

AGREEMENT
between
the Government of Romania
and
the Office of the United Nations High Commissioner for Refugees and
the International Organization for Migration
Regarding Temporary Evacuation to Romania of
Persons in Urgent Need of International
Protection and their Onward Resettlement

The Government of Romania,

and

the Office of the United Nations High Commissioner for Refugees hereinafter referred to as
“UNHCR”,

and

the International Organization for Migration, hereinafter referred to as “IOM”,

all three thereinafter referred to as the Parties,

Recalling the provisions of art. III para. (1) and (3) of the *Agreement concluded between the Government of Romania and the Office of the United Nations High Commissioner for Refugees*, signed in Geneva, on 12 August 1992 and according to the provisions of art. 5

para. (2) of the *Agreement between the Government of Romania and IOM signed in Bucharest*, on 15 July 1992,

Recalling the provisions of the *Memorandum of Understanding between the Office of United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM)* concluded on 15 May 1997,

Recognizing that there are people in urgent need of international protection in their country of asylum under threats of serious violations of human rights,

In view of supporting the international community's efforts to provide access to durable solutions for persons in urgent need of international protection,

the Parties have agreed on the following:

Article 1

Objective and definitions

(1) The objective of the present Agreement is to set terms and conditions for admitting and granting a selected group of persons in urgent need of international protection temporary stay in Romania, to define the rights and obligations of the Parties and to define the conditions for their cooperation with respect to the legal, administrative, financial and practical arrangements, so as to provide rapid processing in view of the onward resettlement of such persons to third countries.

(2) For the purpose of the present Agreement, the words "*person in urgent need of international protection*" refer to refugees according to the 1951 Convention and its 1967 Protocol relating to the Status of Refugees and other persons under UNHCR's mandate who are in need of emergency evacuation from their country of first asylum and who are to be temporarily admitted to Romania in view of their onward resettlement to a third country.

Article 2
General provisions

(1) The total number of persons in urgent need of international protection who will be temporarily admitted on Romanian territory under the conditions of the present Agreement shall not exceed 200 persons at any time.

(2) The persons subject to the present Agreement will be required to reside in the ETC facility designated by the Romanian Government. The persons subject to the present Agreement shall require prior approval of the Romanian authorities responsible for the implementation of the present Agreement if they wish to travel within the Romanian territory. The rights and obligations of such persons are established by the Romanian law.

(3) The permission to temporarily stay in Romania is granted to persons subject to the present Agreement for six months from the date of their entry on the Romanian territory.

(4) Under exceptional circumstances, the right of stay as stipulated in para. (3) can be successively extended by the Minister of Interior and Administrative Reform of Romania, for individual cases, for six months at a time, until the persons subject to the present Agreement are relocated to a third country.

(5) Following the extension of the right of stay for a person subject to the present Agreement, the Parties shall take all the necessary measures, according to their obligations as stipulated in the present Agreement, to expedite the relocation of such persons to a third country.

(6) All expenses incurred in these operations will be covered by the Parties according to their specific responsibilities as stipulated in art. 3, 4, 5 and 13.

(7) The Parties commit themselves to abide by the principle of confidentiality and data protection in handling personal data of the persons subject to the present Agreement. The processing of personal data is to be made according to the relevant international and regional instruments, European rules and regulations to which Romania is a party.

Article 3

Responsibilities of the Government of Romania

(1) The Government of Romania hereby designates the Ministry of Interior and Administrative Reform, hereinafter referred to as MIAR, as the competent authority for the implementation of the present Agreement on its behalf.

(2) MIAR shall designate its units with responsibilities in implementing the present Agreement and shall inform the other Parties accordingly.

(3) a. MIAR shall process the list of persons in urgent need of international protection proposed by UNHCR for transit evacuation to Romania in view of onward resettlement to third countries. In doing so, MIAR may request additional information.

b. MIAR shall communicate to UNHCR the names of persons admitted into Romania, within seven working days from the date of receipt of the required information. In exceptional individual cases, upon request by either Party, this timeframe can be extended.

c. The decision to grant or deny access to the territory of Romania to the persons subject to the present Agreement is entirely at the discretion of MIAR, which is not bound to communicate the grounds of such decision.

d. Access to Romanian territory of persons subject to the present Agreement will be granted based on the travel documents facilitated by UNHCR and the letter of MIAR communicating the list of persons referred to in para. (3) letter b.

(4) If after a person has already entered the Romanian territory, grounds are identified that would have resulted in the denial of his/her access on the Romanian territory, MIAR shall notify the other Parties, as soon as possible, and will request to expedite the steps taken for his/her immediate onward resettlement. Until such steps are accomplished, MIAR shall take

any other appropriate measures, to properly manage the situation as provided by the Romanian legislation respecting the principle of non-refoulement.

(5) MIAR shall issue temporary identity documents to persons subject to the present Agreement during their legal stay on Romanian territory, and maintain the public order inside the premises made available for the accommodation of such persons and, as the need may be, in other places where the persons will be present as agreed by the Parties.

