



REPUBLIKA SLOVENIJA  
MINISTRSTVO ZA NOTRANJE ZADEVE



## EMN FOCUSED STUDY 2014

Good Practices in the return and reintegration of irregular migrants:  
Member States' entry bans policy & use of readmission agreements  
between Member States and third countries

### **Slovene national contribution**

June 2014

The national contribution has been prepared in cooperation with the Legal-Informational Centre for NGOs – PIC, Slovene National contact point within the European Migration Network, Division of Border Police at the Ministry of the Interior of the Republic of Slovenia and Sector for aliens at Ljubljana Administrative Unit.

European Migration Network was established due to the need to exchange information on all aspects of migrations and the establishment of a common asylum and migration policy. Council Decision 2008/381/EC which provides a legal basis for the establishment of the European Migration Network, was adopted on 14 May, 2008.

More information about the European Migration Network is available at: [www.emm.si](http://www.emm.si)

*Disclaimer: The following responses have been provided primarily for the purpose of completing a Synthesis Report for the above-titled EMN Focussed Study. The contributing EMN NCPs have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN NCPs' Member State.*

## Section 1: Introduction

In implementing the return policy EU Member States have a variety of measures and instruments available to help return policy follow the EU common policy on migration and asylum. Establishing an effective return policy is a necessary component of migration policy, which must be founded on clear, transparent and fair rules. EU Member States therefore have to strive for common rules on returns that apply the highest standard of respect of human rights of aliens, what with along with other elements constitutes a fair, humane and effective return.

The aim of this study is to understand the extent to which Member States use entry bans and readmission agreements<sup>1</sup> to enhance their national return policy. These two measures differ and in the context of the return serve a different purpose, but so far have not been the subject of detailed research, so this study focuses on the scope of these measures and, consequently, notes how their use impacts efficiency and sustainability of returns of third country nationals.

Study explores legal and practical application of entry bans and readmission agreements in the Republic of Slovenia in order to improve understanding of policy makers how these measures enhance return policies, share knowledge among Member States and support the development of best practices, policies and programs that would ensure effective and sustainable return.

Slovene national contribution in the context of these focused study examines these measures implemented under the Aliens Act<sup>2</sup> and is not including the entry bans as facultative sanctions or legal implications in court proceedings, since the purpose of those is not regulation of migration but rather exercising the state's right to remove aliens who have not abided by Slovene legal order.

For the purposes of this study research was carried out into Slovenian legislation and practice of return procedures. An interview has been carried out with Head of the Border Police Division at the Uniformed Police Directorate and shorter inquiries and requests for statistical data have also been sent to other responsible authorities.

Important findings of the study are summarized in Section 7 (Conclusions).

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<sup>1</sup> The study only concerns readmission agreements with third countries; other readmission agreements with EEA countries are outside the scope.

<sup>2</sup> [http://www.infotujci.si/gfx/slike/dokumenti/Zakon\\_o\\_tujcih\\_Ztuj-2\\_ENGLISH\\_edited\\_jan\\_2012.pdf](http://www.infotujci.si/gfx/slike/dokumenti/Zakon_o_tujcih_Ztuj-2_ENGLISH_edited_jan_2012.pdf), unofficial translation of the Aliens Act - 2

## Section 2: Executive summary

According to Slovene Aliens Act return process starts with issuing a return decision<sup>3</sup> to alien who resides in the territory of the Republic of Slovenia illegally. The return decision may set a deadline for return (voluntary return) or not (forced return); when alien is not given the possibility to return voluntarily, competent authority may also impose an entry ban for a period of up to five years. The preamble to the Return Directive<sup>4</sup> stipulates that voluntary return should be preferred over forced return. According to statistical data provided by the Ministry of Interior of the Republic of Slovenia (MOI) it is clear that Slovene authorities are making progress in this area, issuing more voluntary return decisions than forced return decisions.

Readmission agreements are used to facilitate the readmission of persons residing without authorisation in a Member State to transit or origin country. Community readmission agreements are being signed on the basis of the principle of reciprocity, which means that all contracting states must be prepared to readmit not only their own citizens but even third country nationals on the same terms. Bilateral readmission agreements between Slovenia and third countries were concluded under the same terms.

The application of readmission agreements in Slovenia in recent years shifted from bilateral agreements<sup>5</sup> to EU Readmission Agreements (EURAs). The main added value of EURAs from Slovene perspective is the fact that EURAs are concluded with countries that Slovenia would otherwise not be able to, or it would be much more difficult and prolonged. Slovenia did conclude bilateral readmission agreements with the neighbouring countries (bilateral RA with Croatia until it joined the EU for example) and countries in the nearest surrounding, but because of the expansion of migration flows and new countries becoming countries of origin, it can't be expected Slovenia to reach an agreement with each of these countries. In addition, countries with which cooperation on readmission was already in place based on bilateral agreement, themselves have expressed the desire to rather use EURAs after these were concluded.

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<sup>3</sup> Article 65, Aliens Act -2A

<sup>4</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>

<sup>5</sup> List of Bilateral Readmission agreements (in Slovene): <http://www.policija.si/index.php/zakonodaja-in-dokumenti/mednarodne-pogodbe>

## Section 3: Entry bans

### Section 3.1 National legal framework on entry bans: grounds for imposition of entry bans and categories of third-country national subject to entry bans

Slovene Aliens Act<sup>6</sup> regulates the field of migration: obtaining visas and residence permits, voluntary returns and removal of aliens, procedures and the authorities responsible for implementing the provisions of the act. Specific section of the act is regulating integration of aliens in the Republic of Slovenia. Aliens Act has been since its adoption in 1999 repeatedly amended and the last amendment was adopted in April 2014.

Provisions specific for the aim of this study refer to the area of entry bans and returns of third-country nationals under readmission agreements. Although the last is not directly regulated through Aliens Act but rather implemented through EU Readmission agreements (EURAs). Aliens Act contains no specific provisions on readmission of third country national under bilateral or EU agreements. Article 67 merely refers to readmission of alien if apprehended directly or in connection to illegal border crossing of the external Schengen border.

The Aliens Acts states<sup>7</sup> that the return decision shall impose an entry ban on the third-country national in the following cases:

- if the third-country national has not been permitted voluntary return because of the existence of a risk of absconding, or if the third-country national's stay in the Republic of Slovenia poses a threat to public order, public safety or national security,
- if the third-country national has not departed from the country by the deadline set for voluntary return.

Entry ban is not imposed automatically in the above cases; the decision on imposing the entry ban is in the discretion of the Police station in charge of the particular case.

The period during which the alien is prohibited from re-entering depends on which authority is imposing the entry ban. If imposed by the administrative unit the period extends from one year up to

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<sup>6</sup> <http://www.uradni-list.si/1/objava.jsp?urlurid=20141834>, available only in Slovene language

<sup>7</sup> Article 66 of Aliens Act

five years<sup>8</sup> and if the ban is imposed by the Police, the period may not be shorter than six months or longer than five years (max. of five years has no exemptions). In assessing how long an alien is to be prohibited from re-entering the country, the authority has to take into account the nature and gravity of the circumstances that led to the residence of the alien in the Republic of Slovenia as being undesirable. When the decision is final, the authority issuing the decision has to notify the authority responsible for the input of data of the entry ban into the Schengen Information System.

**Q1. In your Member State, which scenario applies to the imposition of entry bans?**

a) Entry bans are automatically imposed in case the return obligation has not been complied with OR no period of voluntary departure has been granted;

Yes

b) Entry-bans are automatically imposed on all return decisions other than under a);

No

c) Entry bans are issued on a case by case basis on all return decisions other than a);

No

**Q2a. What are according to national legislation in your Member State the grounds for imposing entry bans?**

**Table 3.1: Grounds for imposing entry bans**

Grounds for imposing entry bans	Yes/No	Please provide information on the criteria/indicators used to decide whether particular grounds apply in individual cases
Risk of absconding	Yes	Circumstances <sup>9</sup> that indicate that an alien who has been issued a return decision is at risk of absconding are as follows: <ul style="list-style-type: none"> <li>– the alien has already previously resided illegally in the Republic of Slovenia;</li> <li>– the alien has entered the country despite the entry ban imposed on him;</li> <li>– a conviction has been imposed on the alien for a criminal offence;</li> </ul>

