

## AGREEMENT

### between the Government of the Republic of Armenia and the Government of the Federal Republic of Germany on the readmission of persons with unauthorized stay and transit transport (Agreement on readmission)

The Government of the Republic of Armenia and the Government of the Federal Republic of Germany (hereinafter referred to as the "Contracting parties"),

being intended to enhance cooperation for effective fight against illegal migration,

based on this Agreement and under the principle of mutuality with intent to drafting compact and effective procedures for identification and readmission of persons not fulfilling or no longer fulfilling the conditions for entry, stay or residence in the territories of the Republic of Armenia or the Federal Republic of Germany and facilitating transit of the named persons,

having respect for fundamental human rights and freedoms provided for by the national legislations of the Contracting parties,

with due consideration that the readmission of persons shall be accomplished regularly and managed by exception (on a case-by-case basis),

have agreed on the following:

### Article 1

#### Definitions of concepts

1. "Citizen" - is a person who holds the citizenship of one of the Contracting state parties.
2. "Third-country (state) national" - is a person who is not a stateless person and does not hold the citizenship of any of the Contracting state parties.
3. "Stateless person" - is a person who does not hold the citizenship of any state.
4. "Person with unauthorized stay" - is a person who does not fulfil or no longer fulfils the conditions for entry, stay or residence in the territories of one of the Contracting state parties.
5. "Requesting Contracting party" - is a party which files a request with other Contracting party to readmit the person with unauthorized stay or to authorize his/her transit.
6. "Requested Contracting party" - is a party which receives request of the requesting Contracting party to readmit the person with unauthorized stay in the territory of the named Contracting state party or to authorize his/her transit.
7. "Residence permit" - within the context of this Agreement - is a valid permit issued

by the competent authorities of the Contracting parties which authorizes a person to enter into the territories of the Contracting state parties and reside therein.

8. "Multiple entry visa" - is a valid permit issued to a person by the competent authorities in accordance with the national legislation of the Contracting parties for multiple entry into and stay in the territory of its state for the reasons, terms and conditions specified therein.

## Article 2

### Readmission of own citizens

1. Requested Contracting party shall without any formalities readmit the person with unauthorized stay in the territory of the requesting Contracting state party provided that the named person is identified as a citizen of the requested Contracting party.

Citizenship is considered identified under the documents specified in Annex 1 of this Agreement.

2. Requested Contracting party according to the application of requesting Contracting party - without formalities other than those specified in this Agreement - shall readmit the person with unauthorized stay in the territory of the requesting Contracting state party provided that it can be "*prima facie*" reliably assumed, based on evidences that the named person is a citizen of the requested Contracting state party.

Citizenship can be reliably assumed under the documents specified in Annex 2 of this Agreement.

Upon existence of such documents the Contracting parties shall consider the citizenship identified unless the contrary is proved by the Contracting parties.

3. In case of affirmative response to the application the requested Contracting party, as soon as possible but not later than within 14 days, shall issue travel document, required for the return, to the person subject to readmission according to paragraph 2, which shall remain in effect for at least 30 days. If for legal or factual reasons it will be impossible to transport the relevant person within validity period the requested Contracting party, as soon as possible but no later than in 7 days, shall issue new travel document having the same validity period.

4. The requesting Contracting party under the same conditions shall readmit the returned person if, as a result of further verifications within three months, it proves out that the named person at the time of departure from the territory of the requesting Contracting state party did not hold the citizenship of the requested Contracting state party or had a right of residence in the territory of the requesting Contracting state party.

## Article 3

### Readmission of third-country nationals and stateless persons

1. Contracting parties are guided by the principle that third-country national, as a rule, is returned to the country which citizenship he/she holds. The Contracting parties are also guided by the principle that stateless person is returned to the country wherein he/she last resided or which issued a travel document to him/her.

2. The requested Contracting party on the basis of the application of the requesting Contracting party - without formalities other than those specified in this Agreement - shall readmit the person who lost the citizenship of the requested Contracting state party after entry into the territory of the requesting Contracting state party and did not acquire citizenship of any state or did not receive assurance from the requesting Contracting party that he/she shall receive its citizenship if the named person does not fulfil or no longer fulfils the effective conditions for entry into and stay in the territory of the requesting Contracting party.

Means of identification and certification specified in Annexes 1 and 2 of this Agreement apply to the persons stipulated in this paragraph.

