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THE EUROPEAN UNION**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: **AGREEMENT** between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation
COMMON GUIDELINES
Consultation deadline for Croatia: 26.6.2012

AGREEMENT
BETWEEN THE EUROPEAN UNION
AND THE REPUBLIC OF TURKEY
ON THE READMISSION OF PERSONS
RESIDING WITHOUT AUTHORISATION

THE HIGH CONTRACTING PARTIES,

THE EUROPEAN UNION, hereinafter referred to as "the Union",

and

THE REPUBLIC OF TURKEY, hereinafter referred to as "Turkey",

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

DESIRING to establish, by means of this Agreement and on the basis of reciprocity, effective and swift procedures for the identification and safe and orderly return of persons who do not or who no longer, fulfil the conditions for entry to, presence in, or residence on the territories of Turkey or one of the Member States of the Union, and to facilitate the transit of such persons in a spirit of co-operation,

EMPHASISING that this Agreement shall be without prejudice to the rights, obligations and responsibilities of the Union, its Member States and Turkey arising from international law and, in particular, from the European Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms and the Convention of 28 July 1951 on the Status of Refugees,

EMPHASISING that this Agreement shall be without prejudice to the rights and procedural guarantees for persons who are subject to return procedures in or who apply for asylum in a Member State as laid down in the respective legal instruments of the Union,

EMPHASISING that this Agreement shall be without prejudice to the provision of the Agreement of 12 September 1963 establishing an Association between the European Economic Community and Turkey, its additional protocols, the relevant Association Council decisions as well as the relevant case-law of the Court of Justice of the European Union,

EMPHASISING that the persons holding a long term residence permit granted under the terms of Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents enjoy a reinforced protection against expulsion under Article 12 of that Directive,

EMPHASISING that this Agreement is based on the principles of joint responsibility, solidarity, and an equal partnership to manage the migratory flows between Turkey and the Union and that in this context the Union is ready to make available financial resources in order to support Turkey in its implementation,

CONSIDERING that the provisions of this Agreement, which falls within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union, do not apply to the United Kingdom and Ireland, unless they "opt-in" in accordance with the Protocol on the position of the United Kingdom and Ireland in Respect of the Area of Freedom, Security and Justice Annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union,

CONSIDERING that the provisions of this Agreement, which falls within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union, do not apply to the Kingdom of Denmark, in accordance with the Protocol on the position of Denmark Annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Definitions

For the purpose of this Agreement:

- (a) 'Contracting Parties' shall mean Turkey and the Union;
- (b) 'National of Turkey' shall mean any person who holds the nationality of Turkey in accordance with its legislation;
- (c) 'National of a Member State' shall mean any person who holds the nationality of a Member State of the Union;
- (d) 'Member State' shall mean any Member State of the Union, with the exception of the Kingdom of Denmark;
- (e) 'Third-country national' shall mean any person who holds a nationality other than that of Turkey or one of the Member States;
- (f) 'Stateless person' shall mean any person who does not hold a nationality of any country;

- (g) 'Residence permit' shall mean a permit of any type issued by Turkey or one of the Member States entitling a person to reside on its territory. This shall not include temporary permissions to remain on its territory in connection with the processing of an asylum application or an application for a residence permit;
- (h) 'Visa' shall mean an authorisation issued or a decision taken by Turkey or one of the Member States which is required with a view to entry in, or transit through, its territory. This shall not include airport transit visa;
- (i) 'Requesting State' shall mean the State (Turkey or one of the Member States) submitting a readmission application pursuant to Article 8 or a transit application pursuant to Article 15 of this Agreement;
- (j) 'Requested State' shall mean the State (Turkey or one of the Member States) to which a readmission application pursuant to Article 8 or a transit application pursuant to Article 15 of this Agreement is addressed;
- (k) 'Competent Authority' shall mean any national authority of Turkey or one of the Member States entrusted with the implementation of this Agreement as designated in the implementing protocol in accordance with point (a) of Article 20(1) thereof;

- (l) 'Person residing without authorisation' shall mean any person who, in accordance with the relevant procedures established under national legislation, does not or no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of Turkey or of one of the Member States;
- (m) 'Transit' shall mean the passage of a third country national or a stateless person through the territory of the Requested State while travelling from the Requesting State to the country of destination;
- (n) 'Readmission' shall mean the transfer by the Requesting State and admission by the Requested State of persons (nationals of the Requested State, third country nationals or stateless persons) who have been found illegally entering, being present in or residing in the Requesting State, in accordance with the provisions of this Agreement;
- (o) 'Border crossing point' shall mean any point designated for the purpose of crossing their respective borders by the Member States or Turkey;
- (p) 'Border region' of the Requesting State shall mean an area within its territory extending inwards up to 20 kilometres from the external border of the Requesting State, whether or not the border is shared between the Requesting State and the Requested State as well as the sea ports including customs zones and international airports of the Requesting State.

ARTICLE 2

Scope

1. The provisions of this Agreement shall apply to persons who do not or who no longer, fulfil the conditions for entry to, presence in, or residence on the territories of Turkey or one of the Member States of the Union.
2. The application of the present Agreement, including Paragraph 1 of this article, shall be without prejudice to the instruments enumerated in Article 18.
3. The present Agreement shall not apply to third country nationals or stateless persons as referred to Articles 4 and 6 who have left the territory of the Requested State more than five years before the Requesting State's competent authorities has gained knowledge of such persons unless the conditions required for their readmission to the Requested State as stipulated by Articles 4 and 6 can be established by means of documents enumerated in Annex 3.