<sup>8</sup> Article 55, section 6 of Aliens Act

<sup>9</sup> Article 68 of Aliens Act

		<ul style="list-style-type: none"> <li>– the alien possesses documents of another person forged or otherwise altered travel or other documents;</li> <li>– the alien has provided false information or is uncooperative in the procedure;</li> <li>– alien’s conduct suggests that he will not depart from the Republic of Slovenia by the deadline set for voluntary return.</li> </ul> <p>Milder forms of circumstances indicating that an alien is at risk of absconding are as follows:</p> <ul style="list-style-type: none"> <li>– the alien has entered the Republic of Slovenia illegally;</li> <li>– the alien has exceeded the period of legal residence in the country by less than 30 days;</li> <li>– there is no possibility for the alien to reside in the Republic of Slovenia;</li> <li>– other less serious circumstances identified on the basis of individual assessment.</li> </ul>
<p>The third-country national concerned poses a risk to public policy, public security or national security.</p>	<p>Yes</p>	<p>In accordance with the Guidance for refusal of entry to the third country national<sup>10</sup> on the grounds of public safety and state security, particularly these threats are considered:</p> <ul style="list-style-type: none"> <li>- threat of committing terrorist or other violent acts,</li> <li>- threat of conducting illegal intelligence activities,</li> <li>- threat of enforcement of criminal offenses or</li> <li>- threats to public order.</li> </ul>

<sup>10</sup> Navodilo o razlogih za zavrnitev vstopa v Republiko Slovenijo državljanu tretje države, Uradni list RS, št. 59/2012, <http://www.uradni-list.si/1/content?id=109552>

The application for legal stay was dismissed as manifestly unfounded or fraudulent	No	
The obligation to return has not been complied with	Yes	Non compliance with the voluntary return leads to forced return and in practice in most cases this also means entry ban imposed.

**Q2b. What are the national grounds based upon which your Member State can decide not to issue an entry ban?**

Provision in the Aliens Act regulating the return decision do not explicitly regulate the possibility of the Police not to impose an entry ban, therefore reasons upon which the Police can decide to cancel or suspend the entry ban may be applied.

An entry ban imposed by a return decision, a decision refusing a residence permit, a decision on the annulment of a residence permit, and a decision on the termination of residence may be cancelled or suspended by the Police ex officio or at the request of the alien on the following reasons:

- death or illness of a family member of the alien;
- provision of emergency medical treatment;
- participation in proceedings before public authorities;
- if the alien on whom the entry ban was imposed by a decision refusing a residence permit, a decision on the annulment of a residence permit or a decision on the termination of residence proves that he departed from the country by the deadline for return.
- if the alien was permitted to stay in the Republic of Slovenia as a victim of the trafficking in human beings or as a victim of illegal employment.

The period of time during which the alien is not permitted to re-enter the country commences on the day of the execution of the return decision that is of actual exit from the country.

**Table 3.2: Grounds for not imposing entry bans**

Grounds for not imposing entry bans	Yes/No	Please provide information on the criteria/indicators used to decide whether particular grounds apply in individual cases
Humanitarian reasons	No	

Right to family life (Article 8 ECHR)	Yes	Death or illness of a family member
Health reasons	Yes	Emergency health care.

**Q3. Please provide a short overview of the categories of third-country national that can be issued an entry ban:**

**Table 3.3: Categories of third-country national who can be issued an entry ban**

Categories of third-country national who can be issued an entry ban	Who comply voluntarily with return decision (Y/N)	Who do not cooperate with return decision (Y/N)
Third-country nationals staying illegally on the territory of a Member State (including residence/visa over-stayers, rejected applicants for international protection, third-country nationals who entered the territory illegally)	No	Yes
Third-country nationals who are subject to a refusal of entry in accordance with Article 13 of the Schengen Borders Code	No	No
Third-country nationals who are apprehended or intercepted by the competent authorities in connection with the irregular crossing by land, sea or air of the external border of a Member State and who have not subsequently obtained an authorisation or a right to stay in that Member State	No	No, this category of third-country nationals would be returned according to EURA's and only if this procedure would be unsuccessful, return decision would be issued. Entry ban within this return decision again depends on the reasons stipulated above.

Third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction	Yes	Yes
Other (please indicate and add rows as appropriate)	/	/

**Q4. Specify the territorial scope of entry bans that are imposed by your Member State, i.e. do they apply to the entire EU territory or do they only cover the national territory of the Member State?**

Entry bans posed by Slovene authorities apply to the Schengen territory.

**Q5. Which institution(s) in your Member State decides whether or not to issue an entry ban on third-country nationals who are the subject of a return decision?**

According to provisions of Aliens Act return decisions are issued by the Police which are also the only authority in the Republic of Slovenia competent to enforce these decisions. Besides these there is another category of decisions that are de facto return decisions although in the Aliens Act named as »decisions on termination of residency« and are issued by the administrative units. In these decisions administrative units not only terminate residency but they can also set a deadline for voluntary return or decide not to allow the alien to return voluntarily and impose an entry ban. Therefore the elements of these decisions show that in fact this is a form of return decision that is at the end enforced by the Police.

Negative decision on international protection applications can't be considered a return decision since it contains no explicit obligation for rejected applicant to leave the country. Only after the negative asylum decision is final, third-country national's stay is considered illegal and can be submitted to the return procedure under the Police authority. Police are normally informed in cases of rejected international protection applications in order to initiate return procedure accordingly. , but since it is also very difficult to follow procedures and determine when the court decisions are final, third-country nationals can be found in a "limbo situation"; the decision might be final, but the return procedures has not been yet initiated.

The procedure is different in case of unaccompanied minors due to obligatory participation of legal guardians. Police informs social service in cases of return procedure of unaccompanied minor which appoints legal guardian to unaccompanied minor. The minor is then issued a return decision only if this is determined to be in his/her best interest by appointed legal guardian.

Unaccompanied minor shall be accommodated to suitable and designated facilities in agreement

of legal guardian. If such accommodation is not possible, unaccompanied minor is accommodated in the Aliens centre.

### Section 3.2 Practical application of entry bans

#### **Q6. Who informs third-country nationals of the imposition of the entry ban and what procedure is used to convey this information? Please specify**

The procedure of issuing the return decision is in the authority of the Police and all the information related to this decision is conveyed to the third-country national by the Police, when necessary through an interpreter. From January 2013 program on free legal counselling is being implemented by an NGO<sup>11</sup>, providing information on the return procedure and remedies to third country nationals.

In cases of voluntary return, the decision is issued on the prescribed form where operative part of the decision and legal instruction is translated into at least five most common languages (languages spoken by the majority of illegal migrants).

#### **Q7. Do third-country nationals who have been imposed an entry ban have the possibility to appeal the decision?**

Yes, the return decisions can be appealed within three days after it has been served to the alien and is examined by the Ministry of Interior within next 8 days (11 days altogether). This is stipulated in the Article 64 (4) of Aliens Act.

Rules of general administrative procedure apply to the return procedure unless otherwise stipulated in the Aliens Act.

The decision of the Ministry of Interior can be submitted to judicial review of the Administrative court within 30 days after being served.

#### **Q8. Please indicate whether entry bans can be withdrawn or suspended in your Member State, specifying the categories of third country national who may be withdrawn/suspended from an entry ban, and explain the circumstances or reasons:**

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<sup>11</sup> [www.pic.si](http://www.pic.si)

An entry ban imposed by a return decision, a decision refusing a residence permit, a decision on the annulment of a residence permit, and a decision on the termination of residence may be cancelled or suspended by the Police ex officio or at the request of the alien on the following reasons:

- death or illness of a family member of the alien;
- provision of emergency medical treatment;
- participation in proceedings before public authorities;
- if the alien on whom the entry ban was imposed by a decision refusing a residence permit, a decision on the annulment of a residence permit or a decision on the termination of residence proves that he departed from the country by the deadline for return.
- if the alien was permitted to stay in the Republic of Slovenia as a victim of the trafficking in human beings or as a victim of illegal employment.

**Table 3.4: Withdrawal and suspension of entry bans**

<b>Categories of third-country national who can be exempted from an entry ban</b>	<b>Entry ban can be withdrawn or suspended (Y/N)</b>	<b>If yes, please provide information on the criteria/indicators used</b>
Third-country nationals who can demonstrate that they have left the territory of the member State in full compliance with a return decision	Yes	Exit stamp in passport, other proof of exit of RS within deadline for return.
Victims of trafficking in human beings who have been granted a residence permit pursuant to Council Directive 2004/81/EC (provided they do not represent a threat to public policy, public security or national security)	Yes	Victim must submit a valid residence permit issued by the administrative unit or card for permission to stay <sup>12</sup> issued by the Police.
Minors	No, not just on the ground of being a minor	

<sup>12</sup> <http://www.uradni-list.si/1/content?id=108152>

[http://www.uradni-list.si/files/RS\\_-2012-027-01119-OB~P001-0000.PDF#!/pdf](http://www.uradni-list.si/files/RS_-2012-027-01119-OB~P001-0000.PDF#!/pdf)

Unaccompanied Minors	No, not just on the ground of being an UAC minor	
Disabled people	No, not just on the ground of disability	
Elderly people	No, not just on the ground of being elder	
Pregnant women	No	In practice though such case would be considered as in emergency of health care.
Single parents with minor children	No, not just on this ground	
Persons with serious illness	Yes, if emergency health care was needed.	
Persons with mental disorders	No, not just on the ground of being mentally disordered	
Persons who have been subjected to torture, rape, or other serious forms of psychological, physical or sexual violence (e.g. victims of female genital mutilation)	Only if recognized to be victims of trafficking in human beings or in need of urgent medical care.	
Persons required to ensure presence in some formal procedures before state authorities	Yes	
Other humanitarian reasons, (please indicate and add rows as appropriate)	No	

**Q9. Is the institution responsible for the imposition of the entry ban the same as the authority that is competent to decide on withdrawal/suspension?**

Yes.

