

AGREEMENT

between the Government of the Republic of Armenia and the Swiss Federal Council on the Readmission of Persons with Unauthorised Stay

The Government of the Republic of Armenia and the Swiss Federal Council (hereinafter named the “Parties”)

Wishing to maintain and strengthen the spirit of solidarity and co-operation between them,

Determined to take measures against illegal immigration,

Desirous of facilitating the readmission of persons whose stays have not been authorised,

Aiming at securing fundamental rights and freedoms, and in particular, the right to apply to legal and authorised bodies, which is stipulated in international agreements and domestic legislation for persons, subject to return,

Guided by the principle of individual consideration of cases of persons subject to readmission.

Have agreed as follows:

Article 1

The terms used in the Agreement

In the context of this Agreement the terms mentioned below have the following meaning:

“The Requesting Party” – One of the Parties which applies to the other Party with a request to readmit a person with unauthorised stay in the territory of its State;

“The Requested Party”- One of the Parties which receives a request from the Requesting Party for readmission of a person with unauthorised stay in the territory of the State of the Requesting Party;

“Person with unauthorised stay”- a person who does not fulfil or no longer fulfils the legal requirements for entry to or residence in the territory of the State of one of the Parties;

“Third-country national”- any person who is not a citizen of either State of the Parties.

Article 2

Readmission of own nationals

(1) Each Party shall readmit at the request of the other Party and without formalities other than those specified in this Agreement any person with unauthorised stay provided that it is proved or can be reasonably assumed that he or she possesses the nationality of the requested Party.

(2) Upon application by the requesting Party, the requested Party shall without delay issue the persons to be readmitted with the travel documents required for their repatriation.

(3) The requesting Party shall readmit such person again to its own territory under the same conditions, if checks later reveal that he or she did not in fact possess the nationality of the requested Party when he or she left the territory of the State of the requesting Party.

Article 3

Readmission of third-country nationals and stateless persons

(1) Each Party, at the request of the other Party, shall readmit to the territory of its State without formalities other than those specified in this Agreement any third-country national and stateless person with any legal status, which grants authorised stay in the territory of the State of the requested Party (e.g. residence status, refugee status, status of temporary protection).

(2) However, the requesting Party shall later readmit to the territory of its State any third-country national and stateless person referred to in paragraph 1 if it is proved that he or she did not in fact have been granted authorised stay by the requested Party when he or she left the territory of the latter State.

Article 4

Authorisation to stay

An authorisation to stay according to Article 3 means any authorisation listed in the Annex that has been granted by the competent authorities of a Party in accordance with its national law.

Article 5

Time-limits

(1) The requested Party shall reply to a readmission request without delay, and, at most, within thirty days.

(2) The requested Party shall take charge of anyone whose readmission has been agreed to without delay, and, at most, within thirty days. If the requesting Party wishes, this time-limit can be extended as necessary to deal with legal requirements or practical difficulties. The competent authorities of each Party shall agree with the final transfer date in writing and in advance.

(3) Should it be proved that a third-country national or a stateless person has resided longer than six months without interruption with the knowledge of a Party in its territory, that Party may no longer file an application for readmission. Exceptionally, for reasons such as serious health problems, legal requirements or important practical difficulties, this period may be extended up to twelve months.

Article 6

Transit

(1) Each Party shall allow, at the request of the other Party, the transit of third-country nationals or stateless persons under the supervision of the authorities (hereinafter referred to as "transit") provided that admission to other transit countries and to the destination country are guaranteed. In these cases, the requested Party does not need to issue a transit visa.

(2) The transit of third-country nationals or stateless persons can be refused if there is sufficient evidence that, in the destination country or any transit country, the person is threatened with inhuman treatment or the death penalty, or that his or her life, physical welfare or freedom are endangered on the basis of his or her nationality, religion, race or political conviction.

(3) Transit may also be refused if the person can expect criminal prosecution or the execution of a sentence on the territory of the State of the requested Party, in a transit country, or in the destination country.

(4) Application for transit will be made and answered in writing directly between the responsible authorities referred to in paragraph 1 of Article 9 of this Agreement. The main content of the application is set out in the Annex.

(5) If the requested Party rejects an application for transit because the conditions listed in paragraphs 1 to 3 have not been met, it shall inform the requesting Party of the basis of its decision in writing. Even if earlier guarantees have been given to the requesting Party, anyone who has been accepted for transit may be returned if it is later shown that the conditions in paragraph 1 have not been met or that Article 3 does not apply. In this case, the requesting Party shall readmit the person concerned.

