



HOUSE OF LORDS

International Agreements Committee

17th Report of Session 2021–22

**Scrutiny of international
agreements: Agreement
between the United Kingdom
and the Republic of Serbia
on the readmission of
persons residing without
authorisation**

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International Agreements Committee

The International Agreements Committee is appointed by the House of Lords in each session to consider matters relating to the negotiation, conclusion and implementation of international agreements, and to report on treaties laid before Parliament in accordance with Part 2 of the Constitutional Reform and Governance Act 2010.

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Declaration of interests

See Appendix.

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Committee staff

The current staff of the Committee are Jennifer Martin-Kohlmorgen (Clerk), Andrea Ninomiya (Policy Analyst) and Robert Cocks (Committee Operations Officer).

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SUMMARY

This report addresses the following Agreement, laid before Parliament in accordance with section 20 of the Constitutional Reform and Governance Act 2010 (CRAG), which we report for information:

- Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Serbia on the readmission of persons residing without authorisation (CP 628, 2022)

Scrutiny of international agreements: Agreement between the United Kingdom and the Republic of Serbia on the readmission of persons residing without authorisation

AGREEMENT REPORTED FOR INFORMATION

The Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Serbia on the readmission of persons residing without authorisation (CP 628, 2022)¹

1. The Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Serbia on the readmission of persons residing without authorisation ('the Readmission Agreement') was laid on 24 February 2022, and the scrutiny period is scheduled to end on 30 March 2022. It was considered by the Committee on 10 March 2022.
2. The Readmission Agreement allows for the return of Serbian citizens (as well as third-party nationals who have a verified connection to Serbia) where they are found to be in violation of the immigration rules in the UK. Similarly, the Agreement allows for the return of UK citizens (as well as third-party nationals who have a verified connection to the UK) where they are found to be in violation of the immigration rules in Serbia.
3. The Agreement does not specify who may or may not have a right to remain in the UK or Serbia, but provides an agreed mechanism for the return of individuals. Readmission criteria are set out in detail in the body of the treaty, which includes relevant time limits,² the evidence that will be accepted to establish nationality,³ the procedures for transit,⁴ and costs.⁵ Annexes contain further information about the list of documents which would be considered as proof of nationality, as well as proof of evidence for the readmission of third country nationals and stateless persons.
4. When the UK was a member of the EU, it participated in 14 of the EU's 18 Readmission Agreements (EURAs) with non-EU countries, including

1 Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Serbia on the Readmission of Persons Residing without Authorisation, CP 628, January 2022: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1056146/CS_Serbia_1.2022_UK_Serbia_Readmission_Persons_Residing_without_Authorisation.pdf [accessed 10 March 2022]

2 Article 10

3 Articles 8 and 9

4 Article 14

5 Article 15

one with Serbia.⁶ The other EURAs in which the UK participated were with Albania, Pakistan, Georgia, Turkey, Sri Lanka, Ukraine, Russia, Moldova, Bosnia-Herzegovina, Montenegro, Macedonia, Macao and Hong Kong. As the UK ceased to be covered by EURAs at the end of the post-Brexit transition period on 31 December 2020, the Government is seeking to put in place agreements to replace the EURAs it previously relied on for making returns.⁷ The UK-Serbia Agreement is the second such agreement to be transitioned, following the signing of a Readmission Agreement with Albania last year.⁸

5. The Explanatory Memorandum (EM) accompanying the Readmission Agreement with Serbia does not provide this context, nor does it set out whether the Agreement simply replicates the terms of the EURA with Albania, or whether there are substantive differences.⁹ On the raising of this question with the Home Office, officials confirmed that the new bilateral agreement is substantially the same as the EU Readmissions Treaty with Serbia, except that some of the language has been updated to reflect the bilateral nature of the new agreement and to ensure consistency with current treaties, the Data Protection Act 2018 and GDPR.
6. **We call on the Government to ensure that where an EU agreement is being transitioned, the explanatory materials contain relevant contextual information, including on the pre-existing agreements to which it relates, and confirm whether the new agreement contains substantial differences from the underlying EU Agreement.**

Human rights implications

7. The EM states that there are “no significant human rights implications”. Given the Agreement deals with the return of individuals, which in the case of third-country nationals and stateless persons could result in their return to a country that is not their country of origin, we would have expected the EM to provide more information on the human rights implications of the Agreement. Though we note that Serbia is a signatory to the European Convention on Human Rights and the 1951 Refugee Convention, the EM does not set this out. It also does not provide information on how the Readmission Agreement interacts with UK obligations under Articles 3 and 8 of the European Convention on Human Rights, nor the 1951 Refugee

6 Written answer by Lord Greenhalgh, [HLWA1460](#) (Session 2021–22). See also: European Commission, ‘Return and readmission’: https://ec.europa.eu/home-affairs/policies/migration-and-asylum/irregular-migration-and-return/return-and-readmission_en [accessed 10 March 2022].

7 Explanatory memorandum: UK/Serbia: Agreement on the Readmission of Persons Residing without Authorisation, January 2022, para 3.2: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1055225/CS_Serbia_1.2022_UK_Serbia_Readmission_Persons_Residing_Without_Authorisation.odt [accessed 10 March 2022]

8 Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Council of Ministers of the Republic of Albania on the Readmission of Persons, CP 521, July 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1016871/CS_Albania_2.2021_Agreement_UK_Albania_Readmission_Persons.pdf [accessed 10 March 2022]. See also: written answer by Lord Greenhalgh, [HLWA1462](#) (Session 2021–22).

9 The text of the EU-Serbia Agreement can be found at Council Decision of 8 November 2007 on the conclusion of the Agreement between the European Community and the Republic of Serbia on the readmission of persons residing without authorisation. [OJ L 334/45](#), 19 December 2001

Convention,¹⁰ how the obligations will be met and what safeguards are in place.