### Section 3.3 Cooperation between Member States

**Q10. Does your Member State enter an alert into the SIS when an entry ban has been imposed on a third-country national?**

Yes, alerts are entered into the SIS as standard practice.

**Q11a. Does your Member State share information on the use of entry bans with other Member States?**

No.

a) Your Member State exchanges information as a standard practice

No

b) Your Member State exchanges information on a regular basis

No

c) Your Member State exchanges information on a case-by-case basis

No

Please note that entry bans are entered in SIS.

**Q11c. How is information shared with other Member States? Please provide an overview of the existing mechanisms to share information (e.g. via the Schengen Information System, bilateral exchange of information either face-to-face, over the telephone, via e-mail, other?)**

Information on the imposed entry bans is besides being entered into SIS, shared only upon a request.

**Q12a. Article 11 (4) stipulates that “where a Member State is considering issuing a residence permit or other authorisation offering a right to stay to a third-country national who is the subject of an entry ban issued by another Member State, it shall first consult the Member State having issued the entry ban and shall take account of its interests in accordance with Article 25 of the Convention implementing the Schengen Agreement”. Please describe the processes how these consultations take place; indicate which authorities are involved as well as the method of consultation.**

Residence permits are issued by administrative units who are also responsible for the inquiry on the reasons of imposing the entry ban. When processing an application for residence permit the competent authority makes an inquiry with the Member state having issued the entry ban and consults what are the reasons for the entry ban and which interest/rights prevail. Residence permit is issued only in accordance with the position or interest of the Member State that has imposed the entry ban. In most cases that means that the residence permit issued to an alien who has been imposed an entry ban, is given mainly from humanitarian reasons or due to other international obligations.

**Q12b. Has your Member State ever issued a residence permit or any other authorisation offering a right to stay to a third-country national who is the subject of an entry ban imposed by another Member State?**

Yes, residence permits were issued to third-country nationals who were subject of an entry ban, but statistical data on these cases is not available.

**Q12c. In case your Member State has issued a residence permit or any other authorisation offering a right to stay to a third-country national who is the subject of an entry ban imposed by another Member State, please specify the circumstances based on which such decisions were taken.**

In the process of issuing a residence permit to third-country national administrative unit ex officio checks whether entry ban was imposed and what were the reasons for imposing an entry ban. Decision on issuing residence permit in such cases is brought only in consultations with the Member State issuing the entry ban.

### Section 3.4 Effectiveness of entry bans

**Q13. Has your Member State conducted any evaluations of the effectiveness of entry bans?**

No, it has not.

**Q14. The following indicators have been developed in order to measure the effectiveness of entry bans as a means for enhancing the ability of (Member) States to carry out sustainable returns, or provide proxy measures of their effectiveness. If your Member State collects any statistics that would permit the population of these indicators, please indicate this is the case**

and provide the statistics for the last 5 years. The statistics should be provided as a total number from January 1<sup>st</sup> until December 31<sup>st</sup> of each year.

**Table 3.6: National statistics on entry bans**

Indicators	Y/N	2009	2010	2011	2012	2013
Number of entry bans imposed		/	/	/	/	/
Number of decisions to withdraw an entry ban		/	/	/	/	/
Number of decisions to suspend an entry ban		/	/	/	/	/
Number of persons who are the subject of an entry ban who have been re-apprehended inside the territory (not at the border)		/	/	/	/	/
Proportion of persons issued an entry ban who have returned voluntarily – out of the total number of persons that were issued an entry ban		/	/	/	/	/
Proportion of persons who were not issued an entry ban who have returned voluntarily – out of the total number of persons that were imposed a return decision		/	/	/	/	/

**Q15. Please indicate whether your Member State has encountered any of the following challenges in the implementation of entry bans and briefly explain how they affect the ability of entry bans to contribute to effective returns.**

**Table 3.7: Practical challenges for the implementation of entry bans**

Challenges associated with entry bans	Y/N	Reasons
It is difficult to ensure compliance with entry bans on the part of the third-country national concerned	No	
It is difficult to monitor compliance with entry bans	Yes	Statistics on refusal of entry to the territory of Slovenia because of imposed entry ban is not available due to the fact that it is not impaired with return decisions.
It is difficult to secure the cooperation of other MS in the implementation of entry bans	No	
It is difficult to secure the cooperation of the country of origin in the implementation of entry bans	Yes	There are no legal grounds or binding documents for the countries of origin to comply with.
Other challenges (please specify and add rows as necessary)	/	/

**Q16. Please describe any examples of good practice in your (Member) State's implementation of entry bans, identifying as far as possible the reasons why the practice in question is considered successful.**

Until now, no specific good practices have been identified by the Police.

## Section 4. Readmission agreements

### Section 4.1 Institutional set-up

**Q17. Which authority is responsible for making applications for readmission to third countries in individual cases of forced and or voluntary return?**

Implementation of return procedures and use of readmission agreements in the Republic Slovenia is in the sole authority of the Police that is the police station responsible of the particular case. Police makes the announcement, prepares the documentation and brings a person to the border and hands her/him to foreign competent authorities.

**Section 4.2 EU Readmission Agreements**

**Q18. Please provide any available statistics on the number of readmission applications that your Member State has submitted on the basis of EU readmission agreements**

**Table 4.1: National Statistics on the total number of readmission applications under EU Readmission Agreements**

National Statistics on the total number of readmission applications under EU Readmission Agreements	Total number of readmission applications made based on EURAs				How many have concerned voluntary return?			
	2010	2011	2012	2013	2010	2011	2012	2013
Total numbers	/	/	/	/	/	/	/	/
Own nationals	/	/	/	/	/	/	/	/
Third-country nationals (including stateless persons)	/	/	/	/	/	/	/	/

**Table 4.2: National Statistics on the number of readmission applications made under EU Readmission Agreement to third country 1 (Croatia) - country selected because most of the illegal migrants are apprehended at or near the Croatian border, bilateral agreement used until 2013 (EU accession)**

	Number of readmission applications made to Croatia based on EURAs				How many have concerned voluntary return?			
	2010	2011	2012	2013	2010	2011	2012	2013
Total numbers	/	/	/	/	/	/	/	/

Own nationals	/	/	/	/	/	/	/	/	/
Third-country nationals (incl. stateless persons)	/	/	/	/	/	/	/	/	/

**Table 4.3: National Statistics on the number of readmission applications made under EU Readmission Agreement to third country 2 - Bosnia and Herzegovina**

	Number of readmission applications made to Bosnia and Herzegovina based on EURAs				How many have concerned voluntary return?			
	2010	2011	2012	2013	2010	2011	2012	2013
Total numbers	/	/	10	8	/	/	/	/
Own nationals	/	/	0	0	/	/	/	/
Third-country nationals (including stateless persons)	/	/	8	8	/	/	/	/

**Table 4.4: National Statistics on the number of returns under EU Readmission Agreement to third country 3 Serbia**

	Number of readmission applications made to Serbia based on EURAs				How many have concerned voluntary return?			
	2010	2011	2012	2013	2010	2011	2012	2013
Total numbers	/	/	8	3	/	/	/	/

Own nationals	/	/	0	0	/	/	/	/
Third-country nationals (including persons)	/	/	8	3	/	/	/	/

Q19. Has your (Member) State experienced any practical obstacles when implementing EU Readmission Agreements?