SECTION I

READMISSION OBLIGATIONS BY TURKEY

ARTICLE 3

Readmission of own nationals

1. Turkey shall readmit, upon application by a Member State and without further formalities to be undertaken by that Member State other than those provided for in this agreement, all persons who do not or who no longer, fulfil the conditions in force under the law of that Member State or under the law of the Union for entry to, presence in, or residence on, the territory of the requesting Member State provided that in accordance with Article 9, it is established that they are nationals of Turkey.

2. Turkey shall also readmit:

- minor unmarried children of the persons mentioned in Paragraph 1 of this Article, regardless of their place of birth or their nationality, unless they have an independent right of residence in the requesting Member State or if the said independent right of residence is held by the other parent who has legal custody of the children concerned;

- spouses, holding another nationality, of the persons mentioned in Paragraph 1 of this Article, provided they have the right to enter and stay or receive the right to enter and stay in the territory of Turkey unless they have an independent right of residence in the requesting Member State or unless it is demonstrated by Turkey that according to its national legislation the marriage in question is not legally recognised.

3. Turkey shall also readmit persons who in accordance with the Turkish legislation have been deprived of, or who have renounced, the nationality of Turkey since entering the territory of a Member State, unless such persons have at least been promised naturalisation by that Member State.

4. After Turkey has given a positive reply to the readmission application or, where appropriate, after expiry of the time limits laid down in Article 11(2), the competent consular office of Turkey shall, irrespective of the will of the person to be readmitted, within three working days, issue the travel document required for the return of the person to be readmitted with a period of validity of three months. In case there is no consular office of Turkey in a Member State or if Turkey has not, within three working days, issued the travel document, the reply to the readmission application shall be considered as the necessary travel document for the readmission of the person concerned.

5. If, for legal or factual reasons, the person concerned cannot be transferred within the period of validity of the travel document that was initially issued, the competent consular office of Turkey shall, within three working days, issue a new travel document with a period of validity of the same duration. In case there is no consular office of Turkey in a Member State or if Turkey has not, within three working days, issued the travel document, the reply to the readmission application shall be considered as the necessary travel document for the readmission of the person concerned.

ARTICLE 4

Readmission of third-country nationals and stateless persons

1. Turkey shall readmit, upon application by a Member State and without further formalities to be undertaken by that Member State other than those provided for in this Agreement, all third-country nationals or stateless persons who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of the requesting Member State provided that in accordance with Article 10 it is established that such persons:

- (a) hold, at the time of submission of the readmission application, a valid visa issued by Turkey entering the territory of a Member State directly from the territory of Turkey; or
- (b) hold a residence permit issued by Turkey; or
- (c) illegally and directly entered the territory of the Member States after having stayed on, or transited through, the territory of Turkey.

2. The readmission obligation in Paragraph 1 of this Article shall not apply if:

- (a) the third country national or stateless person has only been in airside transit via an international airport of Turkey; or

- (b) the requesting Member State has issued to the third country national or stateless person a visa which was used by the person for the entry on the requesting Member State's territory or residence permit before or after entering its territory unless that person is in possession of a visa or residence permit issued by Turkey, which has a longer period of validity; or
- (c) the third country national or stateless person enjoys a visa free access to the territory of the requesting Member State.

3. After Turkey has given a positive reply to the readmission application or, where appropriate, after expiry of the time limits laid down in Article 11(2), the Turkish authorities, if necessary, shall within three working days, issue the person whose readmission has been accepted with the "emergency travel document for aliens" required for his or her return with a period of validity of at least three months. In case there is no consular office of Turkey in a Member State or if Turkey has not, within three working days, issued the travel document, it shall be deemed to accept the use of the EU standard travel document for expulsion purposes¹.

4. If, for legal or factual reasons, the person concerned cannot be transferred within the period of validity of the "emergency travel document for aliens" that was initially issued, the Turkish authorities shall within three working days extend the validity of the "emergency travel document for aliens" or, where necessary, issue a new "emergency travel document for aliens" with the same period of validity. In case there is no consular office of Turkey in a Member State or if Turkey has not, within three working days, issued the travel document, it shall be deemed to accept the use of the EU standard travel document for expulsion purposes².

¹ In line with the form set out in EU Council recommendation of 30 November 1994.

² Ibid.

SECTION II

READMISSION OBLIGATIONS BY THE UNION

ARTICLE 5

Readmission of own nationals

1. A Member State shall readmit, upon application by Turkey and without further formalities to be undertaken by Turkey other than those provided for in this agreement, all persons who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of Turkey provided that in accordance with Article 9 it is established that they are nationals of that Member State.
2. A Member State shall also readmit:
 - minor unmarried children of the persons mentioned in Paragraph 1 of this Article, regardless of their place of birth or their nationality, unless they have an independent right of residence in Turkey or if the said independent right of residence is held by the other parent who has legal custody of the children concerned;

- spouses, holding another nationality, of the persons mentioned in Paragraph 1 of this Article, provided they have the right to enter and stay or receive the right to enter and stay in the territory of the requested Member State unless they have an independent right of residence in Turkey or unless it is demonstrated by the requested Member State that according to its national legislation the marriage in question is not legally recognised.

3. A Member State shall also readmit persons who in accordance with its legislation have been deprived of, or who have renounced, the nationality of a Member State since entering the territory of Turkey, unless such persons have at least been promised naturalisation by Turkey.

4. After the requested Member State has given a positive reply to the readmission application or, where appropriate, after expiry of the time limits laid down in Article 11(2), the competent diplomatic mission or consular office of that Member State shall, irrespective of the will of the person to be readmitted, within three working days, issue the travel document required for the return of the person to be readmitted with a period of validity of three months. In case there is no diplomatic mission or consular office of a Member State in Turkey or if the requested Member State has not, within three working days, issued the travel document, the reply to the readmission application shall be considered as the necessary travel document for the readmission of the person concerned.

