armenia the **number of returned citizens** increased in 2013 in comparison to 2012.

1.1.2. Main illegal migration routes

There are two main migratory routes used by migrants transferring through or wishing to reach the territory of PP1 participating States: the so-called Western Balkan and the Central and Eastern routes⁷.

The Western Balkan route transits and/or originates in Turkey, continues to Greece, Western Balkan States, and heads towards Romania, Hungary, Austria and other Western European States (especially migrants from Afghanistan, Pakistan, Iran, Iraq, Syria, Algeria, Georgia, Somalia and Western Balkan States). **The Central and Eastern route** transits and/or originates in the Russian Federation, Ukraine, Belarus, Moldova, and continue *via* Poland to Slovakia, the Czech Republic and Hungary to Austria and other Western European States (migrants from Ukraine, Russia, Pakistan, Afghanistan, Mongolia, China, Vietnam, Georgia, Iran, Bangladesh, Sri Lanka, Nepal, Syria).

The project participants mentioned two other illegal migration routes. Hungary referred to **the Mediterranean route**, which transits and/or originates North Africa or Turkey, and continues to France, Italy, Spain and other EU States (mainly mi-

grants from Tunisia, Egypt and Libya; migrants from Syria, Afghanistan and Eritrea in case of the Eastern Mediterranean route). There is also **the so-called Baltic route**, which transits and/or originates in the Russian Federation (Moscow) and heads towards the Baltic States to continue to Poland, the Czech Republic and Western European countries.

Years 2012 and 2013 witnessed some direct attempts to stop illegal migration flows. For instance, in 2012 Greece decided to strengthen the border surveillance by building a fence along the 12-kilometre land connection with Turkey and deploying additional staff to patrol the area of the River Evros. These efforts to directly influence the specific migratory routes were quite effective.

1.1.3. Smuggling of migrants

Smuggling of migrants is a complex phenomenon, which involves various types of people on the move: irregular migrants, asylum seekers and vulnerable groups. According to the Article 3 (a) of the so-called Palermo Protocol, which entered into force in January 2004, **smuggling of migrants** “shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident”⁸. Smuggling of migrants is an internationally organised crime, which requires a comprehensive international response.

When it comes to the PP1 participating States, crime groups involved in the smuggling of migrants operating on their territories are usually composed of around 10 members. There is a strict distribution of tasks between group members, who actively use the electronic means of communication such as mobile phones and Internet. The groups possess good technical equipment and have comprehensive knowledge about the region in which they operate. What is the most important, they can easily adapt to the changing environment and are flexible in their operations.

Smugglers use several methods to organise illegal entry, including transportation to the transit country or final destination while e.g. hiding migrants in vehicles, or organisation of illegal crossings of green borders. Often forged travel and/or identity documents are being given to the smuggled migrants.

Combating the smuggling of migrants is very challenging for various reasons. The most important one is that smugglers act clandestinely and closely cooperate with groups of smugglers operating in other countries and with communities of migrants abroad. The second big challenge is cooperation with detected smuggled migrants. The respective authorities have to proceed cautiously when dealing with returns of smuggled migrants as this category of migrants might potentially include vulnerable persons who should be subject to a specific procedure.

⁷ For visualisations please consult Frontex at [http://frontex.europa.eu/trends-and-routes/migratory-routes-map-or-Prague-Process-i-Map-at-http://www.imap-migration.org/index.php?id=492&L=1%2FERK%3D0%2FRS%3D22TXOPSffvruwd0ioRD8_FMmUFE](http://frontex.europa.eu/trends-and-routes/migratory-routes-map-or-Prague-Process-i-Map-at-http://www.imap-migration.org/index.php?id=492&L=1%2FERK%3D0%2FRS%3D22TXOPSffvruwd0ioRD8_FMmUFE;); last accessed in June 2014.

⁸ Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime; http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_smug_eng.pdf; last accessed in June 2014.

1.2. Policies on readmission and return

1.2.1. Readmission and return in international law

Some international instruments mention **the individual right to leave any country and return to one's country of origin**. The most important one is the Universal Declaration of Human Rights of 1948 which in Article 13 (2) states that "Everyone has the right to leave any country, including his own, and to return to his country". Furthermore, Article 12 (4) of the International Covenant on Civil and Political Rights of 1966 states that "No one shall arbitrarily be deprived of the right to enter his own country". Additionally, Article 5 (d) (ii) of the International Convention on the Elimination of All Forms of Racial Discrimination of 1965 states that "States Parties undertake... to guarantee the right to everyone... to leave any country, including one's own, and to return to one's country." It has to be underlined that the State of nationality cannot put any limitation on return of its nationals under international law. It means that the human right to return to the country of nationality should be seen as an absolute right.

A distinction has to be made between *admission* and *readmission of a state's own nationals*. By admitting its own national a State responds to an individual claim to meet the human right to return to his/her own country. In case of readmission the will of the person is lacking and a State instead is facing an international right of another State to expel a non-national. The right to expel non-nationals can be effective only if there is another State, which is obliged to accept the expelled person. Furthermore, since the obligation to accept the return of a person is linked to the issue of nationality, only the State whose nationality the person possesses is obliged to receive him/her⁹.

It has to be noted that the customary obligation to readmit is founded on sovereignty and reciprocity principles. However, this law does not apply to the citizens of third countries.

1.2.2. EU policy and its framework

The EU *acquis*¹⁰ defines *readmission* as an "act by a State accepting the re-entry of an individual (own nationals, foreign nationals or stateless persons), who has been found illegally entering to, being present in or residing in another state". A **Readmission Agreement** is an "agreement setting out reciprocal obligations on the Contracting Parties, as well as detailed administrative and operational procedures to facilitate the return and transit of persons who do not, or no longer fulfil the

conditions of entry to, presence in or residence in the Requesting State."¹¹ A *return* is "the process of a third-national going back, whether in voluntary compliance with an obligation to return or enforced, to: his or her country of origin, or; a country of transit in accordance with Community or bilateral Readmission Agreements or other arrangements, or; another third country, to which the third-country national concerned voluntarily decides to return and in which he or she will be accepted."¹²

The cooperation on *readmission* and *return* between the EU and non-EU countries can be based on **the European Union Readmission Agreements** (EURAs) which set out general obligations and procedures for the authorities of the non-EU country and of EU States as to when and how to take back people who are illegally residing in the territory of the contracting party. They are in principle technical instruments to improve cooperation between administrations and can only be used after a return decision has been made in accordance with certain procedural guarantees set by the Return Directive and the relevant EU asylum *acquis*¹³.

In policy terms, EURAs are considered a tool for efficient management of migration flows into the EU MS. As they should facilitate the swift return of irregular migrants, they are supposed to be a major element in tackling irregular immigration. EURAs do not define criteria for the legality of a person's presence in the EU or partner country – this must be assessed by the national authorities in accordance with national and, where applicable, EU law¹⁴.

The issue of concluding EURAs is regulated in the Treaty on the Functioning of the European Union, which grants the EU explicit external competence in the sphere of readmission. The competence in concluding Readmission Agreements is shared between the EU and its MS which in general terms means that Member States can conclude RAs with third countries which have not signed such agreements with the EU and, otherwise, the EC has not been granted a mandate to negotiate such agreements. If a Member State concluded RA with a given third country prior to the EU agreement, then its applicability is limited to the issues not regulated in the EURA. In case contradictory or overlapping provisions are included in both agreements, the EURA has the priority over a MS RA. After EU concludes RA with a given third country, EU MS may conclude Implementing Protocols with this State upon the request of the third country or the EU MS.

However, it should be noted that EURAs are self-standing, directly operational instruments which do not necessarily require the conclusion of bilateral Implementing Protocols with the third country. In the longer term protocols are mere facilitators of the readmission process.

In addition to EURAs, there are also other legal instruments adopted at EU

¹¹ *Ibidem*.

¹² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals; <http://eur-lex.europa.eu/legal-content/EN/ALL/?jsessionid=3QPFT1fbfhLD8J1Gv0cML1F22lyLhh28dCgk1q9QZTV7KWGyxt-1454583626?uri=CELEX:32008L0115>; last accessed in July 2014.

¹³ Please consult the Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:EN:PDF>; last accessed in June 2014.

¹⁴ Communication from the Commission to the European Parliament and the Council of 23 February 2011 on evaluation of EU Readmission Agreements, <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52011DC0076>; last accessed in June 2014.

⁹ For more information please consult "Manual on Readmission for Experts and Practitioners. Selected Foreign Readmission and Return Practices", IOM, Moscow 2010, http://publications.iom.int/bookstore/free/manual_on_readmission1_EN.pdf; last accessed in June 2014.

¹⁰ The EU *acquis* can be found at: http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/immigration/return-readmission/index_en.htm; last accessed in May 2014. Please see: Communication from the Commission to the Council and the European Parliament on a community return policy on illegal residents (COM(2002) 564 final), Annex, 14 October 2002: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52002DC0564>; last accessed in July 2014.

level, which play an important role in the area of return. One of them is **the Visa Information System (VIS)**¹⁵, which is expected to become a significant tool for identification and documentation of returnees. Also **the Schengen Information System (SIS)**¹⁶ has to be mentioned in this context for it has proved to be a helpful tool for giving full effect to the aspect of entry bans issued under the so-called Return Directive¹⁷.

The Return Directive¹⁸ sets the common standards on return, which provide for clear, transparent and fair common rules for the return and removal, the use of coercive measures, detention and re-entry, while fully respecting the human rights and fundamental freedoms of migrants¹⁹. It confers rights on migrants that may be invoked in proceedings before national courts. They are applicable at national level regardless of whether an EU MS has transposed the legislation since the period for transposition has expired.