3. The requested Contracting party on the basis of the application of the requesting Contracting party - without formalities other than those specified in this Agreement - shall readmit any third-country national and stateless person who do not fulfil or no longer fulfil the conditions for entry into and stay in the territory of the requesting Contracting state party:

- a) if it proved out or became certain that the named person holds valid residence permit issued by the requested Contracting party, or
- b) if it proved out or became certain that the named person held valid residence permit issued by the requested Contracting party at the time of identifying the facts of unauthorized stay and maximum six months had passed since the time of identifying the facts of unauthorized stay, or
- c) if it proved out that the named person held valid residence permit issued by the requested Contracting party at the time of entry into the territory of the requesting Contracting party and maximum six months had passed since the time of entry, or
- d) if it proved out or became certain that the named person held valid multiple entry visa issued by the requested Contracting party - if the person holds valid visas of several states then the requested Contracting party has readmission obligation only in case if the validity period of the visa it issued is longer than the ones of others, or
- e) if the person illegally entered into the territory of the requesting Contracting party directly from the territory of the requested Contracting party.

The list of documents evidencing the existence of conditions for readmission of third-country nationals and stateless persons specified in this paragraph is presented in Annex 3. The Contracting parties shall mutually, without further formalities, recognize

any such evidence.

The list of documents certifying the existence of conditions for readmission of third-country nationals and stateless persons is presented in Annex 4. In cases when such certifying documents exist the Contracting parties recognize the existence of the requirements unless the contrary is proved.

4. Based on the application of the requesting Contracting party the requested Contracting party, where applicable, as soon as possible but not later than within 14 days since the affirmative response to the application, shall issue travel document required for the return to the person subject to readmission, which shall remain in effect for at least 30 days. If for legal or factual reasons it will be impossible to transport the relevant person within validity period the requested Contracting party, as soon as possible but no later than in 7 days, shall issue new travel document having the same validity period.

## Article 4

### Application for readmission

1. Transportation of the person subject to readmission based on the obligations specified in Articles 2 and 3 shall require submission of application to the competent authority of the requested Contracting party except for the cases provided for by paragraph 2 of this Article.

2. Application for readmission shall be replaced with written notification which, prior to return of the relevant person, shall be in timely manner sent to the competent authority of the requested Contracting party if the person to be returned holds any of the documents specified in Annex 1 or Annex 3.

3. Application for readmission shall include the following information:

a) data about the person subject to readmission (for example: name, surname, date of birth, if applicable - patronymic, place of birth and last place of residence),

b) copies of the documents which are the proof of citizenship or evidencing "*prima facie*" on the matter.

4. When appropriate, application for readmission shall either include the following information:

a) record that the person subject to readmission might be in need of specific assistance or care provided that the named person agreed to the said record,

b) in particular cases of transportation records about necessary means of protection or safety.

## **Article 5**

### **Terms**

1. Application for readmission shall be submitted to the competent authority of the requested Contracting party within six months since the time when the requesting Contracting party discovers that third-country national or stateless person has unauthorized residency. In cases when there are legal or factual impediments for timely submission of the application for readmission then at the request of the requesting Contracting party this time period shall be extended, only up until then the impediments quit.

2. Application for readmission shall be replied to as soon as possible but not later than within three months. Countdown starts since the day of receipt of the application for readmission from the requested Contracting party. In cases when there are legal or factual impediments for timely submission of the response then at the request of the requesting Contracting party this time period shall be extended, up until then the impediments quit but not longer than for one more month. In case of no response during these time periods the application for readmission is considered granted.

In case of rejection of the application for readmission the requested Contracting party shall inform the requesting Contracting party about the general reasons for rejection.

3. Based on the granting of application for readmission and after the issuance of travel document the competent authority of the requesting Contracting party shall send notification about the return of the person to the competent authority of the requested Contracting party no later than 7 days prior to the specified day of return.

4. After receiving affirmative response the relevant person shall be transported as soon as possible but not later than within three months. Based on the application of the requesting Contracting party this time period might be extended for the time needed to eliminate legal or factual impediments. If transportation can not be performed due to legal or factual impediments then the requesting Contracting party shall inform about it the requested Contracting party.

## **Article 6**

### **Mode of transportation and means of transportation**

As a rule, the return shall be performed by air. Return by air is not limited to the use of national air companies or security personnel of the requesting Contracting party and can be implemented either through flights - according to flight schedule, or charter flights - upon agreement of the requested Contracting party.

## Article 7

### Principles of transit

1. Based on the application of the requesting Contracting party the requested Contracting party shall allow the transit of third-country nationals and stateless persons through the territory of its state provided that further travelling to other possible states of transit and readmission by the state of final destination are ensured.
2. The Contracting parties shall endeavour to perform the transit of third-country nationals and stateless persons only in cases when the said persons can not be returned directly to the state of final destination.
3. The requested Contracting party can reject the transit:
  - a) if third-country national or stateless person might be subjected to torture, inhuman or degrading treatment, criminal prosecution or application of punitive measures, sentenced to death, subjected to persecution due to race, religion, nationality, affiliation to certain social group or political commitments in other state of transit or in the state of final destination, or he/she can be under threat of criminal prosecution or application of punitive measures in the territory of the requested Contracting state party;
  - b) for the interests of public health, national security, public order or for other national interests.
4. The requested Contracting party can revoke permit issued for the transit if the circumstances specified in paragraph 3 occur or be uncovered further on, or if further travelling to the possible states of transit or readmission to the state of final destination is no longer secured.