5. If, for legal or factual reasons, the person concerned cannot be transferred within the period of validity of the travel document that was initially issued, the competent diplomatic mission or consular office of that Member State shall, within three working days, issue a new travel document with a period of validity of the same duration. In case there is no diplomatic mission or consular office of a Member State in Turkey or if the requested Member State has not, within three working days, issued the travel document, the reply to the readmission application shall be considered as the necessary travel document for the readmission of the person concerned.

ARTICLE 6

Readmission of third-country nationals and stateless persons

1. A Member State shall readmit, upon application by Turkey and without further formalities to be undertaken by Turkey other than those provided for in this Agreement, all third-country nationals or stateless persons who do not, or who no longer, fulfil the conditions in force for entry to, presence in, or residence on, the territory of Turkey provided that in accordance with Article 10 it is established that such persons:

- (a) hold, at the time of submission of the readmission application, a valid visa issued by the requested Member State entering the territory of Turkey directly from the territory of the requested Member State; or

- (b) hold a residence permit issued by the requested Member State; or
- (c) illegally and directly entered the territory of Turkey after having stayed on, or transited through, the territory of the requested Member State.

2. The readmission obligation in Paragraph 1 of this Article shall not apply if:

- (a) the third country national or stateless person has only been in airside transit via an International Airport of the requested Member State; or
- (b) Turkey has issued to the third country national or stateless person a visa which was used by the person for the entry on the Turkish territory or residence permit before or after entering its territory unless that person is in possession of a visa or residence permit, issued by the requested Member State, which has a longer period of validity; or
- (c) the third country national or stateless person enjoys a visa free access to the territory of Turkey.

3. The readmission obligation in Paragraph 1 of this Article is for the Member State that issued a visa or residence permit. If two or more Member States issued a visa or residence permit, the readmission obligation in Paragraph 1 is for the Member State that issued the document with a longer period of validity or, if one or several of them have already expired, the document that is still valid. If all of the documents have already expired, the readmission obligation in Paragraph 1 is for the Member State that issued the document with the most recent expiry date. If no such documents can be presented, the readmission obligation in Paragraph 1 is for the Member State of last exit.

4. After the Member State has given a positive reply to the readmission application or, where appropriate, after expiry of the time limits laid down in Article 11(2), the Member State's authorities, if necessary, shall within three working days, issue the person whose readmission has been accepted the travel document required for his or her return with a period of validity of at least three months. In case there is no diplomatic mission or consular office of the Member State in Turkey or if the Member State has not, within three working days, issued the travel document, it shall be deemed to accept the use of the EU standard travel document for expulsion purposes¹.

5. If, for legal or factual reasons, the person concerned cannot be transferred within the period of validity of the travel document that was initially issued, the Member State's authorities shall within three working days extend the validity of the travel document or, where necessary, issue a new travel document with the same period of validity. In case there is no diplomatic mission or consular office of the Member State in Turkey or if the Member State has not, within three working days, issued the travel document, it shall be deemed to accept the use of the EU standard travel document for expulsion purposes².

¹ Ibid.

² Ibid.

SECTION III

READMISSION PROCEDURE

ARTICLE 7

Principles

1. The Member States and Turkey shall make every effort to return a person referred to in Articles 4 and 6 directly to the country of origin. For this purpose, the modalities of the application of this Paragraph shall be determined in accordance with point (b) of Article 19(1). The provisions of this Paragraph shall not apply to cases in which the accelerated procedure is applicable in accordance with Paragraph 4 of this Article.
2. Subject to Paragraph 3 of this Article, any transfer of a person to be readmitted on the basis of one of the obligations contained in Articles 3 to 6 shall require the submission of a readmission application to the competent authority of the Requested State.

3. If the person to be readmitted is in possession of a valid travel document or identity card and, in the case of third country nationals or stateless persons, a valid visa used by the person for the purpose of entry on the territory of the Requested State or a residence permit of the Requested State, the transfer of such person shall take place without the Requesting State having to submit a readmission application or written notification referred to in Article 12(1) to the competent authority of the Requested State.

The previous Subparagraph shall not prejudice the right of the relevant authorities to verify at the border the identity of the readmitted persons.

4. Without prejudice to Paragraph 3 of this Article, if a person has been apprehended by the Requesting State in the border region after having entered illegally and directly from the territory of the Requested State, the Requesting State may submit a readmission application within three working days following this person's apprehension (accelerated procedure).

ARTICLE 8

Content of the readmission application

1. To the extent possible, the readmission application is to contain the following information:
 - (a) the particulars of the person to be readmitted (e.g. given names, surnames, date of birth, and – where possible – place of birth, and the last place of residence) and, where applicable, the particulars of minor unmarried children and/or spouses;
 - (b) in case of own nationals, indication of the means with which proof or prima facie evidence of nationality will be provided as set out by Annexes 1 and 2 respectively;
 - (c) in case of third country nationals and stateless persons, indication of the means with which proof or prima facie evidence of the conditions for the readmission of third-country nationals and stateless persons as provided for by Annexes 3 and 4 respectively;
 - (d) photograph of the person to be readmitted.
2. To the extent possible, the readmission application shall also contain the following information:
 - (a) a statement indicating that the person to be transferred may need help or care, provided the person concerned has explicitly consented to the statement;

- (b) any other protection, security measure or information concerning the health of the person, which may be necessary in the individual transfer case.
- 3. Without prejudice to Article 7(3), any readmission application shall be in writing and shall use a common form attached as Annex 5 to this Agreement.
- 4. A readmission application may be submitted by any means of communication including electronic ones e.g. facsimiles, e-mails etc.
- 5. Without prejudice to Article 11(2), a reply to the readmission application will be given in writing.