(6) MIAR shall provide free of charge to UNHCR the necessary premises for accommodation of persons subject to the present Agreement and office space for UNHCR, its partners and IOM, for the purpose of implementing the present Agreement and subject to the conditions stipulated in the present Agreement and the additional Working Arrangements to be agreed upon by MIAR and the other Parties, according to art. 13 para. (2). MIAR shall ensure that the persons subject to the present Agreement have access to general assistance services provided by the other Parties at UNHCR's and IOM's standards.

(7) For the purpose of implementing the present Agreement, the premises mentioned in para. (6) shall, as long as they are made available to UNHCR, its partners and IOM, represent the Emergency Transit Centre, hereinafter referred to as ETC. Additional premises may be made available for the same purpose if required. Without prejudice to the ETC operation, MIAR reserves the right to conduct day-to-day operations using the rest of the facilities available in the same location.

(8) MIAR shall provide the necessary support and assistance to expedite the arrival as well as departure of the persons subject to the present Agreement for onward resettlement.

Article 4

UNHCR Responsibilities

(1) UNHCR shall have the following responsibilities under the present Agreement:

- a. Shall communicate to MIAR the list of persons in urgent need of international protection, proposed for transit evacuation to Romania in view of onward resettlement, a presentation on their situation and grounds for urgent evacuation, as well as any additional information available that MIAR might request for the purpose of granting access to such persons on the territory of Romania. Such information will necessarily include the criteria used for selection of persons in urgent need of international protection, any commitments or guarantees that resettlement countries will consider these persons as priority cases, as well as confirmation of the availability of funds required to conduct the operation until the departure of such persons from Romania.

- b. Shall issue UNHCR Refugee Certificates and seek to obtain travel documents such as the ICRC Travel Document for the persons in urgent need of international protection prior to their evacuation to ETC.

- c. Shall cover all expenses related to the presence on the Romanian territory, respectively in the ETC, of persons subject to the present Agreement, subject to the availability of funds placed at the disposal of UNHCR. This provision shall not include compensations for regular operational and management costs incurred by maintaining the premises where ETC is located and by the asylum seekers accommodated there.

- d. Shall make its best efforts to expedite the transfer of persons subject to the present Agreement to resettlement states within the timeframe stipulated by art. 2 para. (3), (4) and (5).

- e. Shall make its best efforts to expedite the transfer outside Romanian territory of any person from the group who was not resettled within the timeframe stipulated under art. 2 para. (3) or falls under the provisions of art. 3 para. (4). Expenses incurred by the further stay of these persons on Romanian territory until the moment of transfer to a third country will be borne by UNHCR.

- f. Biannually, shall submit updated reports to the Coordination Committee mentioned in art. 7, on progress made.

(2) UNHCR shall communicate to MIAR, as soon as possible, the names of organizations to which UNHCR shall entrust as described in the Working Arrangements referred to in art. 13, the execution of activities pertaining to the implementation of the present Agreement. This provision shall not be construed as a waiver of responsibilities assumed by UNHCR by signing the present Agreement.

Article 5

IOM Responsibilities

(1) IOM assumes the following responsibilities under the present Agreement:

- a. Shall organize the international transport to Romania of persons subject to the present Agreement. The request for transporting the persons in urgent need of international protection from the host country to the ETC shall be made by UNHCR under the framework of the Rapid Response Transportation Fund (RRTF).
- b. Provide health assessments for all persons in urgent need of international protection upon their arrival in Romania, and pre-departure health assessments prior to their resettlement.
- c. Shall organize, in consultation with MIAR, the local transportation of the persons subject to the present Agreement on the Romanian territory for the purposes of implementing the provisions of art. 5 para. (1) letter b. and of art. 5 para. (1) letter d. of the present Agreement.
- d. Shall provide cultural orientation programmes for persons subject to the present Agreement in accordance with the requirements of the resettlement country.
- e. Shall organize the transportation of persons subject to the present Agreement from the ETC in Romania to the countries of resettlement according to provisions of the present Agreement under the framework of the agreements signed between IOM and the resettlement countries and/or under the 1997 MoU between IOM and UNHCR.

f. Shall organize, upon request by the Coordination Committee mentioned in art. 7, transport to a third country for any person from the group who, at the end of the resettlement process, was not resettled.

(2) IOM shall cover expenses arising from the activities outlined in para. (1) of this article subject to the availability of funds placed at its disposal.

Article 6

Coordination and Information Sharing between the Parties

Activities pertaining to information sharing and public relations regarding the presence on Romanian territory of persons subject to the present Agreement shall be organized jointly by the Parties. Should public release, by any of the Parties, of information pertaining to the implementation of the present Agreement, be necessary, the content of such release shall be shared by and agreed upon in advance with all Parties.

Article 7

Coordination Committee

(1) For the purposes of coordinating the implementation of the present Agreement, a Coordination Committee is herewith established comprising representatives of MIAR, UNHCR and IOM in Romania.

(2) The Coordination Committee will meet quarterly and whenever needed to settle any problems arising from the implementation of the present Agreement.