The key features of the Return Directive include:

- the requirement for a fair and transparent procedure for decisions on the return of irregular migrants;
- an obligation on EU MS to either return irregular migrants or to grant them legal status, thus avoiding situations of “legal limbo”;
- promotion of the principle of voluntary departure by establishing a general rule that a “period for voluntary departure” should normally be granted;
- provision for persons residing illegally of a minimum set of basic rights pending their removal;
- a limit on the use of coercive measures in connection with the removal of persons, and ensuring that such measures are not excessive or disproportionate;
- providing for an entry ban valid throughout the EU for migrants returned by an EU MS;
- limiting the use of detention, binding it to the principle of proportionality and establishing minimum safeguards for detainees.

¹⁵ Regulation (EC) No 767/2008, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:218:0060:0081:EN:PDF>; last accessed in June 2014. The Visa Information System (VIS) allows Schengen States to exchange visa data. It consists of a central IT system and of a communication infrastructure that links this central system to national systems. VIS connects consulates in non-EU countries and all external border crossing points of Schengen States. It processes data and decisions relating to applications for short-stay visas to visit, or to transit through, the Schengen Area. The system can perform biometric matching, primarily of fingerprints, for identification and verification purposes. For more information please go to: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-information-system/index_en.htm.

¹⁶ The Schengen Information System is the largest information system for public security in Europe. By allowing for easy information exchanges between national border control, customs and police authorities, it ensures that the free movement of people within the EU can take place in a safe environment. For more information please go to: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system/index_en.htm.

¹⁷ Please see footnote no 15.

¹⁸ *Ibidem*.

¹⁹ For more on EU policy on return and readmission, please visit: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/immigration/return-readmission/index_en.htm.

It has been argued that the Directive²⁰ has positively influenced national law and practice regarding voluntary departure and has been a driving force behind change in forced return monitoring. It contributed to a convergence and reduction of maximum detention periods across the EU. Generally, EU MS have also been more inclined to implement alternatives to detention. The Directive also limited Member States' ability to criminalise mere illegal stay, and its procedural safeguards have contributed to more legal security.

Joint ownership of and support of EU MS for the key objectives of the EU policy on *readmission* and *return* have gradually developed leading to the acceptance of the following policy objectives:

- respect for fundamental rights;
- fair and efficient procedures;
- reduction of cases in which migrants are left without clear legal status;
- primacy of voluntary departure;
- promotion of reintegration and fostering of alternatives to detention.

The EU MS cooperate on return policy through the provision of assistance in cases of transit for the purposes of removal by air, organisation of joint flights for removals, mutual recognition of decisions on expulsion, and implementation of guidelines on forced return. The Agency for the Management of Operational Cooperation at the External Borders (Frontex) also plays a key role in operational cooperation on return, one of its tasks being to provide assistance for joint return operations and identify best practices on the acquisition of travel documents and removal of non-EU nationals illegally present in the territory of an EU MS.

1.2.3. Policies and objectives of EU MS

EU Member States perceive readmission agreements mostly as **effective tools to facilitate returns and tackle illegal migration**. Regarding policies on return, voluntary returns are promoted.

All PP1 participating EU MS have **official institutions responsible for developing policy to reduce illegal migration**. In Austria, Hungary, Poland, Slovakia and Romania it is the Ministry of Interior or Home Affairs (or other entity directly subordinated to this institution) that takes overall responsibility for migration. The Ministry of Foreign Affairs is usually tasked with responsibilities within the area of visa and consular issues, while the Ministry of Interior or Home Affairs or a specialised migration authority is responsible for negotiations of Readmission Agreements. Border guard authorities (including Police) are also engaged in policymaking related to reducing illegal migration (e.g. in Poland it is the Border Guard responsible for execution of Readmission Agreements and organising returns, while in Austria this competence falls to the Federal Migration Office under the Ministry of the Interior). In Hungary the Office of Immigration and Nationality and

²⁰ Please see footnote no 15.

the Police hold the main responsibility in the field of forced and voluntary returns.

EU MS which participated in PP1 have already signed a number of Readmission Agreements both with neighbouring countries as well as more distant States²¹. They are interested in **concluding further Readmission Agreements** since they perceive them as tools to facilitate returns by, among other things, defining the obligations of concluding parties and establishing relevant contact points. Moreover, thanks to such agreements some administrative procedures can be sped up and the whole process can be facilitated.

1.2.4. Policies and objectives of non-EU States

Likewise to the EU MS, non-EU PP1 participating States also perceive Readmission Agreements mainly as **effective tools to facilitate returns and tackle illegal migration**. Some of them expressed **the will to sign further Readmission Agreements**, while some other States – like Azerbaijan and Belarus – actually concluded or started negotiations on their first agreements in the time of the project implementation.

All non-EU PP1 participating States have **official institutions responsible for developing policy to reduce illegal migration**. Again, it is usually the Ministry of Interior or Home Affairs (or other entity directly subordinated to this institution) that takes overall responsibility for migration but for example in Norway it is the Ministry of Justice and Social Protection which is responsible for policies in the area of migration, as well as the overall coordination of immigration policies together with the Directorate of Immigration and the Ministry of Labour. Border guard authorities (including Police) are also engaged in policymaking related to reducing illegal migration (e.g. the Patrol Police Department under the Ministry of Internal Affairs in Georgia is responsible for implementation of RAs).

Most of non-EU PP1 participating States have well-developed readmission and return policies (e.g. Russia, Turkey, Western Balkan States). As of July 2014 the following PP1 States have signed Readmission Agreements with the EU: Armenia, Azerbaijan, Ukraine, the former Yugoslav Republic of Macedonia, Serbia, Bosnia and Herzegovina, Moldova, Georgia, Turkey and Russia.

1.2.5. Cooperation with non-state agents

It is the responsibility of the States to organise safe, orderly and humane returns. In order to achieve the best results in this respect the PP1 participating States cooperate with non-state agents – such as international organisations, non-governmental organisations as well as other entities – in the spheres of organising and conducting voluntary returns, providing legal and social assistance to migrants and ensuring a humane return process.

One of the strongest non-state agents involved in cooperation on voluntary returns is the International Organisation for Migration (IOM). Among other things,

21 Please see Annex for details regarding Readmission Agreements and other information related to national authorities involved in readmission and return policies, as well as cooperation with non-state agents.

IOM provides outreach, counselling, and operational assistance to movements and cooperates not only with national authorities but also with various NGO networks and communities in both sending and receiving countries. Terms and conditions of IOM's cooperation with state entities are usually regulated in special agreements or contracts, which sometimes have to be backed by national legislation. Such agreements – regarding facilitating voluntary returns – were signed by the following States, which participated in PP1: Armenia, Austria, Georgia, Hungary, Liechtenstein, Poland, Romania, Russia, Slovakia and Ukraine. It can be added that IOM is also involved in monitoring and the evaluation of voluntary returns through organising missions to States of Return in order to find out about the situation of a given returnee.

Furthermore, despite IOM not being involved in forced returns, it contributes to the development of the readmission practice by ensuring sustainable return monitoring and support, human rights compliance monitoring as well as advice on institutional and legal capacity building for state authorities. It has been engaged in regional programs to support the readmission process e.g. in the Russian Federation, Ukraine, Armenia, Moldova and Georgia. For instance, as part of a project implemented in 2009–2011, IOM established an observatory mechanism in Moldova and Ukraine with the aim to monitor readmission to these countries. The project also aimed to ensure that the principle of *non-refoulement* was respected in the readmission process and that asylum-seekers were identified and received initial legal advice and counselling. The independent observatory mechanism included a joint IOM–UNHCR–NGO–EU monitoring team.

Initiatives aiming at strengthening the quality of return systems and contributing to sustainable and voluntary returns and long-term reintegration have been undertaken out also by other international or intergovernmental organisations such as ICMPD. In this context such projects focused on reintegration, returns and combating illegal migration as “Reintegration in Kosovo” (ReKOKO), “Forced Return Monitoring” (FRm) and “Fighting Irregular Migration in Moldova” (FIRMM) can be mentioned²².

NGOs have played an important role in carrying out actions and projects to assist different types of returnees. Such organisations enjoy access to migrant communities and are often perceived as independent moderators and therefore are able to de-escalate conflicts between authorities and returnees, establish trust and better cooperation, and to improve the situation of irregular migrants in general. Examples of cooperation between the State and NGOs can be found, among others, in the experience of Armenia, Austria, Bosnia and Herzegovina, Poland and Romania. Generally, PP1 participating States do not cooperate with NGOs on forced returns, but Poland and Austria have initiated such cooperation in the sphere of monitoring of returns, in line with the EU Return Directive.

22 For more information please go to: www.icmpd.org/Ongoing-Projects.1570.0.html.

2. Readmission Agreements and Implementing Protocols

2.1. Types of readmission agreements

PP1 participants pointed out several general advantages of RAs. Most importantly, they set out legally binding obligations and rights of the contracting States, which contributes to the effectiveness of the readmission procedure and process in general. Moreover, such agreements accelerate the process of return by specifying procedures and documents needed for entry of a person to the territory of the requested State.

On the other hand, as underlined by some of the project participants, Readmission Agreements can introduce various new provisions, which can be less efficient than previously set practices between the contracting States.

There are two main types of Readmission Agreements: **bilateral and multilateral RAs**. RAs can also be systemised regarding persons subject to readmission and therefore divided into two groups: **agreements which concern only nationals of the contracting States**, and **those which include also foreign nationals and stateless persons**.