**Table 4.5 Practical obstacles for the implementation of EU Readmission Agreements**

Practical obstacles associated with EU readmission agreements	Yes/No	If yes, please specify whether only in relation to a specific third country, or more of general nature.
Countries of origin do not cooperate in general	No	
Countries do not respect the deadlines	No	
Countries do not cooperate in relation to readmission applications of third-country nationals (as opposed to own nationals)	No	
Countries do not cooperate in relation to readmission applications of stateless persons (as opposed to own nationals)	No	
Countries do not issue travel document to enable readmission/return	No	
Gaps in own (Member) State’s administrative capacity to implement readmission agreement	No.	
Other obstacles (please add columns as necessary)		

**Q20. Has your (Member) State conducted any evaluations of the effectiveness of EU and/or its bilateral readmission agreements?**

No, it has not.

**Q21. The following indicators have been developed in order to provide (proxy) measures of the effectiveness of EU and bilateral readmission agreements. If your Member State collects any statistics that would permit the population of these indicators, please indicate this is the case and provide the statistics for the last 5 years**

**Table 4.6: Indicators measuring the effectiveness of EU Readmission Agreements**

Indicators	2009	2010	2011	2012	2013
Number of readmission applications sent	/	/	/	/	/
Number of readmission applications that received a positive reply	/	/	/	/	/
Number of requests for travel documents in the context of a readmission application	/	/	/	/	/
Number of travel documents issued by third country after the positive reply	/	/	/	/	/
Number of persons who were effectively returned	/	/	/	/	/

**Q22. Please provide an assessment of the added value of the EU Readmission Agreements in facilitating the effective returns in comparison with the period before the EU Readmission Agreements were concluded.**

The added value of the EURAs lies in the fact that Slovenia could not have concluded bilateral agreements with all the countries that are party to agreements with the EU. Prior to this, the return of TCNs to countries with which Slovenia did not conclude bilateral agreements was done more on a voluntary basis which could also lead to unsuccessful return. The list of countries where Slovenia can return TCNs is now longer.

### Section 4.3 separate Bilateral Readmission Agreements

#### Q23. Does your Member State have any separate bilateral readmission agreements in place with third countries?

Separate bilateral Agreements that were concluded in the past were not abolished but are just not being used in the return procedures anymore. Bilateral agreement with Croatia<sup>13</sup> was used until 2013 in the cases of other countries EURAs were used from 2012 on.

The list of separate bilateral agreements with third countries:

Federal Republic of Yugoslavia (Serbia), 2001

Bosnia and Herzegovina, 2007

Macedonia, 1998

Montenegro, 2009

**Table 4.7: National Statistics on the number of readmission applications made under separate bilateral readmission agreements to Croatia**

National Statistics on the number of readmission applications made under separate bilateral readmission agreements to Croatia.	Number of readmission applications made to Croatia based on separate bilateral readmission agreements				How many have concerned voluntary return?			
	2010	2011	2012	2013	2010	2011	2012	2013
Total numbers	433	513	1022	718	/	/	/	/
Own nationals	0	0	0	0	/	/	/	/

<sup>13</sup> The Agreement and the Protocol to the Agreement with Croatia is attached at the end of the document.

Third-country nationals (including stateless persons)	433	513	1022	718	/	/	/	/
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**Table 4.8: National Statistics on the number of readmission applications made under separate bilateral readmission agreements to Bosnia and Herzegovina.**

National Statistics on the number of readmission applications made under separate bilateral readmission agreements to Bosnia and Herzegovina	Number of readmission applications made to Bosnia and Herzegovina based on separate bilateral readmission agreements				How many have concerned voluntary return?			
	2010	2011	2012	2013	2010	2011	2012	2013
Total numbers	186	195	/	/	/	/	/	/
Own nationals	0	0	/	/	/	/	/	/
Third-country nationals (including stateless persons)	186	195	/	/	/	/	/	/

**Table 4.9: National Statistics on the number of readmission applications made under separate bilateral readmission agreements to Serbia.**

National Statistics on the number of readmission applications made under separate bilateral readmission agreements to Serbia.	Number of readmission applications made to Serbia based on separate bilateral readmission agreements				How many have concerned voluntary return?			
	2010	2011	2012	2013	2010	2011	2012	2013
Total numbers	213	210	/	/	/	/	/	/
Own nationals	0	0	/	/	/	/	/	/
Third-country nationals (including stateless persons)	213	210	/	/	/	/	/	/

**Q25. Please indicate the most common problems encountered in the implementation of separate bilateral readmission agreements by filling in the table 4.10 below.**

**Table 4.10: Practical obstacles experienced under separate bilateral readmission agreements**

Practical obstacles associated with separate bilateral readmission agreements	Yes/No	If yes, please specify whether only in relation to a specific third country, or more of general

		nature.
Countries of origin do not cooperate in general	No.	
Countries do not respect the deadlines	No.	
Countries do not cooperate in relation to readmission applications of third-country nationals (as opposed to own nationals)	No.	
Countries do not cooperate in relation to readmission applications of stateless persons (as opposed to own nationals)	No.	
Countries do not issue travel document to enable readmission/return	No.	
Gaps in own (Member) State's administrative capacity to implement readmission agreement		
Other obstacles (please add columns as necessary)	No.	

**Q26. Do any of the separate bilateral readmission agreements signed by your (Member) State include an article encouraging both Parties to promote the use of voluntary return**

None of the provisions in concluded readmission agreements imply or explicitly encourage voluntary return; agreements focus exclusively on readmission cases involving forced returns.

**Q27. Does your Member State prefer to use separate bilateral readmission agreements instead of EU Readmission agreements with particular third countries?**

No, Slovenia applies EU readmission agreements as a preference to bilateral agreements in accordance with the Return directive.

**Q28. Has your (Member) State conducted any evaluations of the effectiveness of separate bi-lateral readmission agreements?**

No, it has not. Only some statistical data is available for now.

**Table 4.12: Indicators measuring the effectiveness of separate bilateral readmission agreement with Croatia**

Indicators	2009	2010	2011	2012	2013
Number of readmission applications sent	530	459	541	1076	742
Number of readmission applications that received a positive reply	506	433	513	1022	718
Number of requests for travel documents in the context of a readmission application	/	/	/	/	/
Number of travel documents issued by third country after the positive reply	/	/	/	/	/
Number of persons who were effectively returned	506	433	513	1022	718

**Table 4.13: Indicators measuring the effectiveness of separate bilateral readmission agreement with Bosnia and Herzegovina**

Indicators	2009	2010	2011	2012	2013
Number of readmission applications sent	/	/	/	/	/
Number of readmission applications that received a positive reply	/	/	/	/	/
Number of requests for travel documents in the context of a readmission application	/	/	/	/	/
Number of travel documents issued by third country after the positive reply	/	/	/	/	/
Number of persons who were effectively returned	269	186	195	10	8

**Table 4.14: Indicators measuring the effectiveness of separate bilateral readmission agreement with Serbia**

Indicators	2009	2010	2011	2012	2013
------------	------	------	------	------	------

Number of readmission applications sent	/	/	/	/	/
Number of readmission applications that received a positive reply	/	/	/	/	/
Number of requests for travel documents in the context of a readmission application	/	/	/	/	/
Number of travel documents issued by third country after the positive reply	/	/	/	/	/
Number of persons who were effectively returned	176	213	210	8	3

**Q30. Please provide an assessment of the added value of the separate bilateral readmission agreements in facilitating effective returns in comparison with the period before the separate bilateral readmission agreements were concluded.**

It seems that readmissions under separate bilateral agreements were not very different from readmissions under EURA's; Slovene Border Police Division seems to be content with both, though in compliance with the Return Directive EURA's are now in place.

## Section 5. Entry bans and readmission agreements: understanding the synergies with reintegration assistance

**Q31. Do the authorities in charge of imposing an entry ban subsequently consult with and/or inform the authorities in the concerned third country to which the individual is to be returned?**

Authorities in charge of imposing entry bans – the Police or administrative units do not consult or inform the authorities in the concerned third country to which the individual is to be returned.

**Q32. Is it possible in your (Member) State for returnees who have been the subject of an entry ban to apply for re-integration assistance?**

Yes, this is a possibility. Even aliens in the procedure of forced return where also entry ban is

imposed can be included in the program for re-integration assistance.

**Q33. Are the competent authorities involved in making decisions about the use of entry bans and granting of re-integration assistance the same?**

Entry ban can be imposed by administrative unit or police station and the decision on access to re-integration assistance is made by a police inspector when the person is accommodated in the Aliens Centre (centre for removal of aliens under the authority of the Police)- the last stage of the return procedure. Reintegration programme can be proposed by the police station that conducts the procedure of accommodation at Aliens centre.

**Q36. Does your (Member) State offer re-integration assistance to returnees who have been removed on the basis of a readmission agreement?**

No.

**Q38. Have any formal cooperation mechanisms been set up to facilitate coordination? (e.g. Protocols, contracts, conventions, working arrangements, etc.).**

No.

