



TREATY SERIES 2002
N° 4

Agreement
Between the Government of Ireland and the
Government of the Republic of Poland on Transferring
and Readmitting Persons who remain on the Territory
of their States without Authorisation

Done at Warsaw on 12 May 2001

Accepted on behalf of the Government of Ireland on 15 April 2002

Accepted on behalf of the Government of the Republic of Poland on 22 May
2002

Entered into force on 22 June 2002

Presented to Dáil Éireann by the Minister for Foreign Affairs

**AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND
THE GOVERNMENT OF THE REPUBLIC OF POLAND ON
TRANSFERRING AND READMITTING PERSONS WHO REMAIN ON
THE TERRITORY OF THEIR STATES WITHOUT AUTHORISATION**

The Government of Ireland and the Government of the Republic of Poland, hereinafter referred to as the Contracting Parties,

- Desiring to improve co-operation between the two Contracting Parties in order to combat illegal migration;
- Wishing to facilitate the readmission and transfer of persons residing without authorisation on the territories of the respective Contracting Parties;
- In the spirit of co-operation and on a mutual basis;
- Subject to the provisions of the Convention Relating to the Status of Refugees signed at Geneva on 28th day of July 1951, supplemented by the Protocol relating to the Status of Refugees signed at New York on 31st January 1967,

HAVE AGREED as follows:

*Article 1
Definitions*

For the purpose of this Agreement, the following definitions shall apply:

- (a) “Foreign national”: a person who neither holds Polish or Irish citizenship;
- (b) “Visa”: a valid permit, issued by the competent authorities of a Contracting Party, which entitles a person to enter the territory of its State without interruption for a specified period of time in conformity with the national legal requirements of the visa issuing Contracting Party;
- (c) “Entry or Residence Permit”: visa or valid permit issued by the competent authorities of one of the Contracting Parties which entitles a person to enter or reside on the territory of its State in conformity with domestic law.

*Article 2
Readmission of citizens of the States of the Contracting Parties*

Each of the Contracting Parties, upon the request of the other Contracting Party, shall readmit without any formal procedures every person who does

not meet or has ceased to meet the conditions of entry of residence that exist within the State of the other Contracting Party if it is determined, or if there is a justified presumption, that such a person is the citizen of the State of the requested Party.

Article 3 *Proof of Citizenship*

1. Proof of citizenship pursuant to Article 2 can be furnished through:
 - (a) passports of any kind;
 - (b) identity cards including temporary and provisional ones;
 - (c) official documents indicating the citizenship of the person concerned.

2. Presumed citizenship can be determined on the basis of the following documents:
 - (a) military identity cards and any other identity card issued to a military person;
 - (b) birth certificates;
 - (c) driving licences;
 - (d) seamen's registration books issued pursuant to the Convention No. 108 of the International Labour Organisation dated 13 March 1958;
 - (e) any other document issued by the competent authorities of the requested Party;
 - (f) documents mentioned in paragraph 1 or subparagraphs (a) – (e) of this paragraph if their validity has lapsed;
 - (g) photocopies of the documents mentioned in paragraph 1 as well as documents mentioned in subparagraphs (a) – (e) of this paragraph;
 - (h) statements made by witnesses or statements made by a person who is subject to readmission before the competent authorities or in a court of the requesting Party;
 - (i) any other documents recognised by the competent authorities of the requested Party.

3. Where presumed evidence of citizenship is furnished the Contracting Parties shall mutually deem the citizenship to be established unless the requested Contracting Party has disproved it.

4. In the absence of the documents mentioned in paragraphs 1 and 2, upon the request of the requesting Party the diplomatic representatives of the requested Party shall hear the person concerned without undue delay in order to establish his or her citizenship.

Article 4

Readmission of foreign nationals who have an entry or residence permit

The provisions of Article 2 shall be applied respectively to foreign nationals who have a valid entry or residence permit issued by the State of the requested Party.

Article 5

Readmission of foreign nationals who do not have an entry permit

Upon the request of the other Contracting Party, the requested Party shall admit a foreign national who has illegally entered the territory of the State of the Contracting Party, when it is proved, or if there is a justified presumption, that the foreign national has arrived directly from the territory of the requested State.

Article 6

Readmission of improperly transferred person

The requested Party shall readmit the person referred to in Article 2, 4 and 5 under the same conditions if, after subsequent verification, it is shown that, at the moment of leaving the territory of the State of the requesting Party, such person did not meet the conditions referred to in Articles 2, 4 and 5.

Article 7

Time limits

1. The requested Party without delay responded to the other Contracting Party's request for the readmission of a foreign national and, in any case, not later than fifteen days following receipt of the request.
2. The Contracting Party which has accepted the request for admitting a person, who enters or resides without permission, shall readmit such person not later than one month from the date of accepting the request. This period of time may be extended upon the request of the requesting party.
3. The request for the readmission of a foreign national can be submitted to the requested Party within a one year period from the entry to the territory of the requesting Party without a valid permit or of confirming the loss of the right to reside on that territory whichever is the later.