Article 7

Data Protection

(1) If personal data are communicated in order to implement this Agreement, the data shall be collected, treated and protected according to national and international

law. In particular, the following principles shall be observed:

a) The recipient Party shall use the data only for the purpose stated in this Agreement and under the conditions set by the communicating Party.

b) If asked, the recipient Party shall inform the communicating Party about how the data will be used.

c) Personal data may only be communicated to and used by the competent authorities responsible for implementing this Agreement. The communicating Party must give its written consent before the data can be further communicated to other bodies.

d) The Party communicating the data shall ensure that they are accurate, necessary and do not exceed to the requirements of the purposes for which they are communicated. The communicating Party will observe any restrictions under its own law regarding the communication of data. If the data are inaccurate or have been communicated illegally, the recipient Party shall be informed of this immediately and shall correct or destroy the data.

e) If they request it, people shall be informed about the communication of any data relating to themselves as well as their intended purpose, in accordance with the national law of the Party from which the information is requested.

f) Communicated personal data shall only be stored for as long as it is required for the purposes for which they were communicated.

g) Each Party shall protect communicated personal data against unauthorised access, alteration or disclosure.

(2) Personal data communicated in relation to the readmission of persons can concern only the following:

(a) the particulars of the person to be transferred and, where necessary, of members of the person's family (name, first name, any previous names, nicknames or pseudonyms, aliases, date and place of birth, sex, current and any previous nationality),

(b) identity card, passport, other identity and travel document and Laissez-passer (number, period of validity, date of issue, issuing authority, place of issue, etc.),

(c) other details such as fingerprints and photographs which are needed to identify the person to be transferred, or to check whether the conditions for readmission in this Agreement have not been met,

(d) stopping places and itineraries.

Article 8

Costs

All transport costs incurred in connection with readmission and transit as far as the border of the requested Party or the border of the country of destination as well as with return of the persons referred in paragraph 3 of Article 2 and paragraph 2 of Article 3 of this Agreement shall be borne by the requesting Party.

Article 9

Implementing provisions

(1) At the time of notification referred to in paragraph 2 of Article 14 of this Agreement, the Parties shall notify each other of the Authority responsible for the implementation of this Agreement and its address and provide a list of entry and exit points where readmission and transit will be carried out.

(2) The Parties shall immediately notify each other of the change of the Authority and its address as well as of the entry and exit points.

(3) Procedures for implementing this Agreement, in particular on:

a) the procedures for exchanging information and for processing readmission,

b) the documents and information required for processing readmission,

c) the methods of payment of costs in accordance with Article 8 of this Agreement,

are set out in the Annex to this Agreement which is an integral part thereof.

(4) Changes in this Annex may be agreed in writing by the Parties.

Article 10

Principles of good co-operation

(1) Both Parties shall support one another in applying and interpreting this Agreement. They shall keep each other regularly informed of immigration requirements. Any dispute arising out of the interpretation, application or implementation of this Agreement shall be settled through mutual consultations and exchange of views, orally or in writing, between the competent authorities of the Parties.

(2) The Parties shall assist each other in the verification of the nationality of persons due to leave the country in order to facilitate the procedures.

(3) Each Party may request that experts of the two Parties meet with a view to resolving any problems associated with the application or the implementation of this Agreement.

Article 11

Other obligations

This Agreement shall not affect other obligations of the Parties arising under international agreements, in particular obligations arising from:

a) international agreements on the protection of human rights, in particular the International Covenant on Civil and Political Rights of 16th December 1966 and the European Convention on Human Rights of 4th November 1950 and its Protocols in force for both Parties;

b) the Convention of 28th July 1951 relating to the Legal Status of Refugees and its Protocol of 31st January 1967;

c) international agreements on extradition.

Article 12

Suspension

Each Party can suspend, totally or partially, the provisions of this Agreement for reasons of public order and health or security. The suspension shall be notified immediately in writing to the other Party.

Article 13

Application

This Agreement also applies to the territory of the Principality of Liechtenstein and to nationals of the Principality of Liechtenstein.

Article 14

Entry into force, Duration and Termination

(1) This Agreement is concluded for an indefinite period of time.

(2) This Agreement shall enter into force on the first day of the second month after the date on which the Parties have notified each other in writing that their respective requirements for the entry into force of the Agreement have been complied with.

(3) Each Party may terminate this Agreement at any time by giving notice in

writing to the other. In that event, the Agreement shall cease to have effect thirty days after the date of receipt of that notice.