**Q.39 Do the competent authorities consult with each other when making decisions?**

No.

## Section 6. Statistics

**Table: 6.1: Nationality of persons issued voluntary return decision**

Nationality of persons issued voluntary return decision	Number of issued decisions on voluntary return	
	2012	2013
Bosnia and Herzegovina	/	221
Serbia	/	95
Kosovo	/	92
Macedonia	/	59
Croatia	/	46
Ukraine	/	14
Turkey	/	12
Albania	/	9
China	/	8
Moldova	/	8
Other countries	/	65
<b>TOTAL</b>	<b>-</b>	<b>629</b>

**Table: 6.2: Nationality of persons issued forced return decision**

Nationality of persons issued forced return decision (not necessarily with imposed entry ban)	Number of issued decisions on forced return	
	2012	2013
Bosnia and Herzegovina	/	36
Serbia	/	22
Kosovo	/	12
Macedonia	/	11
Russia	/	9
Morocco	/	7
Albania	/	6
Ukraine	/	6
Tunisia	/	5
Algeria	/	4
Other countries	/	46
<b>TOTAL</b>	<b>-</b>	<b>164</b>

## Section 7. Key findings/conclusions

The overall aim of this study is to understand the extent to which Slovenia uses entry bans and readmission agreements to enhance its national return policy. Reviewing legal grounds was much easier than exploring practical implementation since very little is regulated in legislation and more is done on a sub-regulatory and practical “informal” level. Lack of statistical data and especially existing statistical data not being aggregated and related makes it difficult to explore and analyse the Slovene return policy in general and its efficiency in particular.

The number of migrants entering illegally to the territory of Slovenia is declining in recent years. One of the reasons is re-routing of the Balcan migratory rout towards Serbij and than Hungary and the other important reason is European integration of Croatia.

Use of entry ban is in course since 2012 when amendments to Aliens Act introduced written decisions in return cases, which was not done previously; therefore statistical data on entry bans applies from 2012 on. The period of two years does actually not allow many conclusions rather than that Slovenia is practicing more voluntary returns rather than forced ones. In this regard it has to be highlighted that Slovenia is fully following recommendations of the Return Directive.

In overall figures among all the return decision issued in 2012 and 2013 (771), only 163 were decisions on forced return and 129 of those also banned entry. There is no statistical data available on how many aliens respected the decision and left the country within due date, how many have returned immediately after exiting and how many attempted entry despite the ban. Measuring the effectiveness of entry ban in assuring sustainable return is yet difficult and will be probably possible within few years, but only if properly statistically followed.

Readmission agreements allow the States to use so called summary procedures in majority of cases; these are unformal procedures and little data is collected and registered. These agreements are an important tool in returning aliens, but effectiveness is even less likely to be measured.

Recently (from 2012 on) Slovenia is using more EU Readmission Agreements rather than bilateral; as explained above both are from Slovene perspective effective enough, but third countries are more prone to use EURAs (except for Croatia). Except from the fact that the list of countries signing EURAS is much longer than Slovene list of bilateral agreements, no specific advantage or disadvantage was pointed out by Slovene Border Police Official. Return procedures under EU readmission agreements are implemented without any specific difficulties, deadlocks or communication obstacles.

On the basis of current situation it seems that Slovene return policy is well implemented and organized, but would need more statistical data to support it. Also in drawing up further measures

and policies in this field it is inevitable to follow the situation and develop indicators that will lead to effective and in human rights perspective acceptable measures.

Slovene return policy without a doubt needs also national re-integration policy related to return if this is to be effective in longterm and prevent migrations in third countries. This can be only to some extent implemented in cooperation with different partners such as NGOs and international organizations but also national policies and mechanisms have to be in place.

# A G R E E M E N T BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE GOVERNMENT OF THE REPUBLIC OF CROATIA ON THE READMISSION OF PERSONS WHOSE ENTRY OR RESIDENCE IS ILLEGAL

The Government of the Republic of Slovenia and the Government of the Republic of Croatia (hereinafter referred to as the Contracting Parties),

desiring to cooperate further to ensure better implementation of the provisions on the movement of persons,

wishing to facilitate the readmission and transit of persons whose entry and residence are illegal,

in the spirit of cooperation and on the basis of reciprocity,

taking into account the Convention on the Protection of Human Rights and Fundamental Freedoms done in Rome on 4 November 1950 and the Convention Relating to the Status of Refugees done in Geneva on 28 July 1951, as amended by the Protocol Relating to the Status of Refugees done in New York on 31 January 1967,

determined to fight against illegal migration,

have agreed as follows:

## **I. READMISSION OF THE NATIONALS OF THE CONTRACTING PARTIES**

### **Article 1**

(1) Any Contracting Party shall, at the request of the other Contracting Party and without any formalities, readmit to its national territory any person who does not fulfil or who no longer fulfils the conditions for entry into or residence in the national territory of the requesting Contracting Party if it is proved or presumed that that person is a national of the requested Contracting Party.

(2) The nationality of the person shall be proved or presumed on the basis of the documents listed in the Protocol on the Implementation of this Agreement (hereinafter referred to as the Protocol).

(3) If the nationality of the person from the first paragraph cannot be proved or presumed on the basis of the documents submitted, the consular bodies of the requested Contracting Party shall interview that person within three working days after the day of receipt of the readmission application. This interview shall be organised as soon as possible by the requesting Contracting Party, after consultation with the consular body of the requested Contracting Party.

(4) If in the course of the interview from the preceding paragraph the nationality of the person in question is proved or presumed, the diplomatic mission or consular post shall without any delay issue an appropriate travel document that enables the person to return; this may under no circumstances be issued later than five working days after the day of receipt of the readmission application.

(5) The requesting Contracting Party shall under the same conditions readmit a person who is subsequently found not to have been a national of the requested Contracting Party at the time he/she was returned to the requested Contracting Party. This obligation shall not apply if the requested Contracting Party has deprived a person residing in the national territory of the requesting Contracting Party of nationality without them having obtained the nationality of a third country or having secured the nationality of the requesting Contracting Party.

## II. READMISSION OF THIRD COUNTRY NATIONALS AND STATELESS PERSONS

### Article 2

(1) Any Contracting Party shall at the request of the other Contracting Party readmit to its national territory a national of a third country or a stateless person who does not fulfil or who no longer fulfils the conditions for entry into or residence in the state of the requesting Contracting Party if it has been proved or presumed that this person entered the national territory of this Contracting Party directly after residence in or transit across the national territory of the requested Contracting Party.

(2) Any Contracting Party shall at the request of the other Contracting Party readmit a third country national or a stateless person who resides illegally on the national territory of the requesting Contracting Party if that person is in possession of a valid residence permit, a valid visa or any other document valid for entry into or residence issued by the requested Contracting Party.

(3) The competent authorities of the Contracting Parties shall readmit a third country national or a stateless person without any formalities (hereinafter referred to as summary procedure) if the requesting Contracting Party so requests no later than within 72 hours of the illegal crossing of the state border. The summary procedure shall be used only if the competent authority of the requesting Contracting Party provides information that allows it to be established that the person in question crossed the border between the Contracting Parties illegally. If a Contracting Party refuses to readmit a person using the summary procedure, readmission may be requested pursuant to the first or second paragraph of this Article.

(4) If the conditions for the return of a person using the summary procedure are met, the competent authority of the requesting Contracting Party shall notify the competent authority of the requested Contracting Party of the readmission orally or by telephone. A record shall be drawn up of the readmission; the contents of this record are laid down in the Protocol.

### Article 3

The readmission obligation pursuant to with Article 2 shall not apply in respect of:

- a) third country nationals that have a joint state border with the requesting Contracting Party;
- b) third country nationals or stateless persons who, when they entered, were in possession of a valid visa for entry or a residence permit issued by the requesting Contracting Party, or who acquired a residence permit in that country after entry;
- c) third country nationals or stateless persons who, on the day of receipt of the request for readmission, have resided for more than 12 months on the national territory of the requesting Contracting Party, unless they are holders of a valid residence permit issued by the requested Contracting Party;
- d) third country nationals or stateless persons who have been granted refugee status by the requesting Contracting Party with a final decision pursuant to the provisions of the Convention Relating to the Status of Refugees done in Geneva on 28 July 1951, as amended by the Protocol Relating to the Status of Refugees done in New York on 31 January 1967, or stateless person status pursuant to the Convention Relating to the Legal Status of Stateless Persons done in New York on 28 September 1954;
- e) third country nationals or stateless persons in relation to whom the requesting Contracting Party has commenced a procedure for the granting of refugee status, until the adoption of a final decision;
- f) third country nationals or stateless persons who have left the national territory of the requested Contracting Party and arrived in the national territory of the requesting Contracting Party from the national territory of a third country to which the requesting Contracting Party may return that person pursuant to an international agreement on readmission.