Comparing to multilateral RAs, bilateral agreements are easier and faster to negotiate. They are also easier to implement since the authorities of only two countries are involved. However, some States might find themselves in a weaker negotiating position than would several States acting as a group negotiating a multilateral Readmission Agreement. In such cases the negotiating position can be improved when more countries join together and are represented as one actor²³. Nevertheless, in case of most of multilateral RAs detailed rules for implementation should be set separately between the countries in a form of Implementing Protocols. Multilateral Readmission Agreements are usually less detailed than bilateral ones because all necessary details are often specified in bilateral Implementing Protocols.

²³ For more information please see: "Manual on Readmission for Experts and Practitioners: selected foreign readmission and return practices", IOM, Moscow 2010, page 23 (http://moscow.iom.int/publications/Manual_on_Readmission_Vol%201_en.pdf; last accessed in June 2014), or Intergovernmental Consultations on Migration, Asylum and Refugees, "IGC report on readmission agreements, intergovernmental consultations on asylum, refugee and migration policies in Europe, North America and Australia", December 2006 (unpublished).

2.2. Main elements of readmission agreements and implementing protocols

A “model” Readmission Agreement and its Implementing Protocol would define the following elements:

- **reciprocal obligations** of the contracting States;
- **personal scope of regulations** (country nationals/third country nationals, exceptions, etc.);
- **conditions for the readmission** of persons who fall under the Readmission Agreement (deadlines, acceptable documents and evidences, regulations regarding the accelerated procedure, re-readmission and transit, etc.);
- **time limits** for applying for readmission and for the response to the request for readmission;
- issues related to protection of **human rights**;
- rules governing **escort**;
- **financial provisions**
- responsible and/or competent **authorities** (institutional setting);
- provisions on **data protection**;
- **border crossing points** for the transfer of readmitted persons;
- **rules for transit** through the territory of the contracting States.

The most important **obligations** of the requesting State under RAs are: 1) to prove that there are grounds for readmission; 2) to submit the formal application for readmission along with all necessary supporting documents or evidences to the relevant authorities of the requested State; 3) to transfer the person to the competent authorities of the requested State. On the other hand the requested State should be obliged to: 1) accept to its territory its own nationals, foreign nationals or stateless persons transferred by the requesting State in accordance to the conditions set in the RA; 2) to issue travel documents to persons returned or transferred by the requesting State; 3) to recognise it if foreign nationals of stateless persons transited through or stayed in its territory. These obligations of both contracting parties may differ depending on the RA.

Concerning the **personal scope of regulations**, the majority of Readmission Agreements concern irregular migrants – persons who do not or no longer fulfil the conditions for entry to, presence or residence in the territory of the requesting State. Asylum seekers should not be removed within the framework of the readmission procedure until the relevant national authorities in the requesting State process their claims and their status is determined. Some RAs include specific provisions for the readmission of persons with disabilities, unaccompanied minors and persons who belong to vulnerable groups. Readmission Agreements can also contain safeguards regarding the preservation of family unity during readmission.

Readmission Agreements can also include some exceptions to the obligation to readmit by the requested State. For example, EURAs provide three exceptions to

the obligation to readmit a third country national by the requested party, which is in case: 1) the person did not leave the transit zone of the requested State, 2) was issued a visa or residence authorisation by the requesting State, or 3) did not need a visa to enter the territory of the requesting State.

RAs usually contain provisions on the **proof of the nationality** of persons subject to readmission, or, in case of foreign nationals and stateless persons, proof of their entry and/or travel from the territory of the requested State and the existence of grounds for readmission. The number of grounds sufficient to prove the nationality varies from agreement to agreement. The most common proofs are: passports (and passport substitutes); personal identity cards/documents; provisional identity cards/papers; military passes and certificates; certificates of nationality; documents that give the right to cross the State border between the contracting parties by the nationals of the parties, resident foreign nationals or stateless persons; children's identity documentation in lieu of a passport; documents of consular registration, birth certificates²⁴. In some cases, the above-listed documents can be treated as **grounds for presumption of nationality**. If any of the documents that are defined in the applicable RA as proof of a person's nationality is available, the Requested Party is obliged to admit the person without further investigation. If proof of nationality is not available, nationality can be presumed on certain grounds, which are also usually listed in RAs. In case of a presumption of nationality, the requested State may carry out an investigation for which there may be a time limit. The EURAs extend the possibility of establishing nationality even if there are no proofs of a person's nationality. In such cases the burden of proof is put on the Requesting Party that has a possibility to request diplomatic or consular authority of the Requested Party to make an interview with the person in order to establish nationality. If, within the time limit, no proof of the contrary is provided, the nationality is considered proven. Additionally, also **entry** can be **proven on presumption** on the basis of available and/or pre-defined proofs.

Regarding **time limits** set out in Readmission Agreements, it should be noted that according to EURAs, if the person subject to readmission possesses a valid travel or identification document or in case of a third country national a valid visa or residence permit, he/she could be returned without an application for readmission. In some cases the readmission application may be replaced by a written communication. In case of accelerated procedures²⁵, the time limit for submission of the readmission application is usually 48 hours, while the time limit for replying to the application is also two days. No unified approach exists in other cases and the time limit for submitting the readmission application varies from six months to one year after the Requesting Party's competent authority obtained the knowledge that a person did not or did no longer fulfilled the conditions for entry, presence or residence. This limit can be extended upon the request of the Requesting Party until the legal or factual obstacles to readmission have ceased to exist. The time frame for responding to the readmission application usually varies from three to 30 days, and for executing the removal – from three days to three months.

²⁴ *Ibidem*.

²⁵ Some RAs provide for accelerated procedures regard migrants apprehended close to the borders between the Parties.

Transit provisions are often included in more recent RAs, including EURAs, and usually concern transit by air. However, for example in the EU-Russia Readmission Agreement, the agreement regulates also transit by land and sea. According to such provisions, the contracting parties are obliged to notify in advance and in writing about all details regarding the transit operation. RAs specify also situations in which the country of transit can refuse the transit (e.g. grounds of public health, public security, public order or other national interest of requested State).

As regards **financial provisions**, the general rule is that the requesting State pays the expenses for readmission up to the border, where the person is transferred to the requested State. The requested State covers expenses within its territory. In case of transit all expenses are covered by the requesting State.

Human rights clauses specifying that readmission procedures shall respect certain guarantees can be included in the text of a Readmission Agreement. In general, parties to such agreement remain obliged to respect human rights of returnees even if there are no references to them in Readmission Agreements. In case international human rights instruments do not bind one of the contracting parties, it could be considered to regulate relevant human rights issues in Readmission Agreements or to include a reference to the customary international law in the text. RAs can also be inclusive of non-affection clauses stating that provisions of a given RA do not affect obligations of agreeing parties deriving from other international agreements (e.g. see RA between Russia and Uzbekistan). The documents to which RAs refer may vary from agreement to agreement (international conventions and treaties, such as the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention for the Protection of Human Rights and Fundamental Freedoms).

Readmission Agreements can significantly differ in terms of scope and length. For example, most of the 29 agreements signed by Norway are rather short and concise, even in such significant parts as data protection (e.g. RA with Ethiopia). On the other hand, when the Norwegian government presents the EURA text as a basis for negotiations – which is now a standard practice – partners are sceptical and discouraged by its length and complexity. Some of them (like recently Burundi) ask not to include reciprocal obligations in the text of RA since they find it redundant while not expecting irregular migrants from Norway on their territories. Even so, such short and limited texts of agreements can aggravate the risk of informal arrangements.

2.3. Readmission clauses in other types of agreements

Readmission clauses might also be found in agreements of various types. One of the most known and widely discussed examples of such agreements is the so-called Cotonou **Agreement²⁶ on partnership** between the EU and 79 countries from Africa, Caribbean and Pacific, which in Article 13(5) (c) states the following:

- c) *The Parties further agree that:*
- i) *– each Member State of the European Union shall accept the return of and readmission of any of its nationals who are illegally present on the territory of an ACP State, at that State's request and without further formalities;*
– each of the ACP States shall accept the return of and readmission of any of its nationals who are illegally present on the territory of a Member State of the European Union, at that Member State's request and without further formalities. The Member States and the ACP States will provide their nationals with appropriate identity documents for such purposes.
In respect of the Member States of the European Union, the obligations in this paragraph apply only in respect of those persons who are to be considered their nationals for the Community purposes in accordance with Declaration No 2 to the Treaty establishing the European Community. In respect of ACP States, the obligations in this paragraph apply only in respect of those persons who are considered as their nationals in accordance with their respective legal system.
 - ii) *at the request of a Party, negotiations shall be initiated with ACP States aiming at concluding in good faith and with due regard for the relevant rules of international law, bilateral agreements governing specific obligations for the readmission and return of their nationals. These agreements shall also cover, if deemed necessary by any of the Parties, arrangements for the readmission of third country nationals and stateless persons. Such agreements will lay down the details about the categories of persons covered by these arrangements as well as the modalities of their readmission and return. Adequate assistance to implement these agreements will be provided to the ACP States.*
 - iii) *for the purposes of this point (c), the term "Parties" shall refer to the Community, any of its Member States and any ACP State.*

Although the Cotonou Agreement refers to readmission and return, its practical impact remains uncertain. It has been argued that for the afore-cited readmission clause to become operational, implementing arrangements concluded bilaterally with EU MS or the Community must complement the agreement.