## Article 8

### Transit procedure

1. Application for transit shall be submitted to the competent authorities in written and include the following information:
  - a) mode of transit (by air, land or sea), other possible states of transit and designated final destination,
  - b) personal data of the named person (for example: name, surname, date of birth and, if applicable, place of birth, citizenship, type and number of travel document),
  - c) designated site of border crossing, time of transportation and possible escort,
  - d) statement that from viewpoint of the requesting Contracting party the conditions specified in paragraph 2 of Article 7 exist and no reason for rejection specified in paragraph 3 of Article 7 is known.
2. The competent authority of the requested Contracting party, as soon as possible but

not later than within one month, shall response to the application for transit. In the event that the application is rejected the reasons shall be stated. In case there is no response within this time period it shall be considered granted.

Based on granting the application for transit the competent authority of the requesting Contracting party, as soon as possible but not later than seven days prior to the provisioned day of transit, shall notify the competent authority of the requested Contracting party about the transit of the person.

3. Based on mutual consultations of the Contracting parties the competent authorities of the requested Contracting party shall assist in the fulfilment of the transit.

## **Article 9**

### **Transportation and transiting expenses**

1. According to this Agreement the requesting Contracting party shall incur all the readmission-related transportation expenses all the way to the border of the requested Contracting party and, according to paragraph 4 of Article 2 of this Agreement, all the return-related expenses.

2. The requesting Contracting party shall incur all the transit-related expenses all the way to the state of final destination and all the return-related expenses.

## **Article 10**

### **Data protection**

Transfer of personal data shall take place only in case when it is necessary for the application of this Agreement by the competent bodies of the Contracting parties. During transfer and processing of personal data the following principles are applied with due consideration of national law of each of the Contracting parties:

a) personal data shall be collected only for accurate, definite and lawful application of this Agreement and shall not be used neither by the sender nor by the recipient in any way that is not consistent with the said objective;

b) sending and receiving authorities are liable for registering transfer and reception of data;

c) personal data must be consistent with the purposes which they are collected or used for, must be necessary for the said purpose and be kept within its scope.

Particularly, transferred personal data may refer only to the following:

- data of the person subject to return (for example: surname, name, any previous name, pseudonym or alias, date and place of birth, gender, previous and current citizenship);

- identification document or passport (number, validity period, date of issue, issuing

body, place of issue);

- location areas and itineraries;

- other information which according to this Agreement is necessary for identification of the person subject to return or for consideration of readmission-related prerequisites;

d) personal data shall be accurate and updated, when appropriate;

e) transferred personal data must be destroyed (removed) once they are no longer needed for the purpose they were transferred for;

f) sending and receiving authorities are liable for taking necessary measures to prevent unauthorized use, change and publishing of personal data;

g) either sending or receiving authorities shall take all necessary measures to ensure, when appropriate, correction, destruction (removal) or non-disclosure of personal data in case when the data processing is not consistent with the provisions of this Article, particularly, when the said data are not critical or accurate or unnecessary for the purposes of use. This includes also the notification to the Contracting party about prohibition on any correction, destruction (removal) or further disclosure of the data;

h) at the request of sending authority the receiving authority shall inform about the use of the transferred data and the results obtained;

i) personal data may be transferred only to the competent authorities. For further forwarding of these data to other authorities the consent of the sending authority is required.

## **Article 11**

### **Competent authorities**

The competent authorities of the Contracting parties responsible for the execution of this Agreement are presented in Annex 5 of this Agreement.

The Contracting parties immediately inform each other about the changes regarding the competent authorities.

## **Article 12**

### **Experts task group**

The Contracting parties shall undertake to give solution to the issues arising throughout the implementation of this Agreement upon mutual consent. The Contracting parties shall settle the implementation details of this Agreement on expert level. For this purpose they shall form experts task group. Each of the Parties, when necessary, can arrange discussion on the issues arising under the implementation of the Agreement.



## **Article 13**

### **Relation with other international agreements**

This Agreement shall not affect rights and liabilities of the Contracting parties arising from other international agreements as well as their membership to supranational and international organizations.

## **Article 14**

### **Entry into force and period of validity**

1. This Agreement shall enter into force after one month from the day the Government of the Federal Republic of Germany receives the notification of the Government of the Republic of Armenia on the execution of domestic procedures necessary for the entry of this Agreement into force.
2. This Agreement is concluded for an indefinite period.

