**IMPLEMENTING PROTOCOL**

**between the Government of the Republic of Latvia and THE Cabinet of Ministers of Ukraine**

**to the Agreement between the European Community AND Ukraine**

**on the Readmission of Persons**

The Government of the Republic of Latvia and the Cabinet of Ministers of Ukraine, hereinafter referred to as “the Contracting Parties”,

*Desiring* to ensure necessary conditions for the efficient implementation of the Agreement between the European Community and Ukraine on the Readmission of Persons done at Luxembourg on 18 June 2007, hereinafter referred to as “the Agreement”, according to Article 16 thereof,

*Recognizing* inadmissibility of forced return of illegal migrants by one Contracting Party to the territory of the State of the other Contracting Party without latter’s consent,

Have agreed as follows:

**Article 1**

**Competent authorities**

1. The competent authorities of the Contracting Parties authorised to implement the Agreement and this Implementing Protocol, shall be the following:

for the Republic of Latvia:

– the State Border Guard (at the level of submission, processing and enforcement of the standard readmission application, readmission application under accelerated procedure and transit applications);

– the Embassy of the Republic of Latvia in Kyiv (at the level of processing interviews).

for Ukraine:

– the State Migration Service of Ukraine (at the level of submission, processing and enforcement of the standard readmission applications);

– the Administration of Border Guard Service of Ukraine (at the level of submission, processing and enforcement of readmission applications under accelerated procedure and transit applications);

– the Embassy of Ukraine in the Republic of Latvia (at the level of processing interviews).

1. The competent authorities of the Contracting Parties shall immediately inform each other through diplomatic channels about any changes in the list of competent authorities of the Contracting Parties mentioned in paragraph 1 of this Article.
2. For the implementation of this Implementing Protocol the competent authorities of the Contracting Parties shall within 30 (thirty) calendar days after the date of entry into force of this Implementing Protocol notify each other in writing of their contact details.
3. The competent authorities of the Contracting Parties shall immediately notify each other in writing of any changes of their contact details.
4. The competent authorities of the Contracting Parties, set out in paragraph 1 of this Article shall interact directly during submission, receipt and processing of readmission and transit applications and interviews.

**Article 2**

**Submission of the readmission application and reply thereto**

1. A readmission application drawn up, as provided for in Annex 5 to the Agreement, shall be submitted pursuant to Article 5 of the Agreement by the competent authority of the Requesting Contracting Party to the competent authority of the Requested Contracting Party by post or by fax, or official electronic mail within time limits set out in paragraph 1 of Article 8 of the Agreement.

2. A reply to the readmission application shall be sent by the competent authority of the Requested Contracting Party to the competent authority of the Requesting Contracting Party by post or by fax, or official electronic mail within time limits set out in paragraph 2 of Article 8 of the Agreement, notifying, if necessary, to the competent authority of the Requesting Contracting Party of the need for escort of the person to be readmitted.

**Article 3**

**Other documents**

1. Where a competent authority of the Requesting Contracting Party considers that other documents not listed in Annexes 1 to 4 to the Agreement may be important for establishing the nationality of the person to be readmitted, or for supporting the reasons for readmission of a third country nationals or stateless persons, such documents may be added to the readmission application submitted to the competent authority of the Requested Contracting Party.
2. In processing the readmission application, the competent authority of the Requested Contracting Party retains the right to decide, whether the documents referred to in paragraph 1 of this Article may be taken into consideration.

**Article 4**

**Procedure for interviews of evidence regarding nationality**

1. In cases where the nationality of the person to be readmitted cannot be established by means of any of the documents listed in the Annexes 1 and 2 of the Agreement, the competent authority of the Requesting Contracting Party shall include a request for an interview into Section “D” of a common form of readmission application attached in Annex 5 of the Agreement. The competent authority of the Requested Contracting Party receiving such a request shall organise the interview of the person to be readmitted.
2. Readmission application with request to interview the person to be readmitted shall be sent to the competent authority of the Requested Contracting Party by post or by fax, or official electronic mail.
3. The interview of the person to be readmitted shall be performed by the representatives of the diplomatic or consular representation of the state of the Requested Contracting Party within the maximum 10 (ten) calendar days from the date when the readmission application with an interview request has been received.
4. The competent authority of the Requested Contracting Party shall inform the competent authority of the Requesting Contracting Party on the results of the interview within the maximum of 3 (three) working days from the date when the interview was carried out.
5. If the reply is positive and the person to be readmitted pertains to the state of the Requested Contracting Party, the readmission application shall be replied according to paragraph 2 of Article 2 of this Implementing Protocol.
6. If the reply is negative and the person to be readmitted does not pertain to the state of the Requested Contracting Party, the competent authority of the Requested Contracting Party shall deny readmission of such person and shall inform on this matter the competent authority of the Requesting Contracting Party by post or by fax, or official electronic mail.

