

## European travel document

### Matters of concerns and unclear aspects

On 17 November 2016, the [Regulation](#) adopted on 26 October “*on the establishment of a European travel document for the return of illegally staying third-country nationals*” was published in the European Union’s Official Journal. It repeals the Council Recommendation of 20 November 1994.

This regulation states that “[t]he national authorities of the Member States experience difficulties in returning illegally staying third-country nationals who possess no valid travel documents”. It is therefore “*necessary to promote the acceptance by third countries of an improved and uniform European travel document for the return of illegally staying third-country nationals as the reference document for return purposes*”. The text points out also that this uniform European travel document “*should contribute to reducing the administrative and bureaucratic burdens on the administrations of Member States and third countries, including consular services, and the length of the administrative procedures necessary for ensuring the return and readmission of illegally staying third-country nationals*”.

The regulation provides for a single format, security and technical standards of the European travel document (EUTD). However, it **does not specify what the rules for issuance of the EUTD are, how the latter should be used, nor does it make reference to any human rights safeguard.**

On 12 and 13 November 2015, during the EU-Africa Summit held in Valletta, the idea of establishing such document was discussed and negotiated with African countries that were represented and who had expressly stated their opposition to it (*see Statewatch Observatory on the refugee crisis in the Med and inside the EU 21 October – 24 November 2015*). Adopted in view of increasing the return and removal rates from the EU, **the regulation entails a number of elements that remain unclear as well as being a matter of concern to civil society and to countries targeted as countries of removal/return.**

The EUTD stands for instance today as a real bone of contention regarding cooperation between the EU and Mali. Indeed, it should be mentioned that, following civil society’s [mobilisation](#) after two people were sent back to Mali upon issuance of an European travel document, Malian authorities have so far refused to grant access to their territory to people facing the same situation. Their position was reiterated soon after through a [public statement](#).

**In this context, and given the serious issues at stake, you may find below a series of some questions to which civil society organisations are officially asking for answers in full transparency.**

## To the European Union and its Member States

1. How many European travel documents have been issued in total in the European Union and by which Member States over the past five year (2012-2016)?
2. Based on this data, what are the top five countries of destination where people have been removed with the use of a European travel document between 2012 and 2016?
3. When do/can Member States make use of the European travel document?
4. Was the adoption of regulation 2016/1953 preceded by a human rights impact assessment based on EU law standards as regards removals/returns?
5. What are the applicable criteria to identify the nationality of the person to whom a European travel document should be issued? Will these criteria be listed somewhere? Who/what authority is responsible for identifying the person's nationality?
6. Can a European travel document be issued to an under-aged person?
7. Is the person informed of the existence of the European travel document and of the use of personal data in view of possibly issuing him/her a European travel document?
8. Is the country of return obliged to systematically agree on the use of the European travel document? If so, and in the absence of any formal agreement, what may be considered as a form of agreement on the use of the EUTD by a third state?
9. Indent (8) of the Regulation states that “[r]eadmission agreements concluded by the Union with third countries should seek the recognition of the European travel document for return”.
  - Is there any follow-up mechanism in place to make sure that the nationality of the person removed using a European travel document was correctly identified?

10. The same indent puts forward that Member States “should seek the recognition of the European travel document for return in bilateral agreements and other arrangements as well as in the context of return-related cooperation with third countries not covered by formal agreements”.
  - What does « other arrangements » stand for exactly? What does cooperation « not covered by formal agreement » exactly entail?
11. What are the appeals and challenging procedures available to third-country nationals when a Member States issues him/her a European travel document?
12. What are the appeals and challenging procedures available to consulates before deportation is carried out and when a European travel document has been issued?
13. What will be the role of the European Border Guard and Coast Guard (Frontex) in obtaining a European travel document and carrying out deportation on that basis?

## To “third countries” (i.e. non-EU countries)

1. What is the role of consulates in the issuance of a European travel document, as they are in principle the only authority competent to identify whether or not a person is a national of the country they represent? Are they immediately informed of the issuance of a European travel document by an EU Member State? If so, what is the procedure?
2. What should happen if a third country does not agree on the validity of this document and thus refuses to readmit the person on its territory? What happens to the person in such case?
3. What should happen if, once readmitted, the person turns out not to be a national of the state s/he has been returned to? What are the safeguards in place to ensure that the person will not be sent to a country where s/he may face inhumane and degrading treatment?