Done in Bern, on 30 October 2003 in two original copies in the Armenian, German and English languages, all texts being equally authentic. In case of divergence in the interpretation of this Agreement the English version shall prevail.

1. On article 2 of the Agreement:

1.1 Nationality may be proved by presenting:

- a valid identity card;
- a valid passport or substitute passport (e.g. laissez-passer, certificate of repatriation).

If these documents are presented, the authorities of the requested Party shall recognise the person's nationality and no further examination will be required.

1.2 A presumption of nationality may be established in particular by means of (copies are also admitted):

- any documents listed under subparagraph 1.1 above whose validity has expired;
- identity cards proving membership in the Swiss Army or the Armenian Military;
- driving licenses;
- birth certificates;
- seamen's registration books;
- statements by witnesses;
- particulars supplied by the person concerned;
- the language of the person concerned (e.g. linguistic expertise);
- comparison of fingerprints that are registered in the other Party's fingerprint files.

In this case, nationality is considered to be proven provided the requested Party confirms it.

1.3 If the requesting Party considers that the person concerned does in fact have the relevant nationality (see Article 2 paragraph 3 of this Agreement), it shall send the requested Party the following written information about him or her:

- a) first and family names, maiden name for women if appropriate;
- b) date and place of birth;
- c) last known address in the person's native country;
- d) type, serial number, length of validity of his or her passport or other travel document as well as details of the issuing authorities and a photocopy of the travel document.

The reply shall be sent promptly in writing to the requesting Party.

1.4 If the person is in need of medical care, the requesting Party shall also provide a description of his or her state of health, including copies of any medical certificates and information about the need for special treatment, such as medical or other care, supervision, or transport by ambulance.

2. On articles 3, 4 and 5 of the Agreement:

2.1 Any request for readmission in accordance with Article 3 of the Agreement (third-country nationals and stateless persons) shall contain the following information about the person concerned:

- a) first and family names, maiden name for women if appropriate;
- b) date and place of birth;
- c) nationality;
- d) last known address in the requested Party;
- e) type, serial number, length of validity of the passport or other travel document as well as details of the issuing authorities and a photocopy of the travel document;
- f) date of detection of the unauthorised stay in the territory of the State of the requesting Party.

2.2 An authorisation to stay can be proved by means of the following documents:

- a) within the territory of Switzerland:
 - a C permit granting residence issued by a cantonal authority for aliens;
 - a refugee's passport within the meaning of the Convention (Convention travel

document) relating to the Legal Status of Refugees of 28th July 1951;

- a Passport for Aliens.

b) within the territory of the Republic of Armenia:

- a refugee certificate;

- a refugee travel document;

- temporary protection certificate;

- a residence card.

2.3 Subparagraph 1.2 of this Annex applies similarly to the presumption of an authorisation to stay. In this case, the person will only be readmitted if the requested Party explicitly consents thereto. The requested Party shall reply to the application within 30 days.

2.4 The time-limits according to paragraphs 1 and 2 of Article 5 are maximum time-limits. The time-limit begins with the notification of the readmission application to the requested Party.

3. On article 6 of the Agreement:

3.1 The transit application must contain the following information about the person concerned:

a) first and family names, maiden name for women if appropriate;

b) date and place of birth;

c) nationality;

d) last known address in the destination country

e) the type, serial number, and length of validity of their passport or other travel document, as well as details of the issuing authorities and a photocopy of the travel document.

3.2 The transit application must indicate whether the person concerned needs special security measures, or medical or other care.

3.3 The transit application must be submitted in writing. The requested Party must reply in writing within ten working days after receiving the application.

3.4 If the requested Party accepts an application, the transit must be carried out within 30 days from the date of the reply.

3.5 The precise time and method of the hand-over and the transit (flight number, departure and arrival times, personal details of any accompanying persons) must be agreed directly between the competent authorities of the Parties. In case of transit a maximum of 20 people can be transported together.

4. On article 8 of the Agreement:

In accordance with Article 8 of the Agreement, the costs which cannot be settled directly by the requesting Party, shall be reimbursed within 30 days after receipt of the invoice to the bank account of the competent authority of the requested Party.

5. On article 10 of the Agreement:

5.1 If nationality cannot be proved and presumption of nationality cannot be established on the basis of evidence and the documents supplied, the diplomatic or consular mission abroad of the Party shall, upon request of the other Party, have hearings with the concerned persons in order to determine their nationality.

5.2 On the request of the other Party, the requested Party will appoint experts to determine the nationality of these persons.

5.3 The costs incurred in connection with the determination of nationality shall be borne by the requesting Party.

The Agreement entered into force 01.03.2005.