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REFUGEES



Treaty Series No. 50 (1987)

European Agreement on Transfer of Responsibility for Refugees

Strasbourg, 16 October 1980

[The United Kingdom instrument of ratification was deposited on 1 October 1986 and the Agreement entered into force for the United Kingdom on 1 December 1986]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
October 1987*

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EUROPEAN AGREEMENT ON TRANSFER OF RESPONSIBILITY FOR REFUGEES

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Wishing to further improve the situation of refugees in member States of the Council of Europe;

Desirous of facilitating the application of Article 28 of the Convention relating to the status of refugees of 28 July 1951¹ and paragraphs 6 and 11 of its Schedule, in particular as regards the situation where a refugee has lawfully taken up residence in the territory of another Contracting Party;

Concerned especially to specify, in a liberal and humanitarian spirit, the conditions on which the responsibility for issuing a travel document is transferred from one Contracting Party to another;

Considering that it is desirable to regulate this question in a uniform manner between the member States of the Council of Europe,

Have agreed as follows:

ARTICLE 1

For the purposes of this Agreement:

- (a) "refugee" means a person to whom the Convention relating to the status of refugees of 28 July 1951 or, as the case may be, the Protocol relating to the status of refugees of 31 January 1967² applies;
- (b) "travel document" means the travel document issued by virtue of the above-mentioned Convention;
- (c) "first State" means a State, Party to this Agreement, which has issued such a travel document;
- (d) "second State" means another State, Party to this Agreement, in which a refugee, holder of a travel document issued by the first State, is present.

ARTICLE 2

1. Responsibility shall be considered to be transferred on the expiry of a period of two years of actual and continuous stay in the second State with the agreement of its authorities or earlier if the second State has permitted the refugee to remain in its territory either on a permanent basis or for a period exceeding the validity of the travel document.

This period of two years shall run from the date of admission of the refugee to the territory of the second State or, if such a date cannot be established, from the date on which he presents himself to the authorities of the second State.

2. For the calculation of the period specified in paragraph 1 of this Article:

- (a) stays authorised solely for the purpose of studies, training or medical care shall not be taken into account;
- (b) periods of imprisonment of the refugee imposed in connection with a criminal conviction shall not be taken into account;
- (c) periods during which the refugee is allowed to remain in the territory of the second State pending an appeal against a decision of refusal of residence or of removal from the territory shall only be taken into account if the decision on the appeal is favourable to the refugee;

¹ Treaty Series No. 39 (1954), Cmd. 9171.

² Treaty Series No. 15 (1969), Cmd. 3906.

(d) periods during which the refugee leaves on a temporary basis the territory of the second State for not more than three consecutive months or, on more than one occasion, for not more than six months in total, shall be taken into account, such absences not being deemed to interrupt or suspend the stay.

3. Responsibility shall also be deemed to be transferred if readmission of the refugee to the first State can no longer be requested under Article 4.

ARTICLE 3

1. Until the date of transfer of responsibility, the travel document shall be extended or renewed by the first State.

2. The refugee shall not be required to leave the second State to obtain the extension or renewal of his travel document and may for this purpose apply to diplomatic missions or consular posts of the first State.

ARTICLE 4

1. As long as transfer of responsibility has not occurred in accordance with Article 2, paragraphs 1 and 2, the refugee shall be readmitted to the territory of the first State at any time, even after the expiry of the travel document. In the latter case readmission shall occur on the simple request of the second State, on condition that the request is made during the six months following the expiry of the travel document.

2. If the authorities of the second State do not know the whereabouts of the refugee and for this reason not able to make the request mentioned in paragraph 1 during the six months following the expiry of the travel document, that request must be made within the six months following the time at which the whereabouts of the refugee become known to the second State, but in no case later than two years after the expiry of the travel document.

ARTICLE 5

1. From the date of transfer of responsibility:

(a) the responsibility of the first State to extend or renew the travel document of the refugee shall cease;

(b) the second State shall be responsible for issuing a new travel document to the refugee.

