

The EU must suspend its agreement with Ukraine on expulsion of migrants

The situation is far from stable in Ukraine, following the death of dozens of demonstrators at the hands of the forces of order and the fall of President Yanukovich. In towns such as Lviv, near the Polish border, arms stores in police stations have been looted and police units are in a state of paralysis. While the bloodbath has halted, the country has been torn apart in three months of crisis, its economy is weakened, partition looms, and the democratic context is very uncertain.

In recent weeks, watching events unfold, the EU has considered the imposition of sanctions aimed at ‘those responsible for repression and violations of human rights’. It has not, however, called into question agreements on border police cooperation reached between the EU and Ukraine which, now more than ever, pose a threat to respect of fundamental rights.

This is the situation. A readmission agreement in force between the EU and Ukraine permits member states to return Ukrainians found to be in an irregular situation on their territory, and likewise people from third countries having passed through Ukraine. Since the agreement came into force, Ukrainians have been among those nationalities most often expelled from the EU simply for not having a valid travel or visitor’s document. According to the European Commission, numbers of returned Ukrainians were 9,940 in 2008, 8,340 in 2009 and 8,405 in 2010. In the same three years Poland alone returned 4,265 Ukrainians.

While this last figure can in part be explained by the proximity of the two countries, it is also the result of another agreement, which Ukraine signed with the agency Frontex. According to Frontex, ‘Poland, more than any other member state, continues to deny entry to foreigners most of whom are Russians, Ukrainians and Georgians.’¹ In the first three quarters of 2013, 11,219 Ukrainians were pushed-back at the EU’s external borders² – mainly land borders – without the cases being examined on an individual basis. A ‘fast track’ clause in the agreement envisages these returns being carried out within 48 hours at most. This is a reminder that in 2010–12, charter flights were organised under the aegis of Frontex to return Ukrainians. In its most recent report on immigration and asylum, the European Commission goes so far as to suggest that ‘recourse to joint return flights [should be] further encouraged, drawing fully on the Return Fund and Frontex.’³

In a review of the application of joint agreements on readmission (23 February 2013), the European Commission insisted that ‘members states must always respect fundamental rights when applying readmission agreements and must therefore suspend their application whenever this might threaten a violation of fundamental rights.’ In support of this recommendation, Migreurop and the [Transeurope experts](#) reported that ‘The situation facing migrants and asylum seekers in Ukraine continues to be alarming; several NGOs have long

¹ Frontex (2014) *FRAN Quarterly*, p.32 [\[Internet link\]](#)

² Frontex (2014) *FRAN Quarterly*, p.31 [\[Internet link\]](#)

³ COM 2013 (422) Commission communication to the European Parliament and Council. Fourth Annual Report on Immigration and Asylum (2012) [\[Internet link\]](#)

condemned the degrading living conditions to which migrants are submitted.’⁴ What was true in 2011 is even more so today. On the one hand, people leaving Ukraine who are potentially eligible for international protection as a result of the political situation in their country run the risk of a summary return, in breach of the Geneva Refugee Convention. On the other, the current political and administrative instability in the country can but reinforce the risk faced by those expelled from the EU.

In light of recent events, Migreurop demands that the Commission complies with its own recommendations, by immediately suspending the implementation of the readmission agreement with Ukraine, and carries out an independent re-evaluation of this agreement. Migreurop also demands that Frontex ceases immediately all cooperation with the Ukrainian police, and ceases also all expulsions of Ukrainians or other nationals to Ukraine.

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⁴ Migreurop (2011) *Évaluation de la Commission européenne sur les accords communautaires de réadmission. Quelques réactions et interrogations* [[Internet link](#)]