ARTICLE 9

Evidence regarding nationality

- 1. Proof of nationality pursuant to Article 3(1) and Article 5(1) can be particularly furnished through the documents listed in Annex 1 to this Agreement. If such documents are presented, the Member States or Turkey respectively shall for the purpose of this Agreement, recognise the nationality. Proof of nationality cannot be furnished through false documents.

2. *Prima facie* evidence of nationality pursuant to Article 3(1) and Article 5(1) shall be particularly furnished through the documents listed in Annex 2 to this Agreement, even if their period of validity has expired. If such documents are presented, the Member States and Turkey shall deem for the purpose of this Agreement, the nationality to be established, unless following an investigation and within the time limits laid down in Article 11, the Requested State demonstrates otherwise. *Prima facie* evidence of nationality cannot be furnished through false documents.

3. If none of the documents listed in Annexes 1 or 2 can be presented, the competent diplomatic and consular representations of the Requested State concerned shall, upon a request included in the readmission application by the Requesting State, make arrangements to interview the person to be readmitted without undue delay, within seven working days from the requesting day, in order to establish his or her nationality. In case there are no diplomatic or consular representations of the Requested State in the Requesting State, the former shall make the necessary arrangements in order to interview the person to be readmitted without undue delay, at the latest within seven working days from the requesting day. The procedure for such interviews may be established in the implementing Protocols provided for in Article 20 of this Agreement.

ARTICLE 10

Evidence regarding third-country nationals and stateless persons

1. Proof of the conditions for the readmission of third-country nationals and stateless persons laid down in Article 4(1) and Article 6(1) shall be particularly furnished by means of the evidence listed in Annex 3 to this Agreement. Proof of the conditions for the readmission cannot be furnished through false documents.
2. *Prima facie* evidence of the conditions for the readmission of third-country nationals and stateless persons laid down in Article 4(1) and Article 6(1) shall be particularly furnished through the means of evidence listed in Annex 4 to this Agreement; it cannot be furnished through false documents. Where such *prima facie* evidence is presented, the Member States and Turkey shall deem the conditions to be established, unless following an investigation and within the time limits laid down in Article 11, the Requested State demonstrates otherwise.
3. The unlawfulness of entry, presence or residence shall be established by means of the travel documents of the person concerned in which the necessary visa or other residence permit for the territory of the Requesting State are missing. A written statement by the Requesting State that the person concerned has been found not having the necessary travel documents, visa or residence permit shall likewise provide *prima facie* evidence of the unlawful entry, presence or residence.

ARTICLE 11

Time limits

1. The application for readmission must be submitted to the competent authority of the Requested State within a maximum of six months after the Requesting State's competent authority has gained knowledge that a third-country national or a stateless person who does not or who no longer, fulfil the conditions in force for entry, presence or residence.

If the third country national or the stateless person entered the territory of the Requesting State before the day on which Articles 4 and 6 become applicable pursuant to Article 24(3), the time limit mentioned in the previous sentence begins to run on the day on which Articles 4 and 6 become applicable.

Where there are legal or factual obstacles to the application being submitted in time, the time limit shall, upon request by the Requesting State, be extended but only until the obstacles have ceased to exist.

2. A readmission application must be replied to in writing:
- within five working days if the application has been made under the accelerated procedure (Article 7(4));

- without undue delay, and in any event within a maximum of 25 calendar days in all other cases, except for cases for which the initial detention period in the national legislation of the Requesting State is less, in which case the latter period shall apply. Where there are legal or factual obstacles to the application being replied to in time, the time limit may, upon request and giving reasons, be extended up to 60 calendar days, except if the maximum detention period in the national legislation of the Requesting State is less than, or equal to, 60 days.

This time limit begins to run with the date of receipt of the readmission request. If there was no reply within this time limit, the transfer shall be deemed to have been agreed to.

Reply to a readmission application may be submitted by any means of communication including electronic ones e.g. facsimiles, e-mails etc.

3. After agreement has been given or, where appropriate, after expiry of the time limits laid down in Paragraph 2 of this Article, the person concerned shall be transferred within three months. On request of the Requesting State, this time limit may be extended by the time taken to deal with legal or practical obstacles.

4. Reasons shall be given in writing for the refusal of a readmission request.

ARTICLE 12

Transfer modalities and modes of transportation

1. Without prejudice to Article 7(3), before returning a person, the competent authorities of the Requesting State shall notify in writing at least 48 hours in advance the competent authorities of the Requested State regarding the transfer date, the point of entry, possible escorts and other information relevant to the transfer.
2. Transportation may take place by air, land or sea. Return by air shall not be restricted to the use of the national carriers of Turkey or the Member States and may take place by using scheduled or charter flights. In the event of escorted returns, such escorts shall not be restricted to authorised persons of the Requesting State, provided that they are authorised persons by Turkey or any Member State.

ARTICLE 13

Readmission in error

The Requesting State shall take back any person readmitted by the Requested State if it is established, within a period of three months after the transfer of the person concerned, that the requirements laid down in Articles 3 to 6 of this Agreement are not met.

In such cases, and with the exception of all transport costs of the person in question which shall be borne by the Requesting State as referred to in the previous Paragraph, the procedural provisions of this Agreement shall apply mutatis mutandis and all available information relating to the actual identity and nationality of the person to be taken back shall be provided.

SECTION IV

TRANSIT OPERATIONS

ARTICLE 14

Transit principles

1. The Member States and Turkey should restrict the transit of third-country nationals or stateless persons to cases where such persons cannot be returned to the State of destination directly.
2. Turkey shall allow the transit of third-country nationals or stateless persons if a Member State so requests, and a Member State shall authorise the transit of third-country nationals or stateless persons if Turkey so requests, if the onward journey in possible other States of transit and the readmission by the State of destination is assured.