2. The second State shall inform the first State that transfer of responsibility has taken place.

ARTICLE 6

After the date of transfer of responsibility, the second State shall, in the interest of family reunification and for humanitarian reasons, facilitate the admission to its territory of the refugee's spouse and minor or dependent children.

ARTICLE 7

The competent authorities of the Parties may communicate directly with each other as regards the application of this Agreement. These authorities shall be specified by each State, when expressing its consent to be bound by the Agreement, by means of a notification addressed to the Secretary General of the Council of Europe.

ARTICLE 8

1. Nothing in this Agreement shall impair any rights and benefits which have been or which may be granted to refugees independently of this Agreement.

2. None of the provisions of this Agreement shall be interpreted as preventing a Party from extending the benefits of this Agreement to persons who do not fulfil the conditions laid down.

3. The provisions of bilateral agreements concluded between Parties relating to the transfer of responsibility for the issuing of Convention travel documents or to the readmission of refugees in the absence of such a transfer shall cease to be applicable from the date of entry into force of this Agreement between those Parties. Rights and benefits acquired or in the course of being acquired by refugees under such agreements shall not be affected.

ARTICLE 9

1. This Agreement shall be open for signature by the member States of the Council of Europe, which may express their consent to be bound by:

- (a) signature without reservation as to ratification, acceptance or approval, or
- (b) signature subject to ratification, acceptance or approval, followed by ratification acceptance or approval.

2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

ARTICLE 10

1. This Agreement shall enter into force on the first day of the month following the expiration of a period of one month after the date on which two member States of the Council of Europe have expressed their consent to be bound by the Agreement, in accordance with the provisions of Article 9¹.

2. In respect of any member State which subsequently expresses its consent to be bound by it, the Agreement shall enter into force on the first day of the month following the expiration of a period of one month after the date of signature or of the deposit of the instrument of ratification, acceptance or approval.

ARTICLE 11

1. After the entry into force of this Agreement, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council which is a Party to the *Convention relating to the status of refugees of 28 July 1951* or, as the case may be, the *Protocol relating to the status of refugees of 31 January 1967*, to accede to the Agreement. The decision to invite shall be taken by the majority provided for by Article 20.d of the Statute and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee.

2. In respect of any acceding State, the Agreement shall enter into force on the first day of the month following the expiration of a period of one month after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

ARTICLE 12

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Agreement shall apply.

2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Agreement to any other territory specified in the declaration. In respect of such territory the Agreement shall enter into force on the first day of the month following the expiration of a period of one month after the date of receipt by the Secretary General of such declaration.

¹ The Agreement entered into force on 1 December, 1980.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.

ARTICLE 13

Without prejudice to the provisions of Article 12, this Agreement shall apply to each Party subject to the same limitations and reservations applicable to its obligations under the Convention relating to the status of refugees of 28 July 1951 or, as the case may be, the Protocol relating to the status of refugees of 31 January 1967.

ARTICLE 14

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of one or both of the reservations provided for in the Annex to this Agreement. No other reservation may be made.

2. Any Contracting State which has made a reservation under the preceding paragraph may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.

3. A Party which has made a reservation in respect of any provision of this Agreement may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision insofar as it has itself accepted it.

ARTICLE 15

1. Difficulties with regard to the interpretation and application of this Agreement shall be settled by direct consultation between the competent administrative authorities and, if the need arises, through diplomatic channels.

2. Any dispute between Parties concerning the interpretation or application of this Agreement which it has not been possible to settle by negotiation or other means shall, at the request of any party to the dispute, be referred to arbitration. Each party shall nominate an arbitrator and the two arbitrators shall nominate a referee. If any party has not nominated its arbitrator within the three months following the request for arbitration, he shall be nominated at the request of the other party by the President of the European Court of Human Rights. If the latter should be a national of one of the parties to the dispute, this duty shall be carried out by the Vice-President of the Court, or, if the Vice-President is a national of one of the parties to the dispute, by the most senior judge of the Court not being a national of one of the parties to the dispute. The same procedure shall be observed if the arbitrators cannot agree on the choice of referee.

