

No. 29989

**FRANCE
and
ITALY**

Agreement concerning the admission of persons at the frontier. Signed at Rome on 6 December 1990

Authentic texts: French and Italian.

Registered by France on 28 April 1993.

**FRANCE
et
ITALIE**

**Accord sur la prise en charge des personnes à la frontière.
Signé à Rome le 6 décembre 1990**

Textes authentiques : français et italien.

Enregistré par la France le 28 avril 1993.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE ITALIAN REPUBLIC CONCERNING THE ADMISSION OF PERSONS AT THE FRONTIER

In order to facilitate the readmission of persons at the frontier between France and Italy, the French Government and the Italian Government have agreed as follows.

I. READMISSION OF NATIONALS OF THE CONTRACTING STATES

Article 1

Each of the Contracting Parties shall readmit to its territory, without formalities and through direct relations with the competent frontier authorities, persons whom the authorities of the other Party have decided to deport, if the documents produced furnish proof, or the presumption is established, that these persons are its nationals.

The documents taken into consideration shall be certificates of nationality and certificates of naturalization, as well as passports and official identity cards, even if they have expired or were not drawn up in the proper form. The modalities for the implementation of this paragraph shall be established by an exchange of diplomatic notes.

In the absence of the documents listed above, and if the nationality claimed is presumed, acceptance shall be regulated between the Ministries of the Interior of the two Contracting States.

The requesting State shall readmit persons it has deported if, as a result of later verifications undertaken by the requested State, it is established that they were not its nationals at the time of deportation, save for possible readmission under articles 2 and 3 of this Agreement.

II. READMISSION OF OTHER PERSONS

Article 2

Subject to the special provisions of article 5, each Contracting Party shall readmit persons not nationals of either State who, after a stay of at least 15 days in its territory, have crossed the common frontier illegally into the territory of the other Party, if that Party so requests within three months of the date such persons cross the frontier.

Article 3

Each Contracting Party shall readmit persons who, not being nationals of either State, habitually reside in the territory of the requested State and:

¹ Came into force on 1 February 1993, i.e., the first day of the second month after the Parties had informed each other (on 15 July and 1 December 1992) of the completion of the procedures of approval, in accordance with article 12.

- Have entered the territory of the other State legally on a short-term visa, insofar as the request is submitted within three months of the date of the expiry of the visa, or
- Have entered the territory of the other State legally on a passport or any similar document and have been authorized by that State to remain on a short-term basis, insofar as the request is submitted within three months of the expiry of the period during which these persons are allowed to travel in the territory of the requesting State.

For the purposes of this article, persons having a habitual residence shall be deemed to be those who legally hold a valid residence permit issued by their State of residence.

Article 4

Requests for readmission submitted pursuant to articles 2 and 3 above shall be dealt with by the Ministries of the Interior of the two Contracting States.

The request for readmission shall contain information concerning the identity and such personal documentation as the alien may possess, his stay in the territory of the requested State and the circumstances of his illegal entry into the territory of the requesting State. This information should be full enough to satisfy both authorities.

Decisions regarding readmission must be taken as soon as possible. Readmission authorization shall be valid for three months from the date of notification. Whenever the person concerned is detained by the judicial authorities of the requesting State, the Ministries of the Interior shall jointly decide to extend this period.

Article 5

The frontier authorities of the requested State shall readmit to their territory, at the request of the frontier authorities of the requesting State and without formalities, non-nationals of either State who have crossed the common frontier illegally and:

- Are presented to them less than 24 hours after crossing the frontier;
- Or are stopped for identification purposes less than 10 kilometres from the common frontier after crossing that frontier.

Article 6

There shall be no obligation to readmit nationals of a third State having a common frontier with the requesting State, unless compelling reasons exist for not deporting such persons to the territory of the third State.

The readmission requirement referred to in articles 2 and 3 above shall cease if, after having entered the territory of the requesting State, such persons have obtained a residence permit entitling them to stay for at least three months.