#### **Article 4**

The requesting Contracting Party shall agree to readmit into its national territory those third country nationals or stateless persons in relation to whom the requested Contracting Party, using the proper verification procedures, has established that at the time they left the national territory of the requesting Contracting Party, the conditions from Articles 2 and 3 of this Agreement had not been met.

### **III. TRANSIT OF THIRD COUNTRY NATIONALS**

#### **Article 5**

(1) Any Contracting Party shall at the request of the other Contracting Party allow the transit of nationals of third countries who do not meet or no longer meet the conditions for entry into or residence in the national territory of the requesting Contracting Party on condition that the requesting Contracting Party has ensured that that person will be admitted into the destination country or other transit country. In such cases the requested Contracting Party shall not require a transit visa or require that other conditions for transit be met.

(2) The contents of requests, information relevant to transit, the authorities competent to send requests and the procedure of handling requests are laid down in the Protocol.

(3) The requesting Contracting Party shall be responsible for the entire journey of the person to the destination country. It shall also readmit that person if the destination country or other transit country refuses to readmit him/her, or if the journey cannot be completed for any other reason.

(4) The requesting Contracting Party shall inform the other Contracting Party as to whether the person in transit requires an escort. The requested Contracting Party may decide:

- a) to perform the transit of this person across its national territory, with the costs reimbursed by the requesting Contracting Party;
- b) to perform the transit in cooperation with the requesting Contracting Party;
- c) to authorise the requesting Contracting Party to perform the transit across its national territory.

(5) In the cases referred to in point b) or c) of the preceding paragraph of this Article, escorting by the requesting Contracting Party shall lie within the competence of the authorised authorities of the requested Contracting Party.

(6) If transit is performed using an escort, the requesting Contracting Party's officials who are performing the escort shall perform their tasks unarmed and, as a rule, in civilian clothes, while other coercive measures shall be determined in the transit permit.

(7) The requesting Contracting Party's officials who are performing the escort must have the transit permit with them.

#### **Article 6**

(1) Officials performing the escort shall be responsible for supervising the person being escorted and for ensuring that he/she boards the aircraft, with the assistance and under the competence of the requested Contracting Party.

(2) The requested Contracting Party may, if required and after consultation with the escort, assume responsibility for supervising the person being escorted and for ensuring that he/she boards the aircraft.

(3) The requesting Contracting Party must carry out all measures necessary for ensuring the speediest possible transit of the person being escorted through the requested Contracting Party's airport.

#### **Article 7**

If transit is performed without an escort, supervision and boarding of the person onto the aircraft shall be conducted by the officials of the requested Contracting Party.

#### **Article 8**

(1) If in the course of transit the person refuses to or cannot board, the requesting Contracting Party shall:

a) without delay readmit this person if he/she is without escort; or

b) request the requested Contracting Party to attempt to re-board the person onto the aircraft and to ensure the person's supervision during this time. Refusal to board an aircraft in the country of transit shall have the same legal consequences that are defined in the legislation of the requesting Contracting Party in case of such refusal on its own national territory. If the requested Contracting Party does not board the person onto the aircraft, the requesting Contracting Party shall readmit the person without delay.

#### **Article 9**

The competent authorities of the Contracting Parties shall inform each other of all facts that have a bearing on the transit procedure.

#### **Article 10**

(1) The requested Contracting Party shall ensure the same protection and assistance in the course of the performance of tasks under this Agreement to the officials from the requesting Contracting Party as it would ensure its own officials.

(2) During transit, officials performing the escort who are operating on the national territory of the other Contracting Party shall be deemed to be officials of this Contracting Party. They must operate according to the provisions of the domestic law of the Contracting Party on whose national territory they are operating.

#### **Article 11**

(1) If an official of the requesting Contracting Party who is conducting transit on the national territory of the other Contracting Party suffers damage in the implementation or during the period of implementation of his/her tasks, the requesting Contracting Party shall be responsible for the damage without requesting compensation from the requested Contracting Party.

(2) When officials of a Contracting Party are conducting transit in accordance with this Agreement on the national territory of the other Contracting Party, the requesting Contracting Party shall be responsible for any damage that these persons cause in the course of their work, in accordance with the domestic law of the Contracting Party on whose national territory they are operating.

(3) If a damaged party requests compensation from the requested Contracting Party in accordance with the second paragraph of this Article, the requested Contracting Party shall be responsible for such damage as if it had been caused by its officials, under the conditions applying to damage. A Contracting Party whose officials have caused damage to any person on the national territory of the other Contracting Party shall refund in full the sum paid by the other Contracting Party to the damaged party or to other persons entitled to the sum on their behalf.

(4) Without prejudice to the enforcement of its rights towards third parties and with the exception of the third paragraph of this Article, any Contracting Party shall waive, in cases from the second paragraph of this Article, a request for compensation for damage it has suffered on account of the other Contracting Party;

#### **Article 12**

Transit may be refused:

- a) if the person in question is at risk of torture, inhuman or degrading treatment, punishment, death penalty or persecution on the basis of race, religion, nationality, membership of a certain social group or political conviction in the destination country or other transit country;
- b) if the person in question is threatened with the institution of criminal proceedings or the enforcement of penal sanctions in the country of destination or other country of transit, unless these relate to illegal crossing of the state border;
- c) if the measure of deportation from the national territory of the requested Contracting Party has been passed against the person in question.

#### **IV. TIME LIMITS**

##### **Article 13**

- (1) The requested Contracting Party shall be obliged to reply without delay and in writing to a readmission request, and in all cases within 15 days from receiving the request. Each refusal to readmit must be explained in writing.
- (2) The requested Contracting Party shall readmit a person for whom confirmation of readmission has been issued without delay, or no later than one month from the day of receipt of the confirmation.
- (3) The requested Contracting Party must readmit persons who are being returned using the summary procedure immediately, and no later than 24 hours from the receipt of notification.
- (4) The time limit from the second paragraph of this Article may be extended by the amount of time required for the removal of legal or practical obstacles.
- (5) The Contracting Party to which a transit request has been made under the first paragraph of Article 5 shall reply to the transit request as soon as possible, and within no later than three working days of receipt of the request.

##### **Article 14**

The competent authority of the requested Contracting Party shall deliver its written consent to the readmission of a person to the competent authority of the requesting Contracting Party; this consent shall contain information on the identity of the person and on the time and place of readmission.

#### **V. COSTS**

##### **Article 15**

The requesting Contracting Party shall cover all costs relating to the readmission of persons to the border of the requested Contracting Party, and in the case of transit to the destination country.

#### **VI. PERSONAL DATA PROTECTION**

##### **Article 16**

(1) If personal data is transmitted for the purposes of implementation of this Agreement, this data must be collected, processed and protected in accordance with domestic and international law. The following criteria in particular must be taken into account:

- a) the Contracting Party that receives the data may only use it for the purpose laid down in this Agreement and under conditions laid down by the Contracting Party that is communicating the data;

b) personal data may only be communicated to the competent authorities responsible for implementation of this Agreement and the only ones entitled to use it, and in such a way that unauthorised persons are prevented from accessing it. The Contracting Party that communicates the data must give its written consent before the data can be communicated to other authorities;

c) the Contracting Party that communicates the data shall ensure that the data is accurate and necessary and that it does not go beyond the requirements of the purposes for which it is being communicated. If the data is not accurate or if it was communicated unlawfully, the receiving Contracting Party shall be informed immediately so that it may amend or destroy the data;

d) every person is entitled to be informed at his/her request of the communication of data relating to him/her, and of their purpose;

e) communicated personal data shall be stored only for as long as is required for the purposes for which it was communicated. Each Contracting Party shall entrust an independent authority with the supervision of the processing and use of stored data;

f) each Contracting Party must protect communicated personal data against unauthorised access, alteration or disclosure.

(2) Personal data communicated in connection with the return, readmission and transit of persons may only concern the following:

a) data on the person to be returned and, if necessary, on his/her family members (surname, maiden name, first name, previous name, nickname and similar, and date and place of birth, sex, current and previous nationality);

b) passport, identity card or any other personal or travel documents;

c) other data necessary for the identification of the person to be returned (e.g. fingerprints);

d) itineraries and stopping places;

e) residence permits or visas.

## **VII. TRANSITIONAL AND FINAL PROVISIONS**

### **Article 17**

(1) The provisions of this Agreement shall not affect the obligations of the Contracting Parties in relation to the readmission of persons arising from other international agreements.