3. Transit can be refused by Turkey or a Member State:
 - (a) if the third-country national or the stateless person runs the real risk of being subjected to torture or to inhuman or degrading treatment or punishment or the death penalty or of persecution because of his race, religion, nationality, membership of a particular social group or political conviction in the State of destination or another State of transit; or
 - (b) if the third-country national or the stateless person shall be subject to criminal sanctions in the Requested State or in another State of transit; or
 - (c) on grounds of public health, domestic security, public order or other national interests of the Requested State.

4. Turkey or a Member State may revoke any authorisation issued if circumstances referred to in Paragraph 3 of this Article subsequently arise or come to light which stand in the way of the transit operation, or if the onward journey through possible States of transit or the readmission by the State of destination is no longer assured. In this case, the Requesting State shall take back the third-country national or the stateless person, as necessary and without delay.

ARTICLE 15

Transit procedure

1. An application for transit operations must be submitted to the competent authority of the Requested State in writing and is to contain the following information:
 - (a) type of transit (by air, sea or land), possible other States of transit and intended final destination;
 - (b) the particulars of the person concerned (e.g. given name, surname, maiden name, other names used/by which known or aliases, date of birth, sex and – where possible – place of birth, nationality, language, type and number of travel document);
 - (c) envisaged point of entry, time of transfer and use of escorts;
 - (d) a declaration that in the view of the Requesting State the conditions pursuant to Article 14(2) are met, and that no reasons for a refusal pursuant to Article 14(3) are known of.

A common form to be used for transit applications is attached as Annex 6 to this Agreement.

A transit application may be submitted by any means of communication including electronic ones e.g. facsimiles, e-mails etc.

2. The Requested State shall, within five working days after receipt of the application and in writing, inform the Requesting State of the admission, confirming the point of entry and the envisaged time of admission, or inform it of the admission refusal and of the reasons for such refusal. If there was no reply within five working days the transit shall be deemed to have been agreed to.

Reply to a transit application may be submitted by any means of communication including electronic ones e.g. facsimiles, e-mails etc.

3. If the transit operation takes place by air, the person to be readmitted and possible escorts shall be exempted from having to obtain an airport transit visa.

4. The competent authorities of the Requested State shall, subject to mutual consultations, assist in the transit operations, in particular through the surveillance of the persons in question and the provision of suitable amenities for that purpose.

SECTION V

COSTS

ARTICLE 16

Transport and transit costs

Without prejudice to Article 23 and without prejudice to the right of the competent authorities to recover the costs associated with the readmission from the person to be readmitted including the persons referred to in Article 3(2) and 5(2) or third parties, all transport costs incurred in connection with readmission and transit operations pursuant to this Agreement as far as the border crossing point of the Requested State for requests under Sections I and II of the Agreement; or as far as the border of the State of final destination for requests under Section IV of the Agreement shall be borne by the Requesting State.

SECTION VI

DATA PROTECTION AND NON-AFFECTION CLAUSE

ARTICLE 17

Data Protection

The communication of personal data shall only take place if such communication is necessary for the implementation of this Agreement by the competent authorities of Turkey or a Member State as the case may be. The processing and treatment of personal data in a particular case shall be subject to the domestic laws of Turkey and, where the controller is a competent authority of a Member State, to the provisions of Directive 95/46/EC and of the national legislation of that Member State adopted pursuant to this Directive. Additionally the following principles shall apply:

- (a) personal data must be processed fairly and lawfully;
- (b) personal data must be collected for the specified, explicit and legitimate purpose of implementing this Agreement and not further processed by the communicating authority nor by the receiving authority in a way incompatible with that purpose;

- (c) personal data must be adequate, relevant and not excessive in relation to the purpose for which they are collected and/or further processed; in particular, personal data communicated may concern only the following:
- the particulars of the person to be transferred (e.g. given names, surnames, any previous names, other names used/by which known or aliases, sex, civil status, date and place of birth, current and any previous nationality),
 - passport, identity card or driving licence (number, period of validity, date of issue, issuing authority, place of issue),
 - stop-overs and itineraries,
 - other information needed to identify the person to be transferred or to examine the readmission requirements pursuant to this Agreement;
- (d) personal data must be accurate and, where necessary, kept up to date;
- (e) personal data must be kept in a form which permits identification of data subjects for no longer than is necessary for the purpose for which the data were collected or for which they are further processed;

- (f) both the communicating authority and the receiving authority shall take every reasonable step to ensure as appropriate the rectification, erasure or blocking of personal data where the processing does not comply with the provisions of this Article, in particular because those data are not adequate, relevant, accurate, or they are excessive in relation to the purpose of processing. This includes the notification of any rectification, erasure or blocking to the other Party;
- (g) upon request, the receiving authority shall inform the communicating authority of the use of the communicated data and of the results obtained there from;
- (h) personal data may only be communicated to the competent authorities. Further communication to other bodies requires the prior consent of the communicating authority;
- (i) the communicating and the receiving authorities are under an obligation to make a written record of the communication and receipt of personal data.

ARTICLE 18

Non-affection clause

1. This agreement shall be without prejudice to the rights, obligations and responsibilities of the Union, its Member States and Turkey arising from international law including from international conventions to which they are party, in particular:

- the Convention of 28 July 1951 on the Status of Refugees as amended by the Protocol of 31 January 1967 on the Status of Refugees,
- the European Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms,
- the international conventions determining the State responsible for examining applications for asylum lodged,
- the Convention of 10 December 1984 against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,
- where applicable, the European Convention of 13 December 1955 on Establishment,

- international conventions on extradition and transit,
- multilateral international conventions and agreements on the readmission of foreign nationals.

