

Informalising Readmission Agreements in the EU Neighbourhood

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The conclusion of agreements linked to the readmission of migrants to their country of origin has gained momentum since the 1990s, particularly following the June 2002 Seville European Council which called for stronger cooperation in this field with third (or non-EU) countries. This trend reflects the fact that the issue of readmission is gradually pervading various policy areas, not only the migration and asylum policy of the EU and its member states, but also their trade and development aid policy, as well as their international relations.

Readmission agreements are concluded to facilitate the removal or expulsion of “persons who do not or no longer fulfil the conditions of entry to, presence in or residence”¹ in a destination country. “Persons to be readmitted [or removed] under such agreements are a country’s own nationals and, under certain conditions, third-country nationals or stateless persons who have passed [or transited] through the territory of the requested country or otherwise been granted permission to stay there”.²

Some Central Eastern European countries (CEECs) with a real prospect of accession to the European Union (EU) have been quite collaborative (if not pro-active) in readmission talks and negotiations, and these have led to the conclusion of numerous bilateral agreements with EU member states. Countries like Bulgaria and Romania, which joined the EU in January 2007, had a concrete incentive to cooperate on readmission while substantially justifying their option to their constituencies by pointing out the expected post-accession benefits. Similarly, for those Eastern European countries wishing to keep the European door open, even though they have no clear long-term prospect of EU membership (for example, Ukraine and Moldova), substantial progress has also been made on readmission talks and visa facilitations.

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¹ European Commission, *Community Return Policy on Illegal Residents*, 26.

² Definition of the Intergovernmental Consultations for Asylum, Refugee and Migration Policies in Europe, North America and Australia. *IGC Report on Readmission Agreements*, 9.

Conversely, bilateral negotiations on readmission with Mediterranean countries which have no prospect of accession to the EU have been lengthier and much more complicated. Moreover, when readmission agreements have been concluded, their final aim (that is, the removal of illegally staying nationals of third countries) has been hindered by administrative obstacles and a lack of cooperation from the authorities of the signatory country.

Faced with the difficulties inherent in the conclusion and concrete implementation of formal readmission agreements with Mediterranean countries, some European countries have recently started to devise a broader framework of cooperation based on administrative arrangements, bilateral deals and exchanges of letters and memoranda of understanding as an alternative to formal readmission agreements, arguing that these new forms of “compromise” foster cooperation on readmission. Though they are not formal agreements, they nevertheless have serious implications on state-to-state relations and migrants’ rights to protection.

In order to understand the emergence, if not proliferation, of these readmission arrangements, the accepted view that the cooperation of Mediterranean countries is dictated by pressures exerted by the EU and its member states has to be set aside. This article sets out to identify the various factors which have driven some Mediterranean countries to cooperate on readmission with EU member states such as France, Italy and Spain, and how this has led to the gradual “informalisation” of agreements linked to readmission. The aim is to understand more thoroughly what this strategic option implies in terms of costs, benefits and effectiveness. Do these arrangements provide a concrete added-value in the fight against illegal migration and in the management of removals? Are they instruments that have been adaptively shaped to respond to other concerns? Finally, the article looks into the implications of such arrangements.

Readmission – a growing concern

The rationale

Many scholars from various disciplines have already stressed the fact that bilateral cooperation on readmission is not new in the history of international relations³ and that, since the early 1990s, the issue of readmission has become part and parcel of the immigration control systems developed at bilateral and multilateral levels.⁴

The forced return of a person to his/her country, and the need to facilitate this return, has been mentioned in various international documents, most

³ Kruse, “EU Readmission Policy and its Effects”, 120; Bouteillet-Paquet, “Passing the Buck”, 359.

⁴ Lavenex, “EU Trade Policy and Immigration Control”, 161–77. See also Schieffer, “Community Readmission Agreements with Third Countries”, 343–57. For a thorough legal approach to bilateral and multilateral readmission agreements, see Nascimbene, “Relazioni esterne e accordi di riammissione”, 297–310.