(2) The provisions of this Agreement shall not affect the application of the provisions of the Convention Relating to the Status of Refugees done in Geneva on 28 July 1951, as amended by the Protocol Relating to the Status of Refugees done in New York on 31 January 1967, the Convention Relating to the Legal Status of Stateless Persons done in New York on 28 September 1954, and the Convention on the Protection of Human Rights and Fundamental Freedoms done in Rome on 4 November 1950.

(3) The provisions of this Agreement shall not be applied in cases of legal aid in connection with the extradition of persons in criminal cases.

### **Article 18**

(1) The competent authorities for the implementation of this Agreement are:

in the Republic of Slovenia: Ministry of the Interior, the Police, and

in the Republic of Croatia: Ministry of the Interior, the General Police Directorate.

(2) The Ministries of the Interior of the Contracting Parties shall sign a Protocol on the Implementation of this Agreement.

(3) The Protocol from the second paragraph of this Article shall lay down:

- a) the authorities competent to send and handle return, readmission or transit requests, and the method of communication between them;
- b) the documents on whose basis nationality is proved or presumed;
- c) the documents and information on whose basis the residence of third country nationals or travel across the national territory of a Contracting Party are proved or presumed;
- d) the contents of return, readmission or transit requests;
- e) the methods of proving illegal crossing of the border;
- f) the border crossings for the return and readmission of persons;
- g) the method of settling costs relating to return, readmission or transit.

(4) The competent authorities from the first paragraph of this Article shall inform each other of all circumstances that affect the implementation of this Agreement.

#### **Article 19**

(1) The Contracting Parties shall assist each other in the application and interpretation of this Agreement.

(2) The competent authorities from the first paragraph of the preceding Article may propose that meetings be held between experts from both Contracting Parties in order to resolve any problems relating to the implementation of this Agreement.

(3) The competent authorities shall inform each other on a continuous basis of the conditions applying to the entry and residence of aliens.

(4) The Contracting Parties shall inform each other without delay and through diplomatic channels of any changes relating to the authorities competent to implement this Agreement and their addresses. Any disputes shall be resolved through diplomatic channels.

#### **Article 20**

(1) With the exception of cases from Article 1, each Contracting Party may suspend, in whole or in part, the implementation of this Agreement by a written notification to the other Contracting Party, for important reasons; these shall be, in particular, reasons of national security, public order or public health. The Contracting Parties shall notify each other, without delay and through diplomatic channels of the cancellation of any such measures.

(2) This Agreement is concluded for an indefinite period of time.

(3) This Agreement shall enter into force on the first day of the month following the day of the receipt of the last written notification by which the Contracting Parties inform each other through diplomatic channels of the fulfilment of all internal legal requirements necessary for its entry into force.

(4) With the entry into force of this Agreement, the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Croatia on the Readmission of Persons on the Joint State Border and the Protocol on Implementation of the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Croatia on the Readmission of Persons on the Joint State Border, signed in Zagreb on 4 June 1993, shall cease to have effect.

(5) Each of the Contracting Parties may denounce this Agreement by a written notification through diplomatic channels to the other Contracting Party. Denunciation shall become effective on the 30th day after the day of receipt of this notification.

Done at Brioni on 10 June 2005 in two originals in the Slovenian, Croatian and English languages, all texts being equally authentic. In case of divergence in the interpretation of this Agreement, the English text shall prevail.

**PROTOCOL**  
**BETWEEN THE MINISTRY OF THE INTERIOR OF THE REPUBLIC OF SLOVENIA**  
**AND THE MINISTRY OF THE INTERIOR OF THE REPUBLIC OF CROATIA ON THE**  
**IMPLEMENTATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF**  
**THE REPUBLIC OF SLOVENIA AND THE GOVERNMENT OF THE REPUBLIC OF**  
**CROATIA ON THE READMISSION OF PERSONS WHOSE ENTRY OR RESIDENCE IS**  
**ILLEGAL**

Pursuant to Article 18 of the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Croatia on the Readmission of Persons whose Entry or Residence is Illegal, signed on 10 June 2005 at brioni (hereinafter referred to as the Agreement), the Ministry of the Interior of the Republic of Slovenia and the Ministry of the Interior of the Republic of Croatia (hereinafter referred to as the Signatories) have agreed the following in relation to implementation of the Agreement:

**I. READMISSION OF NATIONALS OF THE CONTRACTING PARTIES**

**Article 1**

**(Proving Nationality)**

(1) For the requirements of the Agreement, the nationality of a person shall be proved by means of one of the following valid public documents:

a) for the Republic of Slovenia:

- passport;
- identity card;
- seafarer’s card;
- certificate of nationality together with another valid public document bearing a photograph.

b) for the Republic of Croatia:

- passport;
- identity card;
- military identity card;
- seafarer’s card;
- certificate of nationality together with another valid public document bearing a photograph.

(2) The competent authority of the requested Signatory shall acknowledge the nationality of a person on the basis of submission of the above public documents; no further establishment of nationality shall be required.

**Article 2**

**(Presumption of Nationality)**

(1) Nationality may be presumed on the basis of the following:

- a) photocopies of the documents listed in Article 1 of the Protocol;
- b) documents listed in Article 1 of the Protocol whose period of validity has expired;
- c) a birth certificate or a photocopy thereof;
- d) a driving licence or a photocopy thereof;
- e) any document issued by state authorities;
- f) any document that proves membership of the military or the police force of a Contracting Party;
- g) a statement from the person in question or from a trustworthy witness entered in the official records;
- h) a comparison of fingerprints entered in the records of the other Contracting Party.

(2) Nationality shall be deemed to have been established if in the above cases the requested Signatory so confirms it.

### **Article 3**

#### **(Readmission Procedure)**

(1) The readmission of persons whose nationality has been proved or presumed shall be carried out without any formalities. Written notification shall be sent to the competent police directorate in the area to which the person is to be returned. This notification must contain at least the following elements:

- a) personal data (name and surname, date and place of birth, address of last residence in the state of the requested Contracting Party);
- b) a list of personal and other documents that the person has with him/her;
- c) the border crossing point at which the person will be returned and readmitted, and the time of readmission.

(2) If the person requires medical care, the requesting Signatory shall also submit a description of the person's state of health, including photocopies of healthcare certificates and information regarding requirements for special treatment, such as health or other care, supervision or ambulance transport.

## **II. READMISSION OF THIRD COUNTRY NATIONALS OR STATELESS PERSONS**

### **Article 4**

#### **(Proving Residence in or Transit across the National Territory of a Contracting Party)**

(1) The entry, residence or travel across the national territory of the requested Contracting Party of a third country national or a stateless person may be proved by means of one of the following documents:

- a) an entry or exit stamp and other marks of an authority of the requested Contracting Party entered in a passport or other identity documents;
- b) an entry stamp from an authority of the requested Contracting Party entered in a counterfeit passport;
- c) a valid residence permit;
- d) a valid visa issued by an authority of the requested Contracting Party (except airport transit visa);
- e) personal documents issued by state authorities of the requested Contracting Party, or photocopies thereof;

f) used travel tickets that bear the name of the person in question and that may prove the entry of a person into the national territory of the requested Contracting Party.

(2) The above documents shall serve as direct proof of residence in or of transit across the national territory of the Contracting Parties; proof to the contrary is possible.

## **Article 5**

### **(Presuming Residence in or Transit across the National Territory of a Contracting Party)**

(1) The entry, residence or travel across the national territory of the requested Contracting Party of a national of a third country or a stateless person may also be presumed on the basis of the following indirect proof:

a) a residence permit issued by an authority of the requested Contracting Party whose period of validity expired less than 12 months previously;

b) a visa whose period of validity expired less than six months previously;

c) official documents of authorities and institutions of the requested Contracting Party issued to the person during his residence in or transit across the national territory of that Contracting Party;

d) photocopies of any of the documents from Article 4 of this Protocol;

e) tickets allowing access to public premises;

f) travel tickets;

g) personalised hotel receipts;

h) currency exchange receipts;

i) statements written in the person's own hand or statements entered in official notes which the person has made to authorities of the requesting Contracting Party and which can be verified;

j) statements given by a witness and recorded by competent authorities which confirm the person's entry into and residence in the national territory of the requested Contracting Party and which can be verified;

k) information that can be verified and that prove that the person used the services of a travel agent or of persons who illegally transport people across the state border in the national territory of the requested Contracting Party.

(2) Indirect proof shall serve as presumption of residence in or transit across the national territory of the Contracting Parties. The competent authorities of the requested Signatory may challenge this indirect proof with proof to the contrary, and may carry out additional checks.