2. The present Agreement shall fully respect the rights and obligations, including of those who are or have been legally residing and working on the territory of one of the Parties, provided by the provisions of the Agreement of 12 September 1963 establishing an Association between the European Economic Community and Turkey, its additional protocols, the relevant Association Council decisions as well as the relevant case-law of the Court of Justice of the European Union.

3. The application of the present Agreement shall be without prejudice to the rights and procedural guarantees of persons being subject of return procedures as laid down by Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals¹ in particular with regard to their access to legal advice, information, temporary suspension of the enforcement of a return decisions and access to legal remedies.

¹ OJEU L 348, 24.12.2008, p. 98.

4. The application of the present Agreement shall be without prejudice to the rights and procedural guarantees for persons applying for asylum as provided by Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers¹ and by Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status² and in particular with regard to the right to remain in the Member State pending the examination of the application.

5. The application of the present Agreement shall be without prejudice to the rights and procedural guarantees for persons holding a long term residence permit granted under the terms of Council Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents.

6. The application of the present Agreement shall be without prejudice to the rights and procedural guarantees for persons granted residence under the terms of the Council Directive 2003/86/EC on the right to family reunification.

7. Nothing in this Agreement shall prevent the return of a person under other formal or informal arrangements.

¹ OJEU L 31, 6.2.2003, p. 18.

² OJEU L 326, 13.12.2005, p. 13

SECTION VII

IMPLEMENTATION AND APPLICATION

ARTICLE 19

Joint readmission committee

1. The Contracting Parties shall provide each other with mutual assistance in the application and interpretation of this Agreement. To this end, they shall set up a joint readmission committee (hereinafter referred to as "the committee") which will, in particular, have the task:

- (a) to monitor the application of this Agreement;
- (b) to decide on implementing arrangements necessary for the uniform application of this Agreement;
- (c) to have regular exchanges of information on the implementing Protocols drawn up by individual Member States and Turkey pursuant to Article 20;
- (d) to recommend amendments to this Agreement and its Annexes.

2. The decisions of the committee shall be binding on the Contracting Parties following any necessary internal procedures required by the law of the Contracting Parties.

3. The committee shall be composed by representatives of Turkey and the Union; the Union shall be represented by the Commission, assisted by experts from Member States.
4. The committee shall meet where necessary at the request of one of the Contracting Parties.
5. The committee shall establish its rules of procedures.

ARTICLE 20

Implementing Protocols

1. On request of a Member State or Turkey, Turkey and a Member State shall draw up an implementing Protocol which shall, *inter alia*, cover rules on:
 - (a) designation of the competent authorities, border crossing points and exchange of contact points;
 - (b) conditions for escorted returns, including the transit of third-country nationals and stateless persons under escort;
 - (c) means and documents additional to those listed in the Annexes 1 to 4 to this agreement;
 - (d) the modalities for readmission under the accelerated procedure;

(e) the procedure for interviews.

2. The implementing Protocols referred to in Paragraph 1 of this Article shall enter into force only after the readmission committee, referred to in Article 19, has been notified.

3. Turkey agrees to apply any provision of an implementing Protocol drawn up with one Member State also in its relations with any other Member State upon request of the latter and subject to the practical feasibility of its application to Turkey.

Member States agree to apply any provision of an implementing Protocol drawn up between Turkey and any other Member State also in their relations with Turkey upon request of the latter and subject to the practical feasibility of its application to those Member States.

ARTICLE 21

Relation to bilateral readmission agreements or arrangements of Member States

Without prejudice to Article 24(3), the provisions of this Agreement shall take precedence over the provisions of any legally binding instrument on the readmission of persons residing without authorisation which have been or may, under Article 20, be concluded between individual Member States and Turkey, in so far as the provisions of the latter are incompatible with those of this Agreement.

SECTION VIII

FINAL PROVISIONS

ARTICLE 22

Territorial application

1. Subject to Paragraph 2 of this Article, this Agreement shall apply to the territory in which the Treaty on the European Union is applicable, as defined in Article 52 of that Treaty and in Article 355 of the Treaty on the Functioning of the European Union, and to the territory of the Republic of Turkey.
2. This Agreement shall not apply to the territory of the Kingdom of Denmark.

ARTICLE 23

Technical assistance

Both parties agree to implement this Agreement based on the principles of joint responsibility, solidarity, and an equal partnership to manage the migratory flows between Turkey and the Union.

In this context, the Union is committed to making available financial resources in order to support Turkey in the implementation of this Agreement in accordance with the attached joint declaration on technical assistance. In doing so, attention will be devoted in particular to institution and capacity building. Such support is to be provided in the context of the existing and future priorities jointly agreed by the Union and Turkey.

ARTICLE 24

Entry into force, duration and termination

1. This Agreement shall be ratified or approved by the Contracting Parties in accordance with their respective procedures.
2. Subject to Paragraph 3 of this Article, this Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties notify each other that the procedures referred to in the first Paragraph of this Article have been completed.
3. The obligations set out in Articles 4 and 6 of this Agreement shall only become applicable three years after the date referred to in Paragraph 2 of this Article. During that three-year period, they shall only be applicable to stateless persons and nationals from third-countries with which Turkey has concluded bilateral treaties or arrangements on readmission. During that three-year period, existing bilateral readmission agreements between individual Member States and Turkey shall continue to apply in their relevant parts.

4. This Agreement is concluded for an unlimited period.

5. Each Contracting Party may denounce this Agreement by officially notifying the other Contracting Party. This Agreement shall cease to apply six months after the date of such notification.

ARTICLE 25

Annexes

Annexes 1 to 6 shall form an integral part of this Agreement.