Individual EU MS also conclude partnership agreements with non-EU States, inclusive of clauses related to readmission. Such solution was introduced e.g. by

²⁶ Partnership Agreement Between the Members of the African, Caribbean and Pacific Group of States on the One Part, and the European Community and Its Member States of the Other Part, signed in Cotonou on 23 June 2000, last revised Ouagadougou on 22 June 2010; http://ec.europa.eu/europeaid/where/acp/overview/documents/devco-cotonou-consol-europe-aid-2012_en.pdf, last accessed in June 2014.

Spain in case of the so-called “new generation agreements” concluded with African States.

Readmission clauses might also be found in **agreements on the transfer-reception of persons**, which are generally concluded between bordering States and regulate the transfer of persons who do not or no longer fulfil the conditions necessary for entry or stay in the territory of the contracting parties. The main difference between RAs and such agreements are the time limits for transfers, which in case of the latter are usually shorter.

It should also be noted that some States prefer to cooperate on readmission and return within the framework of less formal solutions than RAs, for example basing on **Memoranda of Understanding**. The most important advantage of such solutions is that such agreements provide more flexibility for the contracting parties since it is easier to conclude and then, if necessary, amend them.

3. Readmission and Return: Good Practices and Model Solutions

3.1. Negotiations of readmission agreements and their implementing protocols

As it was already mentioned in the previous section of this Handbook, the States, which participated in PP1 were generally interested in concluding further Readmission Agreements (Armenia, Austria, Bosnia and Herzegovina, Georgia, Liechtenstein, Serbia and Ukraine), while Hungary called specifically for concluding more EU agreements. Afghanistan, Nigeria, Algeria, Morocco and Egypt were mentioned among the States with which new EURAs could be concluded. In this context Frontex underlined its 2012 working arrangement with Nigeria which aims at the exchange of best practices in return.

The main aim of negotiations on Readmission Agreements should be to ensure swift and orderly returns of migrants. Each negotiation process has to be properly prepared in terms of its content and practicalities.

In order to negotiate a new Readmission Agreement, all States which participated in PP1 establish special **negotiation teams** composed of representatives of state institutions responsible for readmission and return policies. The number of team members varies from State to State and depends on the number of institutions involved. Usually the Ministry of Interior or Home Affairs or a specialised migration authority takes the lead in negotiations, while other immigration authorities are present in the team (Ministry of Foreign Affairs, Border Police etc.). Generally, negotiations on Readmission Agreements are handled by a limited number of experienced and skilled experts. It has to be underlined that the experts representing the Ministry of Foreign Affairs usually do not have specialist knowledge on readmission and returns and therefore have **to closely cooperate with experts from relevant migration authorities** in order to develop a uniform position on the country's goals and expectations.

In any case negotiations need to be properly prepared. PP1 participating States drew special attention to the importance of engaging **qualified specialists** in negotiations, **including various supportive functions** such as interpreters or translators (they have to be familiar with the technical language of RAs). Moreover, it might be helpful to share the draft text of a given Readmission Agreement before the first meeting of the contracting parties. Furthermore, agreeing on the provision of text in both language versions during face-to-face phase of negotiations might positively affect the process.

It is also vital **to decide soon enough which State should pay a visit to the other one** (even obtaining visas might be a problem if the partner State informs about the visit at short notice). Meeting in person at least once during negotiations and visiting the partner State can positively contribute to the process.

Negotiations usually start with a presentation on the backgrounds for cooperation and its expected goals. Authorities involved in readmission and return pro-

cedures in a given State are also presented at this stage of negotiations. **Direct communication and openness** to understand and take into consideration the expectations of the partner State is important not only at the beginning of negotiations, but also during the whole process.

Some PP1 participating States present **a model text of Readmission Agreement** as a starting point in negotiations (e.g. Austria has a “typical” draft of RA ready in order to save on translation costs). EURAs can provide a well-established skeleton of such agreements, but, on the other hand, a “one size fits all” approach should rather be avoided. Some core elements have to be addressed in each and every agreement but negotiators should avoid giving a signal that everything is prepared and further discussions are not necessary.

In order to properly prepare for negotiations, **a catalogue of difficult issues to be discussed** could be created. Such catalogue could include subjects such as division of costs, deadlines applicable to readmission procedures, documents confirming nationality or provisions applicable to third country nationals. After a negotiation meeting has ended, **ways of exchanging the draft text and details on further work on it shall be approved by both Parties**. If the text of the Readmission Agreement is ready, it is important to agree on the next steps regarding national procedures of adopting such documents.

During negotiation meetings it is also necessary to have all required **technical equipment** ready to be used on the spot (such as laptop and beamer to follow the text).

3.2. Intrastate cooperation

Cooperation between various national authorities involved in readmission and return policies is one of key elements to successful implementation of Readmission Agreements. Relevant national authorities should actively communicate both with a returnee and with each other on each stage of the return process.

Special attention should be paid to ensuring data protection. **Databases related to migration** should be unified and make available to all relevant state authorities involved in readmission and returns.

3.3. Interstate cooperation

The PP1 participating States have identified several challenges to the implementation of Readmission Agreements. Firstly, the lack of consular representations abroad might impede the process of establishment of nationality and/or citizenship of irregular migrants. The second main challenge is accurate exchange of information and smooth communication between the partner States. In general, the PP1 participating States shared the notion that **the host States and the States of return shall cooperate in order to facilitate the return of foreigners** who are found to be staying illegally in the host State.

In response to the above, several examples of practices that can lead to a smoothed execution of RAs were provided by project participants. The establishment of **a network of immigration liaison officers or internal affairs attachés** in representations abroad was mentioned as one of the proposed

methods, however only a few of the PP1 participating States apply this solution. Austria has liaison officers in fourteen different locations (Albania, Bosnia and Herzegovina, Bulgaria, former Yugoslav Republic of Macedonia, Georgia, Jordan, Kosovo (UNSCR 1244/1999), Moldova, Morocco, Pakistan, Russia, Serbia, Thailand, Turkey). They are generalists whose scope of responsibilities and capacities cover internal security matters. Their task is to intensify and enhance international cooperation of Austria's Federal Ministry of the Interior with security services abroad, in particular police authorities responsible for border security and immigration issues. Hungary has eight immigration liaison officers (appointed by the Office of Immigration and Nationality) in Ukraine, China (2), Russia, India, Kosovo (UNSCR 1244/1999), Pakistan, and Iran; Norway – 12 liaison officers working on return (appointed by the Ministry of Justice), out of which 5 are employed by the National Police Immigration Service, in Jordan, Thailand, Ghana, Ethiopia, and Algeria, and additionally seven officers employed by the Directorate of Immigration in Jordan, Afghanistan (2), Pakistan, Egypt, Kenya and Iran; Poland has four liaison officers in Germany, Belgium, Ukraine and Russia; and Slovakia has police liaison officers in Ukraine, Russia and USA.

It was also underlined that **the establishment of joint committees or councils on readmission** can improve both the implementation as well as monitoring of Readmission Agreements, as such platforms provide channels for cooperation with partner States and create space for open discussions on various technical issues. Non-EU States which concluded EURAs take part in Joint Readmission Committees established under these agreements. In addition to such Committees, EU MS are also involved in the Readmission Experts' Committee established on the EU level. Generally, it can be stated that the dialogue within the joint committees and councils on readmission improve the rate of approved readmission requests and the rate of effective returns.

Another good solution for improving the cooperation with a partner State is **to use online tools in communication**. The readmission module of the so-called “Case Management Electronic System” developed in Georgia can serve as an example of such a tool. It has been developed under the project “Support to Authorities of Georgia for the Implementation of the Readmission Agreement with the European Union” and its aim is to facilitate the execution of the Georgia–EU RA (2011), which in article 7 part 4 states the following: “a readmission application may be submitted by any means of communication, not excluding electronic means”. The tool allows for creating, submitting and processing readmission applications as well as creating and printing reports and statistics related to readmission applications. It is also possible to e.g. arrange interviews and request travel documents or transfer information via the tool. Additionally, the system can contribute to the improvement of communication not only between the Georgian and EU MS authorities, but also between relevant state actors involved in the readmission process in Georgia.

As regards **data protection**, relevant security measures have been put in place while developing the above-described tool, such as the centralized account management system (operated by the Ministry of Foreign Affairs of Georgia) or additional customer authentication with the so-called OTP (One Time Password). In any case, the project participants agreed that the requesting State and the requested State should respect the restrictions imposed on the processing of personal data

relating to the reasons for which a person is being returned. The requesting State should ensure that the exchange of information between its authorities and the authorities of the requested State would not put the returnee, or their relatives, in danger upon return.

Bilateral or multilateral meetings with the most “demanding” partners can also be perceived as a method of improving cooperation, especially in the field of establishing of nationality and/or citizenship of irregular migrants. Such meetings have been organised e.g. by Romania. Representatives from both the diplomatic missions as well as experts from the capitals of the partner States have participated in such events. Some of them have been successful and have contributed to increasing the ratio of returns. Another example of such bilateral or multilateral meetings might be a trilateral cooperation between Hungary, Austria and Serbia initiated in 2011 with the conclusion of a Memorandum of Understanding in the framework of which regular ministerial bilateral and trilateral meetings take place.

As regards the establishing of nationality and/or citizenship of irregular migrants, **holding interviews on the territory of the requesting State by experts of the requested State** might be regarded as a good practice as it might be more efficient and cheaper than other forms of identification. On the other hand, e.g. in case of Austria, holding such interviews appears to be more expensive than other forms of identification but sometimes is the only way to achieve the anticipated goals.