Persons who have acquired in the territory of either Contracting Party refugee status pursuant to the Convention relating to the Status of Refugees signed in Geneva on 28 July 1951,¹ as amended by the Protocol relating to the Status of Refu-

¹ United Nations, *Treaty Series*, vol. 189, p. 137.

gees signed in New York on 31 January 1967,¹ or pursuant to the Convention relating to the Status of Stateless Persons signed in New York on 28 September 1954,² and who continue to enjoy that status, shall not be readmitted by the other Party.

A Contracting Party which has begun deportation proceedings agrees to readmit into its territory those persons for whom it is established upon later verification by the authorities of the requested State that the conditions required for deportation have not been met.

A banishment or deportation order issued by the competent authorities in the requested State on the grounds of illegal entry or residence in its territory shall not preclude the application of a readmission procedure.

On the other hand, there shall be no obligation to readmit if an expulsion order is issued for reasons of law and order or national security, or if well-founded considerations of law and order or national security preclude readmission.

III. TRANSIT ADMISSION

Article 7

Each Contracting Party shall accept the conveyance in transit through its territory of persons who are not nationals of either State Party to this Agreement when continuation of travel and acceptance by the destination State are assured, provided that:

- The persons concerned are nationals of States which have a common frontier with the requested State but do not have a common frontier with the requesting State;
- The persons concerned are being sent to the State of which they are nationals.

On request, conveyance in transit may be effected under a police escort provided by the requested State.

Each Contracting Party shall accept the conveyance in transit through its international airport zones, under the supervision of the police authorities of the requesting State, of persons who are not nationals of the States Parties to this Agreement provided that the continuation of their journey and acceptance by the destination State are assured.

However, the requested State may refuse such conveyance:

- (a) If such persons might face persecution in the destination State because of their race, religion, nationality, social origin or political opinions;
- (b) If such persons are liable for criminal prosecution or punishment in the destination State in connection with acts that predate their conveyance in transit.

Persons admitted for conveyance in transit may be returned to the territory of the requesting State if facts militating against such transit should later occur or be discovered, or if the destination State refuses to admit or to readmit those persons.

Requests for conveyance in transit shall be settled between the Ministries of the Interior of the two Contracting Parties or, in the case of transit by air, by the frontier authorities. Requests shall specify that the conditions for conveyance in transit have

¹ United Nations, *Treaty Series*, vol. 606, p. 267.

² *Ibid.*, vol. 360, p. 117.

been met and that, to the knowledge of the requesting State, there are no grounds for refusal as specified in the fourth paragraph above.

IV. GENERAL PROVISIONS

Article 8

The Ministers of the Interior of the French Republic and of the Italian Republic shall draw up a list of the frontier posts through which the readmission and entry for transit purposes of foreign nationals shall be authorized.

They shall also draw up a list of airports which may be used as transit points for foreign nationals during their journey to their destination country.

Article 9

Disputes resulting from the application and interpretation of this Agreement shall be settled through the diplomatic channel.

Article 10

The authority requesting deportation shall assume the transport costs to the frontier post of the requested State.

The transport costs for transit to the frontier of the destination State or, failing that, the costs incurred for return transport in the cases specified in article 1, fourth paragraph, and article 6, fourth paragraph, shall be borne by the requesting State.

Article 11

This Agreement shall not affect the recognized rights of nationals of States Members of the European Communities to freedom of movement of persons or freedom to provide services, nor shall it affect the provisions of international conventions currently in force between the French Republic and the Italian Republic, in particular conventions relating to asylum-seekers, refugees, legal assistance and extradition.

The provisions of this Agreement shall in no case have the effect of replacing the administrative deportation procedure for extradition and extradition in transit.

Article 12

This Agreement shall enter into force on the first day of the second month after the Parties have informed each other that the national procedures of approval have been completed.

It may be denounced on 90 days' notice through the diplomatic channel.

DONE at Rome, on 6 December 1990, in two original copies, in the French and Italian languages, both texts being equally authentic.

For the Government
of the French Republic:

[PIERRE JOXE]

For the Government
of the Italian Republic:

[ENZO SCOTTI]