Done at on this day of in the year Two thousand and twelve in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Turkish languages, each text being equally authentic.

For the European Union

For the Republic of Turkey

Common list of documents the presentation of which is considered as proof of nationality

(Articles 3(1), 5(1) and 9(1))

Where the Requested State is either one of the Member States or Turkey:

- passports of any kind,
- *laissez-passer* issued by the Requested State,
- identity cards of any kind (including temporary and provisional ones),
- military service books and military identity cards,
- seaman's registration books and skippers' service cards,
- citizenship certificates and other official documents that mention or clearly indicate citizenship.

Where the Requested State is Turkey:

- confirmation of identity as a result of a search carried out in the Visa Information System¹,
 - in the case of Member States not using the Visa Information System, positive identification established from visa application records of those Member States.
-

¹ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation), OJEU L 218, 13.8.2008, p. 60.

Common list of documents the presentation of which is considered
as *prima facie* evidence of nationality
(Articles 3(1), 5(1) and 9(2))

- photocopies of any of the documents listed in Annex 1 to this Agreement,
- driving licenses or photocopies thereof,
- birth certificates or photocopies thereof,
- company identity cards or photocopies thereof,
- written account of statements by witnesses,
- written account of statements made by the person concerned and language spoken by him or her, including by means of an official test result,
- any other document which may help to establish the nationality of the person concerned, including documents with pictures issued by the authorities in replacement of the passport
- documents listed in Annex 1 whose validity has expired,
- accurate information provided by official authorities and confirmed by the other Party.

Common list of documents which are considered
as proof of the conditions for the readmission of third country nationals and stateless persons
(Articles 4(1), 6(1) and 10(1))

- visa and/or residence permit issued by the Requested State,
- entry/departure stamps or similar endorsement in the travel document including in a falsified travel document of the person concerned or other evidence of entry/departure (e.g. photographic),
- documents, certificates and bills of any kind (e.g. hotel bills, appointment cards for doctors/dentists, entry cards for public/private institutions, car rental agreements, credit card receipts etc.) which clearly show that the person concerned stayed on the territory of the Requested State,
- named tickets and/or passenger lists of air, train, coach or boat passages which show the presence and the itinerary of the person concerned on the territory of the Requested State,

- information showing that the person concerned has used the services of a courier or travel agency,
 - official written account of statements made, in particular, by border authority staff and other witnesses who can testify to the person concerned crossing the border,
 - official written account of a statement by the person concerned in judicial or administrative proceedings.
-

Common list of documents which are considered
as *prima facie* evidence of the conditions for the readmission
of third country nationals and stateless persons
(Articles 4(1), 6(1) and 10(2))

- description issued by the relevant authorities of the Requesting State, of place and circumstances under which the person concerned has been intercepted after entering the territory of that State,
- information related to the identity and/or stay of a person which has been provided by an International organisation (e.g. UNHCR),
- reports/confirmation of information by family members, travelling companions etc.,
- written account of statement by the person concerned.

READMISSION APPLICATION

pursuant to Article 8 of the Agreement of between
the European Union and the Republic of Turkey
on the readmission of persons residing without authorisation

A. PERSONAL DETAILS

1. Full name (underline surname):

.....

2. Maiden name:

.....

3. Date and place of birth:

.....

4. Sex and physical description (height, colour of eyes, distinguishing marks etc.):

.....

5. Also known as (earlier names, other names used/by which known or aliases):

.....

6. Nationality and language:

.....

7. Civil status: married single divorced widowed

If married : name of spouse

.....

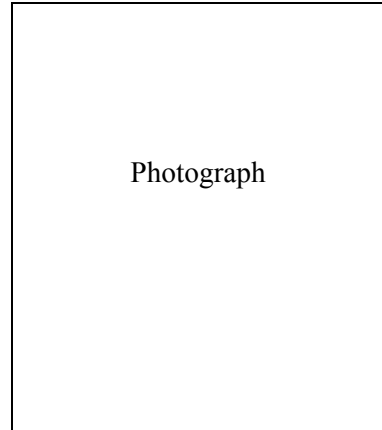
Names and age of children (if any)

.....

.....

8. Last address in the Requested State:

.....



B. PERSONAL DETAILS OF SPOUSE (IF APPROPRIATE)

1. Full name (underline surname):

.....

2. Maiden name:

.....

3. Date and place of birth:

.....

4. Sex and physical description (height, colour of eyes, distinguishing marks etc.):

.....

5. Also known as (earlier names, other names used/by which known or aliases):

.....

6. Nationality and language:

.....

C. Personal Details of Children (If appropriate)

1. Full name (underline surname):

.....

2. Date and place of birth:

.....

3. Sex and physical description (height, colour of eyes, distinguishing marks etc.):

.....

4. Nationality and language:

.....

D. SPECIAL CIRCUMSTANCES RELATING TO THE TRANSFEREE

1. State of health

(e.g. possible reference to special medical care; Latin name of contagious disease):

.....

2. Indication of particularly dangerous person

(e.g. suspected of serious offence; aggressive behaviour):

.....

E. MEANS OF EVIDENCE ATTACHED

1.
(Passport No.)	(date and place of issue)
.....
(issuing authority)	(expiry date)
2.
(Identity card No.)	(date and place of issue)
.....
(issuing authority)	(expiry date)
3.
(Driving licence No.)	(date and place of issue)
.....
(issuing authority)	(expiry date)
4.
(Other official document No.)	(date and place of issue)
.....
(issuing authority)	(expiry date)

F. OBSERVATIONS

.....

.....

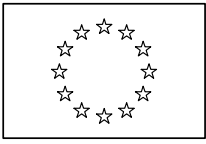
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.....