The States might also **cooperate on integration of returnees**. It was stressed by Armenia and Hungary that in order to ensure the effectiveness of readmission and returns, the issue of reintegration has to be properly addressed in national policies and practice. Austria, Hungary, Poland, Romania and Slovakia implement dedicated programmes for integration of returnees in the origin countries, financed from the EU Return Fund and usually implemented by various international organisations and NGOs. Norway runs reintegration programmes, which are administered and financed by the Directorate of Immigration. Switzerland and Liechtenstein support the voluntary reintegration programme in Bosnia and Herzegovina. Reintegration projects financed or co-financed by the host States are implemented e.g. in Armenia, Georgia and Ukraine.

In the context of tackling illegal migration, the cooperation between countries of origin and destination in the field of dissemination of information on possibilities and conditions for legal migration is also of great importance.

3.4. Cooperation between state and non-state agents

The majority of the PP1 participating States cooperate **in the sphere of voluntary return with non-governmental and international organisations** (exception: Croatia). In other words, an overall collaboration related to voluntary returns with non-governmental and international organisations can be observed in most of the PP1 participating States, with the exception of Hungary where the responsibility is shared between state and non-state partners. In general terms, **voluntary returns should be promoted** and preferred to forced returns. Host States should therefore develop programmes supporting voluntary returns and regularly evaluate and improve them.

The States most frequently cooperate on voluntary returns with IOM, and this cooperation is based on **an agreement between the organisation and relevant state institution**. It should be founded on the principle of openness and honesty. Such issues as data protection and division of costs of returns should also be regulated in the agreement.

Cooperation with international organisations and NGOs is also essential in case of assisted voluntary return and support programmes.

3.5. Organisation of returns

Forced returns should be carried out as last resort, while the **priority should be given to voluntary returns** (organised independently by a returnee, arranged by the sending State or within the framework of AVR programmes). **Returnees should be provided with necessary assistance** throughout the whole (forced or voluntary) return process. Prior to the removal, **a returnee must be duly informed about the return procedure**, including the possibility to benefit from the (assisted) voluntary return projects, if available. A returnee should also be given an opportunity to prepare for the return and to retrieve their personal belongings which will facilitate their return in dignity. Good exchange of information between all actors involved in return operations plays an outstanding role in the organisation of safe and orderly forced returns.

Several PP1 participating States have established **special units within relevant national authorities for organising forced returns** (e.g. Bosnia and Herzegovina, Moldova, Norway, Poland, Romania). Number of staff working in these units varies from State to State (e.g. in Bosnia and Herzegovina 20 staff members are responsible for organising forced returns, in Norway – 80, in Moldova – 6). In case of some States two national institutions are responsible for organising such returns (e.g. in Armenia, Slovakia, Russia).

In case of PP1 participating States, escort members dedicated to a given return operation are usually selected on the basis of two main criteria: related to the escorted returnee (health, physical and psychological condition, previous behaviour, gender etc.), and to an escort member himself (skills, experience, training completed, languages spoken, physical condition etc.). Several PP1 participating States have initiated **special training programmes for escort members** (e.g. Austria, Bosnia and Herzegovina, Hungary, Poland and Russia). Escort members of EU MS and Georgia participate also in the trainings organised by Frontex which prepare them to participate in Joint Return Operations. **Language courses** are periodically organised for escort members in Hungary, Poland, Romania and Slovakia, while **courses on intercultural communication and human rights** are organised by Austria, Hungary and Slovakia.

When it comes to the use of **coercive measures** (e.g. handcuffs, physical force as the last resort), the States agreed that they **can be used only in case it is strictly necessary on returnees who refuse or resist removal, or to ensure safety, protect life and physical integrity of escort members, a returnee or other persons, or in response to causing damage to property**. They should be applied in accordance with international standards, proportionally to the danger. While respecting the dignity of the returnee, the safety of other passengers,

crew members and of the returnee themselves should be most important in the removal process. Therefore, the removal of a returnee may have to be interrupted where its continuation would pose a safety threat. In any case the use of force should be limited, and the host States should seek the cooperation of returnees at all stages of the removal process to comply with their obligations to leave the country.

In any case, persons shall not be removed as long as they are not fit to travel. In case of PP1 participating States the presence of medical staff during removal is usually ensured whenever it is necessary due to the condition of health of a given returnee. In some cases medical staff has to be present during charter flights (Austria, Poland, Norway).

In case of return operations carried out by PP1 participating States interpreters are usually not present during removals since the returnees are duly informed on the return procedure before the mission takes place. However, interpreters take part in Joint Return Operations organised by Frontex.

3.6. Monitoring of readmission policies and returns

All EU MS have initiated cooperation with relevant NGOs in the sphere of monitoring of forced returns, in line with the EU Return Directive. Such monitoring has been performed by non-state agents, e.g. in Poland and Austria.

Since 2011 several removal flights from Poland have been monitored (all of them to Tbilisi from Cracow and Warsaw), and various NGOs have been involved in this exercise. Until 2014 the Border Guard used to cover all costs related to participation of NGOs in the monitoring process, but according to the new law on foreigners, NGOs now have to find their own sources of financing in order to cover costs occurring in the country of destination.

In case of Poland the aim of monitoring is **to check whether the removal process is executed in line with national and international standards** and whether human rights and dignity of a returnee are respected. The quality of removal administrative proceedings is also monitored. It has been stressed by NGOs that for the monitoring system to be effective monitors' visits should be organised repeatedly. Moreover, **the monitors should possess an adequate knowledge of law and should be properly trained** in monitoring. They should also have adequate language skills. The **transparency** of the monitoring process should be ensured.

Moreover, in any case the **forced return operation should be fully documented**, in particular with respect to any significant incidents that occur or any means of restraint used in the course of an operation. Special emphasis shall be put on the issue of data protection.

Regardless of the monitoring of forced returns performed by NGOs, readmission policies should be regularly reviewed and monitored by relevant state authorities.

3.7. Combating The smuggling of migrants

The PP1 participating States listed several actions that would help to combat the crime of the smuggling of migrants. Firstly, **the cooperation between the States and the information exchange should be enhanced**. Secondly, existing relevant **databases should be unified and made available to all interested cooperating States**. Thirdly, **national authorities** involved in combating illegal crime networks involved in migrant smuggling should be properly equipped and their representatives should be provided with **special training and education**.

Combating smuggling of migrants is also dependent on **effective return policies**. It requires cooperation not only between the States, but also with international organisations. All partners involved in combating the smuggling of migrants should cooperate in the spirit of partnership, also in order to prevent the crime by raising public awareness and fighting root causes. The States should be obliged to protect the rights of the smuggled migrants and to put the necessary efforts to prosecute the crime of the smuggling of migrants.

4. Prague Process Guidelines on Readmission and Returns

Negotiations of Readmission Agreements and their Implementing Protocols:

1. In any case negotiations have to be properly prepared, with respect to both the content and logistics.
2. The cooperation between the negotiating States should be characterised by direct communication and openness.
3. Special negotiation teams composed of representatives of state institutions responsible for readmission and return policies can be formed and/or a network of contact points from relevant authorities can be created in order to facilitate the process of negotiating Readmission Agreements.
4. Engaging qualified specialists in negotiations of Readmission Agreements, including various supportive functions such as interpreters or translators, can improve the negotiation process.

Intrastate cooperation:

1. Relevant national authorities should actively communicate both with a returnee and with each other at every stage of the return process.

Interstate cooperation:

1. The host States and the States of return shall cooperate in order to facilitate the return of foreigners who are found to be staying illegally in the host State.
2. The requesting State and the requested State shall adhere their obligation stipulated in the Readmission Agreement and its Implementing Protocol, put an emphasis on providing sufficient grounds for readmission and respect agreed time limits.
3. The establishment of a network of immigration liaison officers or internal affairs attachés could be considered as a tool facilitating the cooperation between the host States and the States of return.
4. The establishment of joint committees or councils on readmission can improve both the implementation as well as monitoring of the Readmission Agreements, as such platforms provide channels for cooperation with partner States and create space for open discussions on various technical issues.
5. The requesting State and the requested State should respect the restrictions imposed on the processing of personal data relating to the reasons for which a person is being returned.
6. The requesting State should ensure that the exchange of information between its authorities and the authorities of the requested State would not put the returnee, or their relatives, in danger upon return.

7. The host States and the States of return shall consider cooperation on reintegration programmes.

Organisation of returns:

1. Voluntary returns should be promoted and preferred to forced returns.
2. A returnee must be duly informed about the return procedure, including the possibility to benefit from the (assisted) voluntary return projects, if available.
3. A returnee should be given an opportunity to prepare for the return and to retrieve their personal belongings which will facilitate their return in dignity.
4. Good exchange of information between all actors involved in return operations plays an outstanding role in organising safe and orderly forced returns.
5. Coercive measures can be used only in line with national and international standards and may be used only when strictly necessary on returnees who refuse or resist removal, or in response to an immediate and serious risk of the returnee escaping, causing injury to herself/himself or to a third party, or causing damage to property.
6. Host States should put the necessary effort to properly train the escort members.
7. While respecting the dignity of the returnee, the safety of other passengers, crew members and of the returnee himself/herself should be most important in the removal process.
8. The use of force should be limited, and the host States should seek the cooperation of returnees at all stages of the removal process to comply with their obligations to leave the country.
9. Persons shall not be removed as long as they are not fit to travel.

Monitoring of forced returns:

1. A monitoring system might be established in order to check whether the removal is executed in line with national and international standards and whether human rights and dignity of a returnee are respected.²⁷
2. Forced return operations should be fully documented.
3. Readmission policies should be regularly reviewed and monitored by relevant state authorities.

