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**Switzerland
and
Kazakhstan**

Agreement between the Swiss Federal Council and the Government of the Republic of Kazakhstan on the readmission of persons residing without authorization (with annexes and implementing protocol). Bern, 4 March 2010

Entry into force: *1 February 2015, in accordance with article 18*

Authentic texts: *English, German, Kazakh and Russian*

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**Suisse
et
Kazakhstan**

Accord entre le Conseil fédéral suisse et le Gouvernement de la République du Kazakhstan relatif à la réadmission des personnes en séjour irrégulier (avec annexes et protocole d'application). Berne, 4 mars 2010

Entrée en vigueur : *1^{er} février 2015, conformément à l'article 18*

Textes authentiques : *anglais, allemand, kazakh et russe*

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AGREEMENT

between

the Swiss Federal Council

and

the Government of the Republic of Kazakhstan

on the readmission of persons residing without authorization

THE SWISS FEDERAL COUNCIL and THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN, hereinafter referred to as the "Parties",

DETERMINED to strengthen their co-operation in order to combat illegal immigration more effectively,

DESIRING to establish, by means of this Agreement and on the basis of reciprocity, rapid and effective procedures for the identification and return of persons who do not, or no longer, fulfill the conditions for entry to, presence in, or residence on the territory of the Swiss Confederation or of the Republic of Kazakhstan, and to facilitate the transit of such persons in a spirit of co-operation,

EMPHASIZING that this Agreement shall be without prejudice to the rights, obligations and responsibilities of the Swiss Confederation and of the Republic of Kazakhstan arising from International Law including International Human Rights law rules,

HAVE AGREED AS FOLLOWS:

Article 1 Definitions

For the purpose of this Agreement:

- 1) "*Readmission*" shall mean the return by the competent authority of the requesting Party and admission by the competent authority of the requested Party of persons (own nationals of the requested Party's State, third-country citizens or stateless persons) who have been found illegally entering to, being present in or residing on the territory of the requesting Party's State, in accordance with the provisions of this Agreement.
- 2) "*Requesting Party*" shall mean the Party submitting a readmission application pursuant to section II or a transit application pursuant to section III of this Agreement.
- 3) "*Requested Party*" shall mean the Party to which a readmission application pursuant to section II or a transit application pursuant to section III of this Agreement is addressed.
- 4) "*Third-country citizen*" shall mean any person holding a citizenship other than that of the States of the Parties.
- 5) "*Stateless person*" shall mean any person who does not hold the citizenship of the States of the Parties, and who has no evidence of holding the citizenship of any other State.
- 6) "*Residence authorization*" shall mean an official permit of any type issued by the Parties entitling a person to reside on the territory of the Swiss Confederation or of the Republic of Kazakhstan. This shall not include temporary permissions to remain on the territory of the said States in connection with the processing of an asylum application or an application for a residence authorization.

- 7) "*Visa*" shall mean an authorization issued or a decision taken by the Parties, which is required with a view to entry in, or transit through, the territory of the Swiss Confederation or of the Republic of Kazakhstan. This shall not include the specific category of airport transit visa.
- 8) "*Competent authority*" shall mean the national authority of the Parties dealing with the implementation of this Agreement.
- 9) "*Border crossing point*" shall mean any crossing-point authorized by the Parties for the crossing of their respective State's border as listed in Article 12 of the Implementing Protocol.
- 10) "*Transit*" shall mean the passage of a third-country citizen or a stateless person through the territory of the requested Party's State while traveling from the requesting Party's State to the country of destination.
- 11) "*Direct entry*" shall mean the entry of any person arriving by air on the territory of the requesting Party's State without having entered a third country in-between. Airside transit stays in a third-country shall not be considered as entry.

SECTION I READMISSION OBLIGATIONS BY THE PARTIES

Article 2 **Readmission of own citizens**

1. The requested Party shall admit, upon application by the requesting Party and in accordance with the procedure provided for in this Agreement, any person who does not, or no longer, fulfil the conditions in force for entry to, presence in, or residence on the territory of the requesting Party's State provided it is established, in accordance with Article 6 of this Agreement, that such person is a citizen of the requested Party's State.

The same shall apply to illegally present or residing persons who possessed the citizenship of the requested Party's State at the time of entering the territory of the requesting Party's State but subsequently renounced the citizenship of the requested Party's State in accordance with the national laws of the latter, without acquiring the citizenship or a residence authorization of the requesting Party's State or any other State.

2. The requested Party shall also readmit:
 - minor unmarried children of the persons mentioned in paragraph 1, regardless of their place of birth or their citizenship, unless they have an independent right of residence in the requesting Party's State.
 - spouses, holding another citizenship of the persons mentioned in paragraph 1, provided they have the right to enter and stay or receive the right to enter and stay in the territory of the requested Party's State, unless they have an independent right of residence in the requesting Party's State.

3. After the requested Party has given a positive reply to the readmission application, the competent diplomatic mission or consular post of the requested Party shall irrespective of the will of the person to be readmitted, immediately and not later than within three working days, issue a travel document required for the return of the person to be readmitted with a period of validity of six months. If, for any reason, the person concerned cannot be returned within the period of validity of that travel document, the competent diplomatic mission or consular post of the requested Party shall, within 14 calendar days, issue a new travel document with a period of validity of the same duration without delay.

Article 3

Readmission of third-country citizens and stateless persons

1. The requested Party shall admit, upon application by the requesting Party and in accordance with the procedure provided for in this Agreement, any third-country citizen or stateless person who does not, or no longer, fulfil the conditions in force for entry to, presence in, or residence on the territory of the requesting Party's State provided that evidence can be furnished, in accordance with Article 7 of this Agreement, that such person:
 - 1) holds, or at the time of entry held, a valid visa or residence authorization issued by the requested Party; or
 - 2) illegally and directly entered the territory of the requesting Party's State after having stayed on, or transited through, the territory of the requested Party's State; or
 - 3) was an applicant for asylum in the requested Party's State at the time of his or her departure and did not possess a valid visa for any State he or she passed through on his or her way to the State of the requesting Party.
2. The readmission obligation provided for in paragraph 1 of this Article shall not apply if:
 - 1) the third-country citizen or stateless person has only been in airside transit via an International airport of the requested Party's State; or
 - 2) the requesting Party has issued to the third-country citizen or stateless person a visa or residence authorization before or after entering its State's territory unless:
 - that person is in possession of a visa or residence authorization, issued by the requested Party, which has a longer period of validity; or
 - the visa or residence authorization issued by the requesting Party has been obtained by using forged or falsified documents, or by making false statements, and the person concerned has stayed on, or transited through the territory of the requested Party's State; or
 - that person fails to observe any condition attached to the visa and that person has stayed on, or transited through, the territory of the requested Party's State.