

No. 54774*

**Poland
and
Switzerland**

Agreement between the Government of the Republic of Poland and the Federal Council of the Swiss Confederation on transfer and readmission of persons with unauthorized stays (with implementing protocol and appendices). Warsaw, 19 September 2005

Entry into force: *31 March 2006, in accordance with article 20(1)*

Authentic texts: *English, German and Polish*

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**Pologne
et
Suisse**

Accord entre le Gouvernement de la République de Pologne et le Conseil fédéral de la Confédération suisse relatif au transit et à la réadmission des personnes en séjour irrégulier (avec protocole d'application et appendices). Varsovie, 19 septembre 2005

Entrée en vigueur : *31 mars 2006, conformément au paragraphe 1 de l'article 20*

Textes authentiques : *anglais, allemand et polonais*

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AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF POLAND

AND

THE FEDERAL COUNCIL OF THE SWISS CONFEDERATION

ON

TRANSFER AND READMISSION

OF PERSONS WITH UNAUTHORISED STAYS

The Government of the Republic of Poland
and
the Federal Council of the Swiss Confederation

Hereinafter referred to as the “Contracting Parties”,

wishing to facilitate, in the spirit of co-operation and subject to the reciprocity principle, transfer and readmission of persons with unauthorised stays,

bearing in mind the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948, the Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome on November 4, 1950, and the Convention Relating to the Status of Refugees, done at Geneva on July 28, 1951, supplemented with the Protocol Relating to the Status of Refugees, done at New York on January 31, 1967,

have agreed the following:

CHAPTER I: READMISSION OF CITIZENS OF THE CONTRACTING PARTIES

ARTICLE 1

1. Each Contracting Party shall upon request of the other Contracting Party readmit to its territory without any formality other than provided for in this Agreement any person who does not fulfil or no longer fulfils the requirements for entry or stay applicable to the territory of the requesting Contracting Party, if it is proven or can be reasonably presumed that this person possesses the citizenship of the requested Contracting Party.
2. The requesting Contracting Party shall readmit a person referred to in paragraph 1 under the same conditions, if investigations later reveal that he/she did not in fact possess the citizenship of the requested Contracting Party when he/she left the territory of the requesting Contracting Party.

ARTICLE 2

1. If there is a reasonable presumption that a person who is subject to readmission is a citizen of the other Contracting Party, a diplomatic representation or a consular office of the requested Contracting Party shall upon examination immediately enable a travel document to be issued to the person if this is necessary for the person's readmission.

2. In case of doubt regarding the credibility of the citizenship of any person subject to readmission, a diplomatic representation or a consular office of the requested Contracting Party, upon request of the other Contracting Party, shall take all necessary steps to establish the citizenship of the said person, in particular interview the said person or carry out checks in relevant registers, within three subsequent working-days after receipt of the request. If upon this, the citizenship is confirmed, then the diplomatic representation or consular office shall immediately enable a travel document to be issued to that person.

CHAPTER II: READMISSION OF THIRD-COUNTRY CITIZENS AND STATELESS PERSONS

ARTICLE 3

1. Each Contracting Party shall upon request of the other Contracting Party readmit to its territory without any formality other than provided for in this Agreement any third-country citizen or stateless person who does not fulfil or no longer fulfils the requirements for entry or stay applicable to the territory of the requesting Contracting Party, if this person holds a valid visa or residence permit of any kind, issued by the requested Contracting Party.
2. Each Contracting Party shall upon request of the other Contracting Party readmit to its territory without any formality other than provided for in this Agreement any third-country citizen or stateless person who does not fulfil or no longer fulfils the requirements for entry or stay applicable to the territory of the requesting Contracting Party, if it is proven or can be reasonably presumed that the said person entered the territory of the requesting Contracting Party directly, by means of public transport (by plane, bus or train), after having entered, stayed in or passed through the territory of the requested Contracting Party.
3. Each Contracting Party shall upon request of the other Contracting Party readmit to its territory without any formality other than provided for in this Agreement any third-country citizen or stateless person who does not fulfil or no longer fulfils the requirements for entry or stay applicable to the territory of the requesting Contracting Party, if it is proven or can be reasonably presumed that the said person, during the 6 months preceding the submission of the request, left the territory of the requested Contracting Party during a legal stay there of at least 6 days.

ARTICLE 4

The readmission obligation pursuant to Article 3 shall not apply in respect of:

- a) a third-country citizen or stateless person who has been issued a visa other than a transit or airport visa or a residence permit of any kind by the requesting Contracting Party, unless the requested Contracting Party has issued a valid visa or residence permit with a longer validity;

b) a third-country citizen or stateless person who holds the right to stay in the territory of any state with which the requesting Contracting Party has a common state border;

c) a third-country citizen or stateless person who has stayed longer than a year on the territory of the requesting Contracting Party, unless he/she is holder of a valid residence permit of any kind issued by the requested Contracting Party;

d) a third-country citizen or stateless person whom the requesting Contracting Party has either recognised as a refugee, in accordance with the Convention Relating to the Status of Refugees, done at Geneva on July 28, 1951 supplemented with the Protocol Relating to the Status of Refugees done at New York on January 31, 1967, or as a stateless person, in accordance with the Convention Relating to the Status of Stateless Persons, done at New York on September 28, 1954;

e) a third-country citizen or stateless person who has been removed by the requested Contracting Party to his/her country of origin or to a third country, unless he/she entered the territory of the requesting Contracting Party after again having entered, passed through or stayed on the territory of the requested Contracting Party following the person's removal from the territory of the requested Contracting Party.

ARTICLE 5

The requesting Contracting Party shall readmit to its territory without any formality other than provided for in this Agreement any person referred to in Article 3 when subsequent checks reveal that he/she did not fulfill the conditions provided in Article 3 at the moment of his/her departure from the territory of the requesting Contracting Party.

CHAPTER III: TRANSIT

ARTICLE 6

1. Each Contracting Party shall upon request of the other Contracting Party permit the transit through its territory of any third-country citizen or stateless person who is subject to removal or is denied entry by the requesting Contracting Party on condition that the requesting Contracting Party has ensured admission to the country of destination or any other transit country.
2. The requesting Contracting Party shall assure the requested Contracting Party that any person whose transit is allowed, holds a valid travel ticket and a valid travel document to the country of destination. The requesting Contracting Party assumes full responsibility for the entire journey of any third-country citizen or stateless person to the country of destination or any other transit country and shall readmit such a person if, for any reason, the removal or the refused entry cannot be executed.