²⁷ Please note that all EU MS are obliged to establish a monitoring system under the EU Return Directive.

Annex

ARMENIA

National authorities

Main responsibility in migration and asylum-related issues:

The State Migration Service of the Ministry of territorial Administration (SMS) is the central authority responsible for the development and implementation of the state regulating policy on management of migration processes including coordination of activities of migration bodies, development of legal acts assuring migration policy and its implementation. SMS is the responsible body for implementation of liabilities defined by the legislation of RA on issues of providing asylum to foreign citizens and stateless persons.

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

The State Migration Service, Ministry of Foreign Affairs, Police and National Security Service are responsible for readmission in Armenia.

The **State Migration Service** (www.smsmta.am) is the main responsible body for the implementation of Readmission Agreements. The SMS receives, records and evaluates all the applications, initiate verification process through relevant authorized bodies and departments. After the entire process of reception and verification of the application within the stipulated time limit has been carried out, the requesting State is notified on the acceptance or rejection of the application. All this processes are being carried out basing on the Government decree on Readmission Agreement implementation.

Received application/s are sent to **the Police** (Passport and Visa Department). The Police should confirm or reject the person's identity within 5 days. In case of identity confirmation, the Ministry of Foreign Affairs is being notified by the SMS. The requesting State is informed within 12 days.

The **Ministry of Foreign Affairs** (Consular Department) (www.mfa.am) provides return certificates (*laissez-passer*) and on demand through its accredited embassies in destination countries holds face-to-face interviews.

At the final stage of the implementation of readmission procedures **Border Guard Troops under the National Security Service** are notified about the return of an Armenian citizen, in order to provide escort at the airport.

Main responsibility in the field of visa and consular issues:

The **Ministry of Foreign Affairs** (Consular Department) is the responsible body for issuance of visas, passports, return certificates and consular issues.

Readmission Agreements

- Total number of bilateral RAs: 11. Russia (2011), Czech Republic (2011), Norway (2010), Benelux countries (2010), Sweden (2009) Bulgaria (2008), Armenia (2008), Switzerland (2005), Lithuania (2004), Denmark (2004), Latvia (2003).
- Number of multilateral RAs: 1
- Agreement between the Republic of Armenia and the European Union signed on April 19, 2013 and entered into force on January 1st 2014.

Cooperation with non-state actors

Cooperation with IOM on AVRR: **Yes**

Main NGOs involved in returns and providing assistance to migrants:

- **French-Armenian Development Foundation Armenia (FADF)**, <http://www.ffad.am/>
- **People in Need Armenia**, <http://www.migrant.am/s/index.php/en>
- **Armenian Caritas**, <http://www.caritasarm.am/en>
- **“Targeted initiative for Armenia” lead by the OFIL**, <https://www.facebook.com/TIAproject/info>

AUSTRIA

National authorities

Main responsibility in migration and asylum-related issues:

- Strategy: **Ministry of the Interior**, Department III/5 Asylum and Alien Matters, tel. +43 1 53126 2725, e-mail: bmi-III-5@bmi.gv.at, www.bmi.gv.at
- Operational: **Federal Migration Office**, tel.: +43 1 53126 5001, e-mail: BFA-Einlaufstelle@bmi.gv.at; www.bfa.gv.at

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

- Readmission and Forced Return: **Federal Migration Office**, tel.: +43 1 53126 5001, e-mail: BFA-Einlaufstelle@bmi.gv.at; www.bfa.gv.at
- Smuggling of Migrants: **Federal Criminal Investigation Service** (Bundeskriminalamt), Office 3.4, Trafficking in Human Beings and Smuggling, tel. +43 1 24836 85383, e-mail: BMI-II-BK-3-4@bmi.gv.at, www.bmi.gv.at/cms/bk

Main responsibility in the field visa and consular issues:

- **Ministry of the Interior**, Department II/3 Aliens Police and Border Control, tel. +43 1 53126 3558, e-mail: bmi-II-3@bmi.gv.at, www.bmi.gv.at

Readmission Agreements

22 number of bilateral RAs: country (year in which the agreement came into force)

- Belgium (1965), Bulgaria (1998), Germany (1998), Estonia (2001), France (2007), Italy (1998), Croatia (1998), Latvia (2000), Lithuania (2000), Luxemburg (1965), Netherlands (1965), Poland (2005), Rumania (2002), Slovakia (2002), Slovenia (1993), Czech Republic (2005), Hungary (1995), Kosovo (2011), Nigeria (2012), Tunisia (1965), Switzerland and Lichtenstein (2001)
- Bilateral agreements with Bosnia-Herzegovina, Serbia, Montenegro and FYROM are no longer applied (EU Agreements are used instead).

number of multilateral RAs: country (year in which the agreement came into force)

- Readmission Agreements concluded by EU

Implementing protocols to EURAs (if applicable): country (year in which the protocol came into force)

- Albania (2008), Bosnia-Herzegovina (2012), Georgia (2014), FYROM (2011), Moldova (2010), Montenegro (2010), Russian Federation (2011), Serbia (2011), Ukraine (pending notification)

Cooperation with non-state actors

- Cooperation with IOM on AVRR: Yes (Memorandum of Understanding with Ministry of the Interior); Return Counselling is mainly done by NGOs

Main NGOs involved in returns and providing assistance to migrants: name (web-page name)

- Verein Menschenrechte Österreich (<http://www.verein-menschenrechte.at/>)
- Caritas (<http://www.caritas.at/hilfe-einrichtungen/fluechtlinge/beratung-und-vertretung/rueckkehrhilfe-und-rueckkehrberatung-irma/>)
- ORS Service (<http://www.orsservice.at/voluntary-return/>)
- AVRR Projects through IOM (www.iomvienna.at/de/aktivitaeten/unterstuetzte-freiwillige-rueckkehr-aus-oesterreich) and ICMPD (www.rekoko.org/)

AZERBAIJAN

National authorities

Main responsibility in migration and asylum-related issues:

- **State Migration Service**

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

- **State Migration Service, Ministry Of Interior, State Border Service**

Main responsibility in the field of visa and consular issues:

- **Ministry Of Foreign Affairs**

Readmission Agreements

Number of bilateral RAs: country (year in which the agreement came into force) 1, EU, 2014

Number of multilateral RAs: country (year in which the agreement came into force) N/A

Cooperation with non-state actors

- Cooperation with IOM on AVRR: Yes
- A PROJECT CONCERNING AVRR IS PLANNED TO BE IMPLEMENTED WITH IOM

BELARUS

National Authorities

Main responsibility in migration and asylum-related issues:

- **Ministry Of Internal Affairs, State Border Committee**

The Ministry of Internal Affairs develops and implements measures towards implementation of the state migration policy and coordinates the activities of other government authorities of the Republic of Belarus in the sphere the state policy for citizenship and migration.

The main functions of the Ministry of Internal Affairs in this sphere include:

develop and implement measures towards implementation of the legislation on citizenship, entry and exit of citizens, their movement and selection of the place of residence, legal status of foreigners and stateless persons, granting of the

refugee status, supplementary or temporary protection, or asylum, and external labour migration; arrange for control of migration processes and migration situation, and counteract illegal migration; arrange for research into migration issues.

The Ministry of Internal Affairs generalizes the law enforcement practices of the government authorities in this sphere and makes proposals to the Government of the Republic of Belarus on improvement of the national legislation on forced migration. Also, the Ministry of Internal Affairs reviews foreigners' applications on granting of the refugee status and supplementary or temporary protection. Border agencies are only authorized to accept the foreigner's application on granting of the refugee status for further transfer of such a foreigner to the internal affairs agencies.

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

- **Ministry of internal affairs, state border committee, ministry of foreign affairs**

The Ministry of Internal Affairs, together with the State Border Committee and the Ministry of Foreign Affairs, actively pursues conclusion of Readmission Agreements between the Republic of Belarus and the migrant origin and transit countries.

The Ministry of Internal Affairs submits and reviews readmission requests, and the State Border Committee submits and reviews transit requests.

The officers of the MFA consular posts conduct interviews with the persons subject to readmission and issue return certificates to citizens of the Republic of Belarus and stateless persons permanently residing in the Republic of Belarus. One of the migration policy areas is counteracting human trafficking and illegal migration. Recent years have witness significant efforts to enhance the efficiency of counteracting modern slave trafficking and to provide for security of the country's population.

In the field of forced migrant return, territorial internal affairs agencies make and implement decisions on deportation or removal of foreigners who violate the migration or other legislation of the Republic of Belarus.

Border agencies are only authorized to make and implement decisions on deportation of foreigners.

Main responsibility in the field visa and consular issues:

Consular functions and issuance of visas for entering the Republic of Belarus is the exclusive jurisdiction of the Republic of Belarus consular and diplomatic missions directly subordinated to the Ministry of Foreign Affairs.

Territorial internal affairs agencies are authorized to issue visas to foreigners for exiting the Republic of Belarus and multi-visas for entering and exiting the Republic of Belarus to foreigners granted permits for temporary residence in the Republic of Belarus.