.....
(Signature) (Seal/stamp)



[Emblem of the Republic of Turkey]

.....

(Place and date)

.....
.....
(Designation of requesting authority)

Reference:

To

.....
.....
.....

(Designation of requested authority)

TRANSIT APPLICATION

pursuant to Article 15 of the Agreement of between
the European Union and the Republic of Turkey
on the readmission of persons residing without authorisation

A. PERSONAL DETAILS

1. Full name (underline surname):

.....

2. Maiden name:

.....

3. Date and place of birth:

.....

4. Sex and physical description (height, colour of eyes, distinguishing marks etc.):

.....

5. Also known as (earlier names, other names used/by which known or aliases):

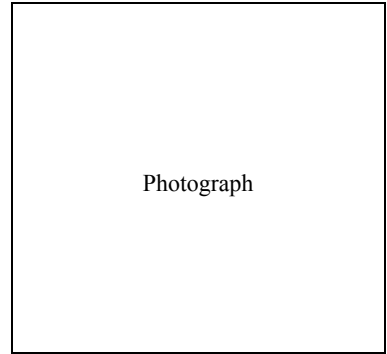
.....

6. Nationality and language:

.....

7. Type and number of travel document:

.....



B. TRANSIT OPERATION

1. Type of transit

by air

by land

by sea

2. State of final destination

.....

3. Possible other States of transit

.....

4. Proposed border crossing point, date, time of transfer and possible escorts

.....

.....

.....

5. Admission guaranteed in any other transit State and in the State of final destination (Article 14 Paragraph 2)

yes

no

6. Knowledge of any reason for a refusal of transit (Article 14 Paragraph 3)

yes

no

C. OBSERVATIONS

.....

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.....

.....

.....

.....

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.....

.....

(Signature) (Seal/stamp)

Joint Declaration on the cooperation in the area of visa policy

The Contracting Parties reinforce their cooperation in the area of visa policy and related areas, with a view to further promoting people to people contacts, starting with ensuring the efficient application of the judgment of the Court of Justice of the European Union issued on 19 February 2009 in case no C-228/06 Mehmet Soysal, Ibrahim Savatli v Germany and other relevant judgements on Turkish Service providers' rights based on the Additional Protocol of 23 November 1970 annexed to the Agreement establishing an Association between the European Economic Community and Turkey.

Joint Declaration on Article 7(1)

The Parties agree that in order to demonstrate "every effort to return a person referred to in Articles 4 and 6 directly to the country of origin", the Requesting State, while submitting a readmission application to the Requested State, should at the same time submit a readmission application also to the country of origin. The Requested State shall reply within the time limits mentioned in Article 11(2). The Requesting State informs the Requested State if a positive reply to the readmission application has been received from the country of origin in the meantime. In case where the country of origin of the person in question could not be determined and therefore a readmission application could not be submitted to the country of origin, the reasons of this situation should be stated in the readmission application which will be submitted to the Requested State.

Joint Declaration on technical assistance

Turkey and the Union agree to intensify their cooperation to meet the common challenge of managing migration flows and to tackle irregular migration in particular. By doing so, Turkey and the Union will express their commitment to international burden sharing, solidarity, joint responsibility and common understanding.

This cooperation will take into account geographical realities and build on Turkey's efforts as a negotiating candidate country. It will also take into account Council Decision 2008/157/EC of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Turkey and the 2008 National Programme of Turkey for the Adoption of the EU *acquis*, in which Turkey accepts and is prepared to implement the full EU *acquis* in this area upon accession to the Union.

In this context, the Union is committed to making available reinforced financial assistance in order to support Turkey in the implementation of this Agreement.

In doing so, attention will be paid in particular to institution and capacity building to enhance Turkey's capacity to prevent irregular migrants from entering, staying and exiting its territory, as well as its reception capacity for the intercepted irregular migrants. This could be achieved through, amongst others, purchase of border surveillance equipment, establishment of reception centres and border police structures, and support to training activities, in full respect of the current rules governing EU external assistance.

In order to support continued full and effective implementation of this Agreement, EU financial assistance, including a sector support programme in the area of integrated border management and migration, will be developed according to modalities to be defined together with the Turkish authorities and, beyond 2013, within and in accordance with the next EU financial perspectives.

Joint Declaration concerning Denmark

The Contracting Parties take note that this Agreement does not apply to the territory of the Kingdom of Denmark, nor to nationals of the Kingdom of Denmark. In such circumstances it is appropriate that Turkey and Denmark conclude a readmission agreement in the same terms as this Agreement.

Joint Declaration concerning Iceland and Norway

The Contracting Parties take note of the close relationship between the Union and Iceland and Norway, particularly by virtue of the Agreement of 18 May 1999 concerning the association of these countries with the implementation, application and development of the Schengen *acquis*. In such circumstances it is appropriate that Turkey concludes a readmission agreement with Iceland and Norway in the same terms as this Agreement.

Joint Declaration concerning Switzerland

The Contracting Parties take note of the close relationship between the Union and Switzerland, particularly by virtue of the Agreement concerning the association of Switzerland with the implementation, application and development of the Schengen *acquis*, which entered into force on 1 March 2008. In such circumstances it is appropriate that Turkey concludes a readmission agreement with Switzerland in the same terms as this Agreement.

Joint Declaration concerning the Principality of Liechtenstein

The Contracting Parties take note of the close relationship between the Union and the Principality of Liechtenstein, particularly by virtue of the Agreement concerning the association of the Principality of Liechtenstein with the implementation, application and development of the Schengen *acquis*, which entered into force on 19 December 2011. In such circumstances it is appropriate that Turkey concludes a readmission agreement with the Principality of Liechtenstein in the same terms as this Agreement.