The arbitration tribunal shall lay down its own procedure. Its decisions shall be taken by majority vote. Its award shall be final.

ARTICLE 16

1. Any Party may at any time denounce this Agreement by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

3. Rights and benefits acquired or in the course of being acquired by refugees under this Agreement shall not be affected in the event of the Agreement being denounced.

ARTICLE 17

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Agreement of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance, approval or accession;
- (c) any date of entry into force of this Agreement in accordance with Articles 10, 11 and 12;
- (d) any other act, notification or communication relating to this Agreement.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Strasbourg, the 16th day of October 1980, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to accede to this Agreement.

SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of Signature</i>	<i>Date of deposit of instrument of ratification or acceptance (AC)</i>
Belgium*†	16 Oct. 1980	
Denmark*	16 Oct. 1980	17 Jan. 1984
Germany, Federal Republic of*	16 Oct. 1980	
Greece*	16 Oct. 1980	
Italy*†	7 July 1981	8 Nov. 1985
Luxembourg*	14 May 1981	
Netherlands (for the Kingdom in Europe)*	13 July 1981	7 Mar. 1985(AC)
Norway	16 Oct. 1980	Not required
Portugal*	16 Oct. 1980	10 Mar. 1982
Spain*†	24 May 1985	21 May 1987
Sweden	16 Oct. 1980	Not required
Switzerland*	16 Oct. 1980	13 Jan. 1986
United Kingdom*††	16 Oct. 1980	1 Oct. 1986

*Subject to ratification.

†For reservations see page 9.

††The United Kingdom instrument of ratification includes the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man.

RESERVATIONS

BELGIUM

On signing the Agreement the Government of Belgium made the following reservation:

Under paragraph 1 of Article 14 of the Agreement, the Belgian State declares that insofar as it is concerned, transfer of responsibility under the provisions of paragraph 1 of Article 2 shall not occur for the reason that it has authorised the refugee to stay in its territory for a period exceeding the validity of the travel document solely for the purposes of studies or training.

ITALY

On ratifying the Agreement the Government of Italy made the following reservation:

In accordance with *Article 14 paragraph 1* of the Agreement, the Italian Government declares:

1. that insofar as it is concerned, transfer of responsibility under the provisions of paragraph 1 of Article 2 shall not occur for the reason that it has authorised the refugee to stay in its territory for a period exceeding the validity of the travel document solely for the purposes of studies or training.
2. that it will not accept a request for readmission presented on the basis of the provisions of paragraph 2 of Article 4.

SPAIN

On ratifying the Agreement the Government of Spain made the following reservation:

Under paragraph 1 of Article 14 of the Agreement,

- insofar as Spain is concerned, transfer of responsibility under the provisions of paragraph 1 of Article 2 shall not occur for the reason that it has authorised the refugee to stay in its territory for a period exceeding the validity of the travel document solely for the purposes of studies or training;
- Spain will not accept a request for readmission presented on the basis of the provisions of paragraph 2 of Article 4.

UNITED KINGDOM

On ratifying the Agreement the Government of the United Kingdom made the following reservation:

The Agreement is ratified, subject to the reservation—made also in respect of the Bailiwicks of Jersey and Guernsey and the Isle of Man—that in accordance with the provisions of paragraph 1 of Article 14 of the Agreement, the United Kingdom of Great Britain and Northern Ireland declares that insofar as it is concerned, transfer of responsibility under the provisions of paragraph 1 of Article 2 of the Agreement shall not occur for the reason that it has authorised the refugee to stay in its territory for a period exceeding the validity of the travel document solely for the purposes of studies or training.

ANNEX

Reservations

Under paragraph 1 of Article 14 of this Agreement, any State may declare:

1. that insofar as it is concerned, transfer of responsibility under the provisions of paragraph 1 of Article 2 shall not occur for the reason that it has authorised the refugee to stay in its territory for a period exceeding the validity of the travel document solely for the purposes of studies or training.
2. that it will not accept a request for readmission presented on the basis of the provisions of paragraph 2 of Article 4.



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