## **Article 6**

### **(Illegal Crossing of the State Border)**

(1) Illegal crossing shall be deemed to be when a person crosses the joint state border of the Contracting Parties outside a marked border crossing point or at a marked border crossing point without valid travel documents, or when a person evades border controls at a border crossing point.

(2) Illegal crossing of the state border may be proved by means of the following:

a) the person's own statement and/or that of a witness – third person that may be verified, or from which it is possible to establish illegal crossing of the state border;

b) access to photographs or video or thermovision recordings that document an illegal crossing of the state border;

- c) records drawn up on the interrogation of the person in question or of those that assisted him in crossing the state border illegally;
- d) a decision on sanctions resulting from the illegal crossing of the state border;
- e) reports from police patrols (including mixed patrols) and reports on the arrest of the person;
- f) other material evidence that accords with the time of the illegal crossing of the state border and is acknowledged in the specific case by the requested Signatory.

(3) The competent authorities of the Signatories may jointly examine the supposed site of the illegal crossing of the state border.

## **Article 7**

### **(Contents of a Request for Formal Readmission)**

(1) A readmission request from the first and second paragraphs of Article 2 of the Agreement should if possible contain the following:

- a) personal data of the persons being returned (surname and name, data on birth, nationality, last residence in his/her own country);
- b) personal documents (number, issuing authority and validity);
- c) place, time and method (if known) of illegal crossing of the state border;
- d) existing indirect or direct proof of residence in or transit across the national territory of the requested Contracting Party;
- e) data on the languages that the person understands and speaks;
- f) a proposal on the place and time of return.

(2) If the person requires medical care, the requesting Signatory shall also submit a description of the person's state of health, including photocopies of healthcare certificates and information regarding requirements for special treatment, such as health or other care, supervision or ambulance transport.

(3) The requested Signatory shall deliver to the requesting Signatory a written consent to the readmission of the person, which contains data from Article 14 of the Agreement.

## **Article 8**

### **(Readmission Using the Summary Procedure)**

(1) Readmission in accordance with the third paragraph of Article 2 of the Agreement shall be performed without any formalities if the conditions from Article 6 of this Protocol have been met.

(2) Upon the readmission of nationals of third countries or stateless persons without formality, the competent authorities of the requesting Signatory shall draw up a record of readmission, which is annexed to this Protocol, and return it, together with the persons in question, to the competent authorities of the requested Signatory.

(3) The readmission of a person shall be confirmed by the competent authorities of the requested Signatory by means of a signature and the time of readmission. If readmission of the person is refused, the record shall state the factual reason for refusal and the time the requesting Signatory readmitted the person.

## **III. TRANSIT OF THIRD COUNTRY NATIONALS OR STATELESS PERSONS**

## Article 9

### (Contents of a Transit Request)

(1) A transit request must contain the following information on the person to whom the transit procedure relates:

- a) the person's personal data (name and surname, date and place of birth, nationality, last known address in the country of destination);
- b) type, serial number and validity of the passport or other travel document;
- c) an explanation confirming that the conditions from Article 5 of the Agreement have been met and that there is no known reason why transit should be refused under Article 12 of the Agreement;
- d) the border crossing point, the time and method of transit, and the itinerary;
- e) information on whether an escort or any other assistance is required.

(2) If the person requires medical care, the requesting Signatory shall also submit a description of the person's state of health, including photocopies of healthcare certificates and information regarding requirements for special treatment, such as health or other care, supervision or ambulance transport.

(3) A transit request must be submitted in writing to the competent authorities of the requested Signatory.

(4) The competent authorities of the Signatories shall agree directly on the time and method of transit (e.g. flight number, departure and arrival times, name and surname of the escorting officials, vehicle registration numbers, etc.).

## IV. COMPETENT AUTHORITIES AND BORDER CROSSINGS POINTS FOR THE IMPLEMENTATION OF THE AGREEMENT

### Article 10

#### (Competent Authorities)

(1) The following authorities are competent to implement the provisions of the first and second paragraphs of Article 2 of the Agreement, and to send and handle transit requests:

a) for the Republic of Slovenia:

Ministry of the Interior

General Police Directorate

Uniformed Police Directorate

Border Police Section

Address: Štefanova ulica 2, SI – 1501 Ljubljana

Telephone: ++386-1-4724322

Fax: ++386-1-2517450

b) for the Republic of Croatia:

Ministry of the Interior

General Police Directorate

Border Police Directorate

Illegal Migration Department

Address: Ilica 335, HR – 10 000 Zagreb

Telephone: ++385-1-3788559

Fax: ++385-1-3788158

(2) The following police directorates are competent to implement the provisions of Article 1 and the third paragraph of Article 2 of the Agreement:

a) for the Republic of Slovenia:

- Koper Police Directorate
- Postojna Police Directorate
- Ljubljana Police Directorate
- Novo Mesto Police Directorate
- Krško Police Directorate
- Celje Police Directorate
- Maribor Police Directorate
- Murska Sobota Police Directorate.

b) for the Republic of Croatia:

- Istra Police Directorate
- Primorsko-Goranska Police Directorate
- Karlovac Police Directorate
- Zagreb Police Directorate
- Krapina-Zagorje Police Directorate
- Varaždin Police Directorate
- Međimurje Police Directorate

(3) The competent authorities shall provide each other with all the necessary information for the purposes of mutual communication.

## **Article 11**

### **(Border Crossing Points)**

(1) The readmission of persons shall be carried out at the following border crossing points:

- a) Sečovelje – Plovanija
- b) Sočerga – Požane

- c) Jelšane – Rupa
- d) Petrina – Brod na Kupu
- e) Vinica – Pribanjci
- f) Metlika – Jurovski brod
- g) Obrežje – Bregana
- h) Rigonce – Harmica
- i) Bistrica ob Sotli – Razvor
- j) Rogatec – Hum na Sutli
- k) Gruškovje – Macelj
- l) Zavrč – Dubrava Križovljanska
- m) Središče ob Dravi – Trnovec
- n) Petišovci – Mursko Središče.

(2) The readmission of third country nationals and stateless persons in transit may also be carried out at the following airport border crossing points, in addition to the border crossing points listed above:

- a) in the Republic of Slovenia: Ljubljana airport
- b) in the Republic of Croatia: Zagreb airport.

(3) The readmission of persons using the summary procedure shall as a rule be carried out at the border crossing points in the police directorate in whose area the illegal crossing of the state border took place.

## **V. COSTS**

### **Article 12**

#### **(Method of Settlement)**

Costs relating to the readmission of persons up to the requested Contracting Party's state border, and up to the country of destination in the case of transit, shall be settled in accordance with the regulations in force in the requested Contracting Party's country.

## **VI. FINAL PROVISIONS**

### **Article 13**

#### **(Meetings of Experts)**

(1) Experts from the respective Signatories shall hold meetings at least once a year to assess the implementation of this Protocol.

(2) The place and time shall be agreed by the Signatories for each meeting separately.

### **Article 14**

#### **(Amendments to the Protocol)**

(1) The Signatories may amend this Protocol by mutual consent.

(2) This Protocol shall enter into force and cease to have effect on the same day as the Agreement.

Done at Brioni on 10 June 2005 in two originals in the Slovenian, Croatian and English languages, all texts being equally authentic. In case of divergence in the interpretation, the English text shall prevail.

FOR		THE		MINISTRY
OF			INTERIOR	OF
THE	THE	REPUBLIC	OF	SLOVENIA
Dragutin			Mate	(s)
FOR		THE		MINISTRY
OF		THE		INTERIOR
OF	THE	REPUBLIC	OF	CROATIA
Marijan Mlinarić (s)				

ANNEX

Name of police unit:

Ref. no:

Date:

RECORD

on the readmission of persons under the summary procedure pursuant to the third and fourth paragraphs of Article 2 of the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Croatia on the Readmission of Persons whose Entry or Residence is Illegal

On ... at ... the following person(s) was (were) handed over at the... border crossing:

I. DATA ON PERSONS

1. Surname:

Name:

Other name:

Date and place of birth:

Nationality:

Items and money that the person has with him/her:

Other persons (same data as under no. 1):

... police unit arrested the above person(s) on ... at ... (time) in (place) ... for illegally crossing the state border.

## II. DATA ON ILLEGAL CROSSING OF THE STATE BORDER

1. Date:

2. Time:

3. Method:

4. Place

5. Evidence:

## III. READMISSION

1. The persons under serial no. ... are readmitted, the persons under serial no. ... are not readmitted.

2. Reason for refusal to readmit:

Any special findings during acceptance (injuries, new evidence uncovered, etc.):

RETURNED

(name, surname and signature):

...

READMITTED

(name, surname and signature):

...