Article 8

Transit

1. Upon the request of the other Contracting Party, each of the Contracting Parties shall allow a foreign national to pass through the territory of its State for the purpose of transit to a third country at the time agreed upon if the reception of such person by the country of destination or another transit country is ensured.

2. If necessary, the requested Party shall issue a transit visa free-of-charge for an escorted person and that person's escort, in accordance with the provisions of its domestic law.

3. Each of the Contracting Parties shall reject a request for the transit of an escorted person to the country of final destination, or to another transit country, if it considers that the foreign national may, in either country, be persecuted or subject to a conviction where the death penalty applies, or a threat is posed to such person's life or freedom for racial, religious or ethnic reasons, due to such person belonging to a particular social group or for political reasons.

4. The requesting Party shall take full responsibility for a foreign national until the moment of his or her arrival at the place of final destination. The requesting Party may request the competent authorities of the requested Party to secure the escort of such foreign national during transit through its territory.

5. The Contracting Parties shall endeavour to restrict transit applications to foreign nationals who cannot be returned to their country of final destination directly.

Article 9

Protection of data

1. Data necessary to give effect to this Agreement may include exclusively the following:

(a) data of the person to be received or transported, and, if necessary, the data of his or her family members such as surname, name, names previously used, nickname or pseudonym, date and place of birth, sex and the current and previous citizenship;

(b) data contained in a passport, travel document or any other document that confirms his or her identity;

(c) other data necessary to determine the identity of the person;

(d) description of all the entry and residence permits issued by one of the Contracting Parties or a third state;

(e) route description.

2. The transfer of data for the purposes of the implementation of this Agreement shall take place in conformity with the national law of each of the Contracting Parties.

3. Personal data may only be communicated to the competent authorities of each Contracting Party. The competent authorities of each Contracting Party shall ensure the protection of all information received under this Agreement, in accordance with their national law.

4. In the processing of the personal data transferred under this Agreement, the Contracting Parties shall obey the following rules:

(a) The receiving Party can use the data solely for the purposes of this Agreement while obeying the conditions set by the transferring Party;

(b) The transferred personal data solely used by the courts or bodies or services acting under this Agreement. The disclosure of this data to other bodies may only be possible after receiving the permission of the transferring Party;

(c) The transferring Party is obliged to ensure the accuracy and completeness of the data. The receiving Party is obliged to ensure that the data shall not be stored longer than necessary for the purposes for which it was transmitted and thereafter be destroyed;

(d) If the transferring Party discovers, either in the exercise of its functions or on the request of the person to whom the data relates, that the data has not been properly transferred or should not have been transferred, it is obliged to inform the receiving Party without delay. In such a case, the receiving Party is obliged to correct or destroy such data;

(e) The receiving Party shall protect the received information against accidental loss, unauthorised access. Alteration or disclosure.

Article 10

Costs

1. The transportation costs of the person referred to in Article 2, 4, 5 and 6 shall be covered by the requesting Party to the borders of the State of the requested Party, unless such costs are covered by a transportation company.

2. The costs of transit in accordance with Article 8 to the border of the country of final destination and, if necessary, the costs of return transportation shall be covered by the requesting Party.

Article 11 Implementation

1. By way of exchanging diplomatic notes, the Contracting Parties shall convey to each other information about the competent authorities responsible for the execution of this Agreement. The Contracting Parties shall inform each other about changes regarding such bodies.

2. The representatives of the competent authorities shall, among other things, define the following:

(a) checkpoints through which persons covered by this Agreement shall be readmitted;

(b) data and documents necessary in readmitting and escorting persons and the procedure for conducting such activities;

(c) principles and manner of covering the costs referred to in Article 10;

(d) sample of an application for receiving a person who stays without a valid permit;

(e) any other necessary measures for the effective implementation of this Agreement.

Article 12 Relation to other International Agreements

This Agreement shall not affect the rights and obligations of each of the Contracting Parties under any international agreements to which they are parties.

Article 13 Resolving Disputes

Disputes in relation to the interpretation or application of this Agreement shall be resolved through negotiations between the competent authorities of the Contracting Parties. If agreement is not reached, the disputes shall be resolved by the Contracting Parties in accordance with diplomatic procedures.

Article 14
Review of operation

The implementation of this Agreement may be jointly evaluated by the competent authorities referred to in Article 11 (1) at the request of one of these competent authorities.

Article 15
Final provisions

1. This Agreement is subject to acceptance in accordance with the national law of each of the Contracting Parties, which shall be stated by way of the exchange of diplomatic notes. This Agreement shall enter into force thirty days after the date of receipt of the latter of the two diplomatic notes.
2. Each of the Contracting Parties may temporarily suspend the execution of the whole or part of this Agreement, except Article 2, taking into consideration public order, by notification of the other Contracting Party. The suspension shall enter into force on the date specified in the notification.
3. This Agreement has been concluded for an unlimited period of time. It may be terminated by either Contracting Party by notification, in which case it shall cease to have effect ninety days after the date of receipt of the notification.

DONE AT Warsaw on 12th day of May 2001 in two copies, one each in the English and Polish languages, both texts being equally authentic.

For the Government of Ireland

For the Government of the Republic of
Poland

John O'Donoghue

Marka Biernackiego