## **Article 15**

### **Suspension and termination**

1. Each Contracting party, based on public health, national security or public tranquillity considerations, can completely or partially suspend the operation of provisions of this Agreement except for Article 2 of this Agreement. The other Contracting party is immediately notified in written on the suspension through diplomatic channels. Suspension comes into effect as of the seventh day following the day of notification unless other - later - period of suspension is specified in the notification.
2. Each Contracting party can terminate this Agreement through diplomatic channels. This Agreement shall be terminated after six months from the day other Contracting party receives the relevant notification.

## **Article 16**

### **Annexes**

Annexes 1-5 of this Agreement constitute an integral part of this Agreement.

Amendments to the Annexes 1-4 shall be agreed between the Contracting parties in written and enter into force from the day of mutual notification through diplomatic channels.

Done in Berlin on 16 November 2006 in two copies, each one in Armenian and German, at that both texts are equally valid.

## Annex 1

List of documents submitted for the identification of citizenship  
(paragraph 1 of Article 2, paragraph 2 of Article 3)

1. For the Republic of Armenia:

- valid passport of the citizen of the Republic of Armenia,
- valid diplomatic passport of the Republic of Armenia.

2. For the Federal Republic of Germany:

a) all types of valid passports with a note of German citizenship:

- travel passport of the Federal Republic of Germany,
- service passport of the Federal Republic of Germany,
- diplomatic passport of the Federal Republic of Germany;

b) Identification card of the Federal Republic of Germany.

3. Documents specified in this Annex are considered identifying either within 6 months upon the expiration of their validity period.

## Annex 2

General list of documents and data submitted for the identification of "*prima facie*" citizenship

(paragraph 2 of Article 2, paragraph 2 of Article 3)

- passports specified in Annex 1 which validity period expired more than 6 months ago,
- military ID card,
- driving license,
- any other document and expert finding which can help to identify the citizenship of the relevant person,
- copies of the above-mentioned documents,
- data submitted by the relevant person,
- language which the named person speaks in,
- credible evidences of witnesses,
- results of investigation with regard to the relevant persons by the competent authorities of the requested Contracting party upon the application of the requesting Contracting party.

### **Annex 3**

List of documents submitted for the confirmation of existence of conditions for the readmission of third-country nationals and stateless persons

(paragraph 3 of Article 3)

- Residence permit documents,
- travel document of the requested Contracting party which is issued to the person who is not a citizen of the requested Contracting party,
- multiple entry valid visa.

### **Annex 4**

General list of documents and data confirming the existence of conditions for the readmission of third-country nationals and stateless persons

(paragraph 3 of Article 3)

- Residence permit void documents,
- travel void document by the requested Contracting party,
- copies of the above-mentioned documents,
- credible evidences of witnesses,
- information about the identity of the person and his/her whereabouts which was provided by the international organization,
- data submitted by the relevant person,
- additionally, other documents and data upon the consent of the competent authorities of the Contracting parties.

### **Annex 5**

Competent authorities

(Article 11)

Competent authorities of the Contracting parties are as follows:

1. For submitting and processing the application for readmission, as well as for filing request for the issuance of travel document

a) on behalf of the Republic of Armenia:

- Ministry of Foreign Affairs of the Republic of Armenia;

b) on behalf of the Federal Republic of Germany:

- authorities competent for the execution of Aliens Act (legislation) or
  - Federal police department.
2. For the receipt of the application for readmission
    - a) on behalf of the Republic of Armenia:
      - diplomatic representation or consular agency of the Republic of Armenia in the Federal Republic of Germany;
    - b) on behalf of the Federal Republic of Germany:
      - diplomatic representation or consular agency of the Federal Republic of Germany in the Republic of Armenia.
  3. For the issuance of the travel document necessary for the return
    - a) on behalf of the Republic of Armenia:
      - diplomatic representation or consular agency of the Republic of Armenia in the Federal Republic of Germany;
    - b) on behalf of the Federal Republic of Germany:
      - diplomatic representation or consular agency of the Federal Republic of Germany in the Republic of Armenia.
  4. For filing and processing requests in cases of transit
    - a) on behalf of the Republic of Armenia:
      - Ministry of Foreign Affairs of the Republic of Armenia;
    - b) on behalf of the Federal Republic of Germany:
      - Federal police department.
  5. For cost accounting according to Article 9
    - a) on behalf of the Republic of Armenia:
      - Ministry of Foreign Affairs of the Republic of Armenia;
    - b) on behalf of the Federal Republic of Germany:
      - authority which submitted the application for readmission or filed the request for transit.

***Agreement entered into force since 20 April 2008.***