Readmission Agreements

Number of bilateral RAs: country (year in which the agreement came into force)

- Turkey (2014). All the internal government procedures have been virtually completed for ratification of the following international agreements: Kazakhstan, Russian Federation. January 2014 saw the beginning of negotiations to conclude agreements on visa facilitation and readmission with the European Union.

number of multilateral RAs: country (year in which the agreement came into force)

- Currently unavailable

Implementing protocols to EURAs (if applicable): country (year in which the protocol came into force)

- Currently unavailable

Cooperation with non-state actors

- Cooperation with IOM on AVRR: Yes
- Main NGOs involved in returns and providing assistance to migrants: name (web-page)
- International Organization for Migration Office in the Republic of Belarus: e-mail: iomminsk@iom.int, Internet address: <http://www.iom.int>

BOSNIA AND HERZEGOVINA

National authorities

Main responsibility in migration and asylum-related issues:

Ministry of Security, www.msb.gov.ba

- **Sector for Immigration**, tel. +387 33 492 477, fax +387 33 492 794
- **Sector for Asylum**, tel. +387 33 492 490, fax +387 33 492 799

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

Ministry of Security, www.msb.gov.ba

- **Service for Foreigners' Affairs**, www.sps.gov.ba, tel. +387 33 772 950, fax +387 33 772 958
- **Border Police**, www.granpol.gov.ba, tel. +387 33 755 300, fax +387 33 755 117
- **Sector for Immigration**, tel. +387 33 492 477, fax +387 33 492 794

Main responsibility in the field visa and consular issues:

- **Ministry of Foreign Affairs**, www.mvp.gov.ba, tel. +387 33 281 100, fax 387 33 227 156

Readmission Agreements

- 27 bilateral RAs: Croatia (signed 2000), Italy (2004), Denmark (2004), Sweden (2005), Norway (2005), Romania (2005), Greece (2006), Slovakia (2006), Slovenia (2006), France (2006), Belgium (2007), The Netherlands (2007), Luxembourg (2007), Switzerland (2008), Estonia (2010), Malta (2010), Austria (2011), Bulgaria (2011), Hungary (2012), Czech Republic (2012), Macedonia (2008), Montenegro (2008), Albania (2009), Turkey (2012), Moldova (2012), Liechtenstein (2013) and Serbia (2013).
- 1 multilateral RAs: Agreement on the readmission between the European Community and Bosnia and Herzegovina on readmission of persons residing without authorization (signed 2007).
- 7 implementing protocols to EURA: Estonia (signed 2010), Malta (2010), Austria (2011), Bulgaria (2011), Hungary (2012), Czech Republic (2012) and Romania (2012).

Cooperation with non-state actors

- Cooperation with IOM on AVRR: Yes
- Main NGOs involved in returns and providing assistance to migrants: NGO "Vaša prava BiH" (www.vasaprava.org)

CROATIA

National authorities

Main responsibility in migration and asylum-related issues:

- **Ministry of interior**

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

- **Ministry of the interior**

Main responsibility in the field visa and consular issues:

- **Ministry of foreign and European affairs**

Readmission Agreements

number of bilateral RAs: country (year in which the agreement came into force)

- Albania (2005), Bosnia and Herzegovina (2012), Montenegro (2010), Island (temporary implementation), Kosovo (signed, have not entered into force), Macedonia (2003), Norway (2005), Serbia (2010), Switzerland (1997)

number of multilateral RAs: country (year in which the agreement came into force)

- Implementing protocols to EURAs (if applicable): country (year in which the protocol came into force)

Cooperation with non-state actors

- Cooperation with IOM on AVRR: No
- Main NGOs involved in returns and providing assistance to migrants: none

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

National authorities

Main responsibility in migration and asylum-related issues:

Ministry of Interior – www.moi.gov.mk

- Sector for asylum

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

Ministry of interior – www.moi.gov.mk

- Public Security Bureau
- Department for suppression of organized and serious crime – Sector for trafficking human beings and illegal migration
- Sector for Border affairs and Migration

Main responsibility in the field visa and consular issues

Ministry of Foreign Affairs – www.mfa.gov.mk

Readmission Agreements

number of bilateral RAs: country (year in which the agreement came into force)

- 22 bilateral RAs Italy (signed 1997), Slovenia (signed 1998), Switzerland (signed 1998 and new signed 2012), France (signed 1999), Slovakia (signed 2002), Bulgaria (signed 2002), Hungary (signed 2001 at force 2004), Croatia (signed 2001 at force 2003), Germany (signed 2002 at force 2004), Romania (signed 2003 at force 2006), Albania (signed 2004 at force 2005), Spain (signed 2006), Poland (signed 2006), Austria (signed 2006), Benelux countries (signed 2006), Denmark (signed 2006), Norway (signed 2006), Sweden (signed 2006), Moldova (signed 2008), Bosnia and Herzegovina (signed 2008), Serbia (signed 2010) and Montenegro (signed 2012).

number of multilateral RAs: country (year in which the agreement came into force)

- 1 multilateral RAs between Republic of Macedonia and European Union has been in force since 1 January 2008

GEORGIA

National authorities

Main responsibility in migration and asylum-related issues:

- **Patrol Police Department of the Ministry of Internal Affairs of Georgia**

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

Patrol Police Department is responsible agency for the implementation of Readmission Agreements (from 2011) and deportation of irregular migrants (from September 1, 2014). PPD is responsible for inspection the citizens of Georgian and foreigners, preventing, revealing and eliminating trans border organized crime and irregular migration, THB, smuggling, etc. at the Border Crossing Points of Georgia.

Main responsibility in the field of visa and consular issues:

Ministry of Foreign Affairs is responsible in the field of issuing visa and other consular issues, also Ministry of Internal Affairs and Ministry of Justice are responsible agencies for issuing visa. From September 1, 2014 the Ministry of Foreign Affairs will be the main agency for visa procedures and only in the exceptional cases Ministry of Internal Affairs will be authorised to issue upon arrival visa.

Readmission Agreements

Number of bilateral RAs: 3

- Norway-February 3, 2012), Switzerland (April 8, 2005), Ukraine (June 13, 2003)
- Number of multilateral RAs: country (year in which the agreement came into force) – 1
- European Union (March 1, 2011)

Implementing protocols to EURAs (if applicable): country (year in which the protocol came into force)

- The Republic of Bulgaria (October 8, 2012); the Republic of Estonia (November 9, 2012), Republic of Hungary (February 28, 2013); Austria (July 11, 2013); Benelux States (September 5, 2013); Lithuania (March 26, 2014).

Cooperation with non-state actors

- Cooperation with IOM on AVRR: Yes
- Main NGOs involved in returns and providing assistance to migrants: IOM <http://www.iom.ge/>; UN Association of Georgia <http://www.una.ge/eng/>; www.facebook.com/una.ge; ACF http://www.repatriation.ge/index.php?m=27&services_id=10&lng=eng; ICMPD <http://www.icmpd.org/>

HUNGARY

National authorities

Main responsibility in migration and asylum-related issues:

- **Ministry of Interior** (policy-making, strategic planning, legislation drafting), <http://www.kormany.hu/en/ministry-of-interior/contacts>
- **Office of Immigration and Nationality** (implementing authority, dealing with individual cases), http://www.bmbah.hu/jomla/index.php?option=com_content&view=article&id=44&Itemid=667&lang=en

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

- **Border Policing Department, Hungarian National Police Headquarters**, tel. +36 1 4435172, fax +36 1 4435174, e-mail: hatarrendfoo@orfk.police.hu
- **Unit for Coercive Measures and Return, Aliens Policing Directorate, Office for Migration and Nationality**, http://www.bmbah.hu/jomla/index.php?option=com_content&view=article&id=44&Itemid=667&lang=en (removal by air only)

Main responsibility in the field of visa and consular issues:

- **Ministry of Foreign Affairs** (Department of Consular Affairs), tel. +36 1 4581000, fax +36 1 2125918

Readmission Agreements

- 17 bilateral RAs: Austria (came into force in 1996), Bulgaria (1999), Croatia (2003), Czech Republic (1996), Estonia (2004), France (2006), Germany (1999), Greece (2005), Italy (1999), Kosovo (2012), Latvia (2002), Poland (1996), Portugal (2005), Romania (2002), Slovakia (2004), Slovenia (1999), Switzerland (1996)
- 1 multilateral RA: Benelux States (came into force in 2003)
- Implementing protocols to EURAs: Albania (2010), Bosnia-Herzegovina (2012), Georgia (2013), Moldova (2011), Russia (2011), Serbia (2010)

Cooperation with non-state actors

- Cooperation with IOM on AVR: Yes
- Main NGOs involved in returns and providing assistance to migrants: Menedék Hungarian Association for Migrants, <http://menedek.hu/en>; Hungarian Helsinki Committee, <http://www.helsinki.hu>

POLAND

National authorities

Main responsibility in migration and asylum-related issues:

- **Ministry of the Interior**, Migration Policy Department, tel. +48 22 60 145 52, fax +48 22 60 154 62, e-mail: dpm@msw.gov.pl, www.msw.gov.pl

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

- **Border Guard**
- **Department for Aliens**, tel. +48 22 500 42 37, fax. +48 22 500 47 77 or +48 22 500 47 78, e-mail: zcu.kg@strazgraniczna.pl, www.strazgraniczna.pl (*readmission, forced returns*)
- **Intelligence and Investigation Department**, tel. +48 22 500 40 41, fax. +48 22 500 47 97, e-mail: sekretariat.zos@strazgraniczna.pl, www.strazgraniczna.pl (*smuggling of migrants*)

Main responsibility in the field of visa and consular issues:

- **Ministry of Foreign Affairs**, Department of Consular Affairs, tel. +48 22 523 9444, fax +48 22 523 8872, e-mail: DK.Sekretariat@msz.gov.pl, www.msz.gov.pl

