

No. 31847

**AUSTRIA
and
HUNGARY**

**Agreement on the taking over of persons at the common
frontier. Signed at Salzburg on 9 October 1992**

Authentic texts: German and Hungarian.

Registered by Austria on 24 May 1995.

**AUTRICHE
et
HONGRIE**

**Accord relatif à la prise en charge de personnes à la frontière
commune. Signé à Salzburg le 9 octobre 1992**

Textes authentiques : allemand et hongrois.

Enregistré par l'Autriche le 24 mai 1995.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA AND THE GOVERNMENT OF THE REPUBLIC OF HUNGARY ON THE TAKING OVER OF PERSONS AT THE COMMON FRONTIER

The Government of the Republic of Austria and the Government of the Republic of Hungary (hereinafter referred to as the Contracting Parties),

Desiring to regulate, by way of an agreement, the reciprocal taking over of their own nationals and aliens from third countries at the common frontier in the spirit of good-neighbourly relations,

Being anxious to effectively control illegal migration in their mutual interest, in keeping with efforts made within the framework of European cooperation, supporting also the objective of broadening in future the scope of this Agreement as regards the persons affected,

Have agreed as follows:

Article 1

(1) Each Contracting Party, without any particular formalities, shall take over from the territory of the other Contracting Party any person who is convincingly shown to be one of its nationals. Should it subsequently be found that the person did not possess such nationality at the time of entry, this person shall be taken back by the other Contracting Party; this shall not apply if the officials of the Contracting Party that took over the person have wrongly issued a travel document to this person.

(2) If nationality cannot be substantiated, the diplomatic mission or consular post of the Contracting Party whose nationality the person is assumed to possess shall clarify the matter promptly on request.

Article 2

The intended repatriation of persons who require care owing to illness or in view of their age shall be made known by the competent authorities of the country of residence to the diplomatic mission or consular post of the person's country of origin. The time and place of the take-over shall be conveyed to the country of residence within one month of such notification.

Article 3

(1) Each Contracting Party shall take over an alien from a third country who has crossed the Austrian-Hungarian frontier illegally and

¹ Came into force on 20 April 1995, i.e., the thirtieth day after the Contracting Parties had notified each other (on 26 August 1993 and 21 March 1995) of the completion of their respective internal legal requirements, in accordance with article 7 (1).

a) Who in principle was able to enter the territory of the requested Contracting Party without a visa, regardless of whether a refusal of entry exists in respect of this person and whether this person was residing there legally or illegally, or

b) Who entered the territory of the requested Contracting Party with a visa or was issued a residence permit there or was granted asylum there pursuant to the Geneva Convention relating to the Status of Refugees, or

c) Who, on the basis of an agreement between the requested Contracting Party and a third country, is to be taken over by the latter.

(2) An application for taking over an alien from a third country may be made at any time within 90 days of the illegal entry of the alien. The application shall contain the personal data of the person to be taken over, along with particulars concerning the illegal crossing of the common frontier. A response to the application for the take-over shall be forthcoming within 72 hours of its being conveyed. The requested Contracting Party shall take over the alien from a third country on the basis of a declaration of take-over. The application for take-over and the issuance of the declaration of take-over shall be the responsibility, in Austria, of the Sicherheitsdirektion für das Burgenland (Security Administration for the Burgenland) and, in Hungary, of the Landeskommando der Grenzwaache (National Headquarters of the Border Guard).

(3) The aliens from third countries cited in paragraph 1 shall be taken over informally if so requested by the other Contracting Party within 7 days of the illegal frontier-crossing. This procedure shall apply only if the other Contracting Party provides information making it possible to conclude that the person crossed the Austrian-Hungarian frontier illegally. A record shall be made of the handing over of the person. If the requested Contracting Party refuses the informal hand-over, the requesting Contracting Party may, with reference thereto, apply within 7 days for take-over according to paragraph 2.

(4) Should it subsequently be found that the alien from a third country did not illegally enter from the territory of the other Contracting Party, the person shall be taken back on request within 30 days of being taken over.

(5) If a person who is to be handed over does not have sufficient funds, the requesting Contracting Party shall bear the costs of transportation to the common frontier.

Article 4

(1) Each Contracting Party shall provide transit for aliens from third countries when so requested by the other Contracting Party and when the take-over is guaranteed by the country of destination and by any other countries of transit.

(2) Transit shall not be applied for and may be refused if the alien from a third country

1. Is at risk of being subjected to inhumane treatment or the death penalty, or if the alien's life or freedom would be threatened for reasons of race, religion, nationality, membership in a particular social group or political beliefs, in the country of destination or any other country of transit, or
2. If the alien would be liable to criminal prosecution in the requested country or, in the country of destination or any other country of transit, faces the threat of

criminal prosecution or execution of a sentence, except for having illegally crossed the frontier.

(3) The request for transit shall be made and processed directly between the Austrian Federal Ministry of the Interior and the Ministry of the Interior of the Republic of Hungary. Besides the personal data of the alien from a third country, the request shall also state that the requirements pursuant to paragraph 1 have been met and no reasons for refusal pursuant to paragraph 2 are known. Further, it shall indicate the date of the intended hand-over and the desired frontier-crossing point. The requested Contracting Party shall promptly provide transit for the alien from a third country, in agreement with the requesting Contracting Party.

(4) If the requested Contracting Party refuses the request because the necessary requirements have not been met, it shall inform the requesting Contracting Party of the substantive reasons for this refusal.

(5) Aliens from third countries may be returned to the requesting Contracting Party if facts subsequently become known or arise that constitute an obstacle to transit.

(6) The costs arising from transit and from the possible return of the alien shall be borne by the requesting Contracting Party.

Article 5

In order to implement this Agreement, the ministers of the interior of the Contracting Parties may make arrangements, in particular concerning

- a) Mutual notification procedures;
- b) Procedures to be observed when handing over and taking over persons, as well as the information and documents required;
- c) Frontier-crossing points where the take-over can occur;
- d) The ways and means for reimbursing costs pursuant to article 4, paragraph 6.

Article 6

Each Contracting Party may temporarily suspend, in whole or in part, the application of this Agreement for reasons of public order, safety or health. The introduction and revocation of such measures shall promptly be made known in writing to the other Contracting Party through diplomatic channels. The temporary suspension of the Agreement shall not affect a country's obligation to take over its own nationals.

Article 7

(1) This Agreement shall enter into force on the thirtieth day after the Contracting Parties have notified each other in writing through diplomatic channels that their respective national requirements have been met for the Agreement to enter into force.

(2) This Agreement shall remain in force indefinitely, provided neither Contracting Party serves notice to terminate the Agreement in writing through diplomatic channels; in that event, the Agreement shall cease to be in force 30 days after notice of termination has been received.

DONE at Salzburg, on 9 October 1992, in duplicate, in the German and Hungarian languages, both texts being equally authentic.

For the Government
of the Republic of Austria:

Dr. FRANZ LÖSCHNAK

For the Government
of the Republic of Hungary:

Dr. PÉTER BOROSS