**Article 5**

**Submission of transit application and reply thereto**

1. A transit application drawn up as provided in Annex 6 to the Agreement, shall be submitted pursuant to Articles 10 and 11 of the Agreement by the competent authority of the Requesting Contracting Party to the competent authority of the Requested Contracting Party by post or by fax, or official electronic mail without delay but at latest within 14 (fourteen) calendar days before the planned transit operation.

2. The reply to the transit application shall be submitted by the competent authority of the Requested Contracting Party to the competent authority of the Requesting Contracting Party by post or by fax, or official electronic mail within the time limit set out in paragraph 2 of Article 11 of the Agreement.

3. In its reply to the transit application the competent authority of the Requested Contracting Party shall pursuant to paragraph 3 of Article 10 of the Agreement notify the competent authority of the Requesting Contracting Party of the need for escort of those persons.

**Article 6**

**Readmission and transit**

1. The Contracting Parties shall carry out readmission and transit of persons by air.
2. In order to carry out readmission and transit the Contracting Parties shall designate the following air border crossing points:

in the Republic of Latvia:

* Riga International Airport;

in Ukraine:

* International airports “Boryspil” and “Kyiv” (Zhuliany).

1. The competent authorities of the Contracting Parties shall immediately inform each other through diplomatic channels of any change in the list of air border crossing points referred to in paragraph 2 of this Article.
2. The competent authorities of the Contracting Parties, in each individual case, may agree on use of other border crossing points or transportation modes for readmission or transit.
3. On basis of written consent, the competent authority of the Requesting Contracting Party not later than 5 (five) working days before the planned readmission shall inform by post or by fax, or official electronic mail, the competent authority of the Requested Contracting Party on date and place of readmission of the person, possible escort details, travel documents’ numbers and other information related to the readmission of the person.

6. If the readmission date is postponed by the Requesting Contracting Party because of legal or practical obstacles, the competent authority of the Requesting Contracting Party is obliged to inform immediately by post or by fax, or official electronic mail the competent authority of the Requested Contracting Party to whom a readmission application is submitted about the postponement and shall provide information on a new readmission date and place.

7. If the transit date is postponed by the Requesting Contracting Party, because of legal or practical obstacles, the competent authority of the Requesting Contracting Party is obliged to inform thereof the competent authority of the Requested Contracting Party immediately by post or by fax or official electronic mail.

8. If there is a cancelation of transit or any changes occur in date, time, place or route of the transit, the competent authority of the Requesting Contracting Party immediately informs the competent authority of Requested Contracting Party in written form by post or by fax, or official electronic mail.

9. The competent authorities of the Contracting Parties through diplomatic channels shall exchange samples of documents issued in accordance with paragraph 2 of Article 2 and paragraph 4 of Article 3 of the Agreement, listed in Annexes 7 and 8 of the Agreement within 30 (thirty) calendar days after this Implementing Protocol entered into force.

10. A written statement of reception and transfer of the escorted person shall be drawn up in English in two copies for each of the competent authorities of the Contracting Parties. A form of the statement is set out in the Annex to this Implementing Protocol and is its integral part.

**Article 7**

**Protection of personal data**

During readmission and transit by the competent authorities of the Contracting Parties, communication and processing of personal data shall be carried out subject to provisions of Article 13 of the Agreement.

**Article 8**

**Escort of persons**

1. Where escorted transfer of a person is necessary, the competent authority of the Contracting Party asking for escort shall inform the competent authority of the other Contracting Party regarding the need of the escort in accordance with paragraph 2 of Article 2, paragraph 1 of Article 5, paragraph 3 of Article 5 or paragraph 5 of Article 6 of this Implementing Protocol.
2. If a person is to be accompanied by escort in the process of transfer, the competent authority of the Requesting Contracting Party in the notification letter shall provide the following information to the competent authority of the Requested Contracting Party: first names, family names, ranks, positions, as well as type, number and date of issue of passports and Service identification cards of the escorting persons.
3. In case of any changes in data concerning the escort referred to in paragraph 2 of this Article, the competent authority of the Requesting Contracting Party shall notify the competent authority of the Requested Contracting Party without delay of such changes with a written notification by post or by fax, or official electronic mail.
4. During their stay in the territory of the state of the Requested Contracting Party, the escort must abide the provisions of the legislation of that state.
5. The escort must wear civil clothes, be in possession of valid travel documents and official identity documents, as well as documents confirming the approval of the Requested Contracting Party for readmission or transit.
6. The escort must not carry any arms or other prohibited items or those which are not allowed for use in the territory of the state of the Requested Contracting Party in accordance with its legislation.
7. The competent authorities of the Contracting Parties shall cooperate with each other in any issue related to staying of escort in the territory of the state of the Requested Contracting Party. The competent authorities of the Requested Contracting Party, where necessary, shall facilitate the escort and, *inter alia* pursuant to paragraph 4 of Article 11 of the Agreement, shall take measures making impossible uncontrolled exit from the airside and embarkation of the person to be transferred, and in so far as possible shall provide the escort with the assistance in transit.
8. The escorts shall be responsible for submission of documents and other data concerning the persons subject to readmission or transit to the representatives of the competent authority of the state of destination.