Readmission Agreements

- 16 bilateral RAs: Austria (came into force since 2005), Bulgaria (1994), Croatia (1995), Czech Republic (1993), Greece (1996), Spain (2004), Ireland (2002), Lithuania (2000), Latvia (2007), Romania (1994), Slovakia (1993), Slovenia (1998), Vietnam (2005), Switzerland (2006), Sweden (1999), Hungary (1995)
- 1 multilateral RA: with Schengen States (came into force in 2001)
- Implementing protocols to EURAs: Russia (2013)

Cooperation with non-state actors

- Cooperation with IOM on AVR: Yes (agreement with the Ministry of the Interior)
- Main NGOs involved in returns and providing assistance to migrants: Helsinki Foundation for Human Rights (www.hfhr.pl), Association for Legal Intervention (<http://interwencjaprawna.pl/en/>), the Halina Nieć Legal Aid Center (www.pomocprawna.org)

ROMANIA

National authorities

Main responsibility in migration and asylum-related issues:

- **General Inspectorate for Immigration** under the Ministry of Administration and Interior, www.ori.mai.gov.ro

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

- **General Inspectorate for Immigration** under the Ministry of Administration and Interior, www.ori.mai.gov.ro
- **Romanian Border Police** under the Ministry of Administration and Interior, www.politiadefrontiera.ro

Main responsibility in the field of visa and consular issues:

- **Ministry of Foreign Affairs** – General Department of Consular Affairs, www.mae.ro
- The Romanian visa is granted by the diplomatic missions and consular offices of Romania.
- As an exemption, the short term and transit visas may also be granted by the Border Police, in accordance with the provisions of REGULATION (EC) No 810/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 July 2009 establishing a Community Code on Visas (Visas Code)

Readmission Agreements

- 32 bilateral RAs: Spain (1997), Italy (1998), Poland (1993), Slovakia (2005), Czech Republic (1994), France (1994), Greece (1995), Germany (1998), Denmark (2000), Slovenia (2002), Finland (2001), India (2001), Bulgaria (2001), Ireland (2001), Sweden (2002), Republic of Moldova (2002), Hungary (2002), Austria (2002), Croatia (2002), Albania (2003), Latvia (2004), Portugal (2003), Norway (2003), United Kingdom of Great Britain and Northern Ireland (2004), Liban (2004), Turkey (2004), FYROM (2006), Lithuania (2004), Estonia (2005), Bosnia and Herzegovina (2005), Iceland (2007), Switzerland (2008)
- 1 multilateral RAs: Belgium, Luxembourg and the Netherlands (2006)
- *The last update of the above mentioned information on Readmission Agreements was done in 2010.*
- Implementing protocols to EURAs: **14 EURAs** in force and **3 EURAs** to be signed.

Cooperation with non-state actors

- Cooperation with IOM on AVRR: Yes
- Memorandum of Understanding of 28 June 2002 between the Government of Romania and the International Organization for Migration on cooperation in

the field of assisted humanitarian voluntary repatriation, entered into force on 29.03.2003

- Main NGOs involved in returns and providing assistance to migrants:
- IOM Romania – International Organisation for Migration from Romania (on AVRR), www.iom.ro
- CNRR – Romanian National Council for Refugees (on AVRR), www.cnrr.ro
- ARPS – Romanian Association for Health Promoting AIDRom – Ecumenic Association of Churches from Romania
- ICAR Foundation
- JRS – Jesuit Refugees Service
- IIT – Timisoara Intercultural Institute
- ARCA – Romanian Forum for Refugees and Migrants

SERBIA

National authorities

Main responsibility in migration and asylum-related issues:

- **Border Police** in Ministry of Interior

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

- **Administrative Directorate**, Border Police Criminal Police in Ministry of Interior

Main responsibility in the field of visa and consular issues:

- **Ministry of Interior and Ministry of Foreign Affairs**

Readmission Agreements

- number of bilateral RAs: Bosnia and Herzegovina (signed 05.07.2013 and entered into force 08.03.2014.), Denmark (signed 19.05.2002 and entered into force 08.03.2004), Canada (signed 16.03.2006. entered into force 06.06.2009.), Norway (signed 30.11.2009. entered into force 01.06.2010.), Croatia (signed 25.05.2009, entered into force 01.06.2010) , Swiss Confederation (signed 30.06.2009. entered into force 01.05.2010) , Macedonia (signed 04.10.2010, entered into force 01.10.2011), Moldova (signed 28.02.2011 entered into force 01.11.2012), Albania (signed 29.04.2011., entered into force 12.10.2011), Montenegro (signed 12.04.2013. entered into force 01.01..2014)
- It is expected to sign Agreements with Turkey and the Russian Federation
- number of multilateral RA: Agreement between Republic of Serbia and the European Community on the readmission of persons residing without authorisation which is signed in 18th of September 2007, ratified 07.11.2007 and entered into force 01.01.2008.

- Implementing protocols: Italy (signed 13.11.2009), Slovenia (signed 08.06.2009), France (signed 18.11.2009), Hungary (signed 19.12.2009), Great Britain (18.03.2010), Austria (signed 25.06.2010), Malta (signed 02.07.2010), Slovakia (signed 18.11.2010.), Germany (signed 29.03.2011., entered into force 21.11.2011), Romania (signed 09.06.2011, entered into force 21.09.2012.), Bulgaria (signed 16.09.2011, entered into force 12.11.2013), Estonia (signed 09.11.2011, entered into force 10.09.2013.), Czech Republic (signed 17.12.2012 and entered into force 28.03.2013). Countries of Benelux (signed 25.01.2013.) Cyprus (signed 25.01.2013.) Greece (signed 11.09.2013)
- Protocols with Sweden, Portugal and Spain have been harmonized and their signing is foreseen.

Cooperation with non-state actors

- Cooperation with IOM on AVRR: No

SLOVAK REPUBLIC

National authorities

Main responsibility in migration and asylum-related issues:

- **Ministry of Interior of the Slovak Republic**

Department for International Law and European Affairs, tel. +421 2 509 44499, fax +421 2 509 44054

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

- **Bureau of Border and Alien Police of the Presidium of Police Force**

(Alien Police Department, External Relations Department, National Unit Combating Illegal Migration)

Tel. +421 9610 50701, fax +421 9610 59074/59079, e-mail: uhcp@minv.sk

Main responsibility in the field visa and consular issues:

- **Ministry of Foreign and European Affairs of the Slovak Republic**

Tel: +421 2 5978 1111 or +421 90607 2222, fax +421 2 5978 3333, e-mail: info@mzv.sk

Readmission Agreements

- 17 bilateral RAs: Austria (2012), Benelux (2004), Bulgaria (2007), Croatia (2009), Czech Republic (2004), France (1997), Germany (2003), Hungary (2003), Italy (1998), Norway (2005), Poland (1993), Romania (2005), Slovenia (1995), Spain (1999), Sweden (2005), Switzerland (2007), Vietnam (2006)

- Implementing protocols to EURAs: Albania (2010), Moldova (2010), Montenegro (2012), Russia (2010), Serbia (2011)

Cooperation with non-state actors

- Cooperation with IOM on AVRR: Yes (Agreement with the Government of the Slovak Republic and Agreement with the Ministry of Interior)
- Main NGOs involved in returns and providing assistance to migrants: Human Rights League (www.hrl.sk/en), Slovak Humanitarian Council (www.shr.sk), Marginal (www.marginal.sk)

TURKEY

National authorities

Main responsibility in migration and asylum-related issues

- **Directorate General of Migration Management**

Main responsibility in the field of readmission, forced returns and smuggling of migrants:

- **Directorate General Of Migration Management**
- **General Directorate of Security**
- **Other Civilian Turkish Law Enforcement Officers**

Main responsibility in the field visa and consular issues:

- **Directorate General Of Migration Management**
- **Ministry of Foreign Affairs**

Readmission Agreements

- 13 bilateral RAs: Syria (entered into force in 2003), Greece (2002), Kyrgyzstan (2009), Romania (2009), Ukraine (2008), Pakistan (signed in 2010, has not entered into force), Russia (2011), Nigeria (signed in 2011, has not entered into force), Bosnia and Herzegovina (signed in 2012, has not entered into force), Yemen (signed in 2012, has not entered into force), Moldova (2014), Belarus (2014), Montenegro (signed in 2013, has not entered into force)
- 1 multilateral RA: EURA (signed in 2013, on 26 June 2014 the Turkish Parliament ratified the agreement)

Cooperation with non-state actors

- Cooperation with IOM on AVRR: Yes

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- Prague Process Action Plan 2012–2016, www.pragueprocess.eu/fileadmin/PPP/PP_AP_POZNAN_EN.pdf.

EU law & documents:

- Communication from the Commission to the Council and the European Parliament on EU Return Policy of 28 March 2014, http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/immigration/return-readmission/docs/communication_on_return_policy_en.pdf.
- EU *acquis* related to return and readmission, http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/immigration/return-readmission/index_en.htm.
- Communication from the Commission to the Council and the European Parliament on a community return policy on illegal residents (COM(2002) 564 final), Annex, 14 October 2002: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52002DC0564>.
- Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals; <http://eur-lex.europa.eu/legal-content/EN/ALL/?jsessionid=3QPFT1fbhfhLD8j1Gv0cML1F22lyLhh28dCgk1q9QZTV7KWGyXt!-1454583626?uri=CELEX:32008L0115>.
- Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:EN:PDF>.
- Communication from the Commission to the European Parliament and the Council of 23 February 2011 on evaluation of EU Readmission Agreements, <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52011DC0076>.
- Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between the Member States on short-stay visas (VIS Regulation), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:218:0060:0081:EN:PDF>.
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