8. We note that Article 13 of the Agreement contains some human rights protections. Transit applications¹¹ can be refused in specified circumstances, including:

“[I]f the third-country national or the stateless person runs the real risk of being subjected to torture or to inhuman or degrading treatment or punishment or the death penalty or of persecution because of his race, religion, nationality, membership of a particular social group or political conviction in the State of destination or another State of transit.”

9. **We call on the Government to ensure that the explanatory materials accompanying international agreements set out any relevant human rights implications, including the compatibility of the agreement’s provisions with the UK’s international human rights obligations.**

Governance and amendments

10. Article 17 of the Readmission Agreement provides that the parties “may” establish a Joint Readmission Committee. Any such Committee would, amongst other things, propose amendments to this Agreement and its Annexes. Decisions of the Joint Readmission Committee, which we assume will be made by consensus,¹² “shall be binding on the Contracting Parties”.¹³
11. The EM does not state whether the Government intends to ask for the Joint Readmissions Committee to be established.¹⁴ Nor does it indicate whether any amendments made to the Agreement would be notified to Parliament under the Constitutional Reform and Governance Act 2010. Crucially, assuming that the Committee is established, the terms of the Agreement do not appear to provide any limitations on the type of amendments which could be made.
12. Officials at the Home Office have confirmed that a Joint Readmission Agreement is not currently deemed necessary because of the small number of returnees and the fact that the Agreement is simply reintroducing an established process. They have also confirmed that significant amendments would be subject to scrutiny under CRAG, although we note that the Government has yet to provide clear guidelines on how it decides whether treaty amendments should be subject to ratification and, consequently, laid under CRAG.

10 Articles 3 and 8 of the ECHR relate to the right not to be subjected to torture or to inhuman or degrading treatment or punishment and the right to family life respectively. They are often relied on by persons seeking asylum in the United Kingdom. Under the 1951 Refugee Convention a refugee should not be returned to a country where they face serious threats to his or her life or freedom.

11 Transit is the passage of a third-country national or stateless person through the UK or Serbia, while travelling from Serbia or the UK to their country of destination.

12 Article 17(5) of the Readmission Agreement indicates that the committee “shall establish its rules of procedures.” It is usual practice of such committees to take decisions on the basis of consensus between the parties.

13 Article 17(2)

14 It merely indicates that “if the Committee is set up, it will be comprised of representatives from the UK and Serbia”.

13. **We call on the Government to ensure that all EMs address whether amendments will be subject to scrutiny under CRAG, in line with existing Government guidance.**¹⁵

Entry into force

14. The EM explains that no new legislation is required to bring the Readmission Agreement into force and that it will be implemented in line with the current Immigration Rules.
15. This Agreement will enter into force on the first day of the month after both Parties have notified each other that they have completed their domestic legal procedures.¹⁶

Territorial scope and consultation

16. The Readmission Agreement will apply to the UK and Gibraltar. This reflects the territorial application of the EU Readmission Agreement with Albania when it applied to the UK.¹⁷
17. The EM notes that while the Government of Gibraltar was consulted on the drafting on the Agreement, the devolved administrations were not consulted since immigration policy is not devolved.¹⁸
18. **We report the Readmission Agreement with Serbia for information. In particular, we highlight our comments at paragraphs 6, 9 and 13.**

15 Foreign, Commonwealth and Development Office, *Treaties and Memoranda of Understanding (MOUs): Guidance on Practice and Procedures*, October 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024663/Treaties_and_MOUs_Guidance_Oct_2021.odt [accessed 10 March 2022]. We note that the document was updated on 7 March 2022 to include further guidance on amendments: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1059183/Treaties_and_MOUs_Guidance_-_March_Update_EM_Amendments_.odt [accessed 10 March 2022]

16 Article 21

17 EM, para 6.1

18 EM, para 10.1

APPENDIX: LIST OF MEMBERS, DECLARATIONS OF INTEREST AND COMMITTEE STAFF

International Agreements Committee Members and staff

Lord Astor of Hever

No relevant interests

Lord Gold

Director, Gold Collins Associates Ltd

Principal, David Gold & Associates LLP

Baroness Hayter of Kentish Town

No relevant interests

Lord Kerr of Kinlochard

Chairman, Centre for European Reform

Deputy Chairman, Scottish Power plc

Lord Lansley

Director, LOW Associates Ltd

Chair, UK-Japan 21st Century Group

Trustee, Radix

Baroness Liddell of Coatdyke

Adviser, PricewaterhouseCoopers

Association Member, Bupa

Chair, Annington Ltd

Honorary Vice President, Britain-Australia Society Education Trust

Trustee, Northcote Educational Trust

Lord Morris of Aberavon

No relevant interests

Lord Oates

Chair, Advisory Committee, Weber Shandwick UK

Director, H&O Communications Ltd

Lord Razzall

Director, North Atlantic Mining Associates Limited

Director, ZeU Technologies Inc

Shareholdings, ZeU Technologies Inc

Shareholdings, St-Georges Eco-Mining Corporation

Shareholdings, Tintra plc

Earl of Sandwich

No relevant interests

Lord Udny-Lister

Advisor to the Group Chairman of HSBC

Lord Watts

No relevant interests

The Committee staff are Jennifer Martin-Kohlmorgen (Clerk), Andrea Ninomiya (Policy Analyst), and Robert Cocks (Committee Operations Officer).

Specialist Adviser

Alex Horne acted as Specialist Adviser to the Committee and declared the following interests:

Counsel, Hackett & Dabbs LLP; Visiting Professor at Durham University; and Special Adviser, United Nations Development Programme (Pacific Region).