**Article 9**

**Costs**

1. All costs of the Requested Contracting Party related to readmission or transit shall be borne by the Requesting Contracting Party pursuant to Article 12 of the Agreement and shall be reimbursed in euro within 60 (sixty) working days after the respective documents confirming the actual amount of costs were received.
2. The amount of reimbursement shall be governed by the legislation of the state of the Requested Contracting Party and based on the documents evidencing the actual amount of costs.
3. The competent authorities of the Contracting Parties shall notify each other of their respective bank account numbers in written form by post.

**Article 10**

**Settlement of disputes**

1. Where any doubts concerning the submitted readmission or transit applications arise, the competent authorities of the Contracting Parties may arrange the respective consultations via electronic communications which would not suspend validity of time limits for response thereto, as provided in the Agreement.
2. Any disputes which may arise in connection with the interpretation and/or application of this Implementing Protocol shall be settled by means of consultations between of the competent authorities of the Contracting Parties. In cases when disputes cannot be settled through direct consultations, they shall be brought before the Joint Readmission Committee.

**Article 11**

**Meetings of experts**

The competent authorities of Contracting Parties shall arrange meetings of experts, as necessary, particularly regarding the implementation of this Implementing Protocol. The time and location of such consultations shall be decided upon by mutual agreement.

**Article 12**

**Language**

Readmission as well as transit applications and replies thereto, correspondence and consultations between the competent authorities of the Contracting Parties regarding implementation of this Implementing Protocol shall be carried out in English.

**Article 13**

**Entry into force, termination and amendments**

1. This Implementing Protocol is concluded for an indefinite period of time.
2. The Contracting Parties shall notify each other in writing through diplomatic channels about the completion of all internal legal procedures necessary for the entry into force of this Implementing Protocol.
3. The Latvian Party shall notify the Joint Readmission Committee about the completion by the Contracting Parties of the internal legal procedures and shall inform the Ukrainian Party thereof. This Implementing Protocol shall enter into force 30 (thirty) days after receiving by Ukrainian Party of notification of Latvian Party informing that Joint Readmission Committee has been notified in accordance with paragraph 2 of Article 16 of the Agreement.
4. Any amendments to this Implementing Protocol may be made upon mutual consent of the Contracting Parties, shall be drawn-up as separate protocols and form an integral part thereof and enter into force pursuant to paragraph 3 of this Article.
5. This Implementing Protocol may be terminated at any time by either Contracting Party by giving notice through diplomatic channels. In this case, it will cease to be in force 3 (three) months after the date of receipt of such written notice by the other Contracting Party.
6. In case of termination of the Agreement, this Implementing Protocol shall also cease to be in force.

Done at \_\_\_\_\_\_\_\_\_\_\_\_, on \_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_, in duplicate, each in the Latvian, Ukrainian and English languages, all texts being equally authentic. In case of any divergence of interpretation of this Implementing Protocol, the English text shall prevail.

|  |  |
| --- | --- |
| **For the Government**  **of the Republic of Latvia** | **For the Cabinet of Ministers**  **of Ukraine** |

Annex

**STATEMENT**

**of reception and transfer of the person**

On (date) \_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_ this statement was drawn up at border crossing point \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ certifying that

(position, rank, name and surname)

on the one hand and

(position, rank, name and surname)

on the other hand, at \_\_\_\_\_ (indicate time, hours and minutes) the first one has transferred and the other one has received a national: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(state of citizenship)

Full name:

Date and place of birth:

Place of residence:

Gender: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

Native language / languages spoken:

Identity document

(type of document, series and number, date of issue and issuing authority, expiry date)

Children to be transferred with the person:

(name and surname, date of birth)

Information about the state of health:

(Latin name of disease, possible reference to special medical care)

The following material values transferred with the person (vehicles, luggage, belongings, etc.):

Statements (information) of the representatives of the competent authorities of the Contracting Parties when transferring/receiving the person:

(in all cases specify statements, rank, signature, name and surname)

Possible statements and complaints of the persons:

(in all cases specify statements and complaints, signature, name and surname of the person to be transferred)

(signature, name and surname of the person to be transferred)

This statement is drawn up in duplicate in English language.

Transferred: Received:

(position) (position)

(rank, signature, name and surname) (rank, signature, name and surname)