(3) Chairmanship of the Coordination Committee is ensured by the representative of MIAR.

(4) Representatives of the organizations mentioned in art. 4 para. (2) as well as representatives of the authorities from countries of resettlement may be invited to participate, as observers, at the meetings of the Coordination Committee.

Article 8

Responsibility for Claims

(1) Each Party shall be liable for any claims in respect of the death or injury of their respective personnel, servants, agents and employees, including loss and material damage, arising from or in connection with the implementation of the present Agreement.

(2) In case a member of the team of one Party, during the execution of the duties arising from the application of the present Agreement, causes damage to a third person, the compensation is borne by that Party.

(3) The circumstances in which the damage occurred and the facilitation of the settlement of compensation will be settled by the Coordination Committee.

Article 9

Settlement of disputes

Any dispute arising from the implementation of the present Agreement will be discussed within the Coordination Committee for amicable settlement between them either by negotiation or by any other non-judicial means including arbitration, as agreed upon by the Parties hereto.

Article 10
Privileges and Immunities

Nothing in or related to the present Agreement shall be deemed a waiver – express or implied – of any of the privileges and immunities enjoyed by the Parties, on the territory of Romania.

Article 11
Suspension of the Agreement

- (1) The present Agreement shall be suspended if one of the following situations occurs:
- a. MIAR's facilities designated to accommodate the persons subject to the present Agreement become unavailable due to:
 - i. The need of ensuring accommodation for asylum-seekers and persons enjoying a form of protection in Romania, according to the Romanian legislation on asylum;
 - ii. Exceptional situations which require the accommodation capacity of the premises where ETC is located to be used for urgent accommodation of affected persons;
 - iii. Unforeseen activation of binding obligations assumed by Romania under international or European Union law.
 - b. Non-compliance by any of the Parties with the obligation to resettle the persons subject to the present Agreement when the deadline mentioned in art. 2 para. (3) expires, unless otherwise extended.
- (2) The Agreement shall automatically be suspended in situations where, for reasons attributed to either Party, the number of cases stipulated in art. 2 para. (5) exceeds 20.
- (3) In the case stipulated in art. 3 para. (4), the Agreement is suspended until the situation of the person or persons in question is clarified.

(4) The suspension of the present Agreement shall have no effect whatsoever on the obligations of Parties with regard to persons subject to the present Agreement who are already on the Romanian territory.

(5) The decision of suspension, respectively that of ceasing the suspension is communicated, in writing, to the other Parties, and enters into force at the date mentioned in the notification.

Article 12

Termination of the Agreement

(1) The present Agreement shall be terminated if:

a. Any of the Parties are unable to fulfill their commitments under the present Agreement due to circumstances occurring beyond their control during the implementation of the Agreement,

b. After consultation with the other Parties decision is made by one of the Parties that the other Party(s) is (are) failing to fulfill its (their) obligations under the present Agreement,

c. General consent of the Parties on termination of the present Agreement is reached.

(2) The termination of the present Agreement comes into effect two months after the date mentioned in the notification of termination or following the date when the common decision is adopted.

(3) The provisions of the present Agreement shall continue to be applied for the persons present in the ETC pending processing at that time, until their onward resettlement to third countries.

(4) The termination of the Agreement shall not waive the obligations of Parties as regards the persons subject to the present Agreement already present on the Romanian territory, for the duration of their stay.

Article 13

Implementation of the Agreement

(1) The Parties shall commit their best efforts in view of fulfilling the obligations assumed in order to ensure the functioning of the ETC and to provide the general assistance, including, but not limited to, ensuring a subsistence level and medical assistance at UNHCR's standards for the persons subject to the present Agreement during their stay in ETC.

(2) Separate Working Arrangements shall be concluded between MIAR and other Parties, as well as between the Parties and the Organizations chosen to carry out certain activities pertaining to the implementation of the present Agreement to determine in details the financial commitment, as well as specific activities to be carried out during the implementation of the present Agreement.

Article 14

Final Provisions

(1) The present Agreement shall be valid for a period of one year and shall enter into force on the date of receipt of the last of the notifications by which the Parties inform each other about the fulfillment of their internal procedures necessary for its entry into force. The present Agreement shall be renewed automatically for new periods of one year, unless one of the Parties notifies the other Parties of its intention to terminate the Agreement.

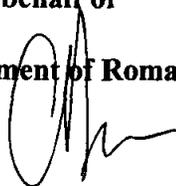
(2) The provisions of the present Agreement can be supplemented and/or amended by mutual agreement of the Parties. Any Party intending to propose a supplement and/or amendment of the provisions of the Agreement shall notify, in writing, the other Parties of its intention and of the content of its proposal. Such supplement and/or amendment of the provisions of the present Agreement shall enter into force according to the procedure mentioned in para. (1).

(3) The present Agreement does not take precedence upon and shall not prejudice in any way other international obligations of Romania, including those arising from the 1951 Convention relating to the Status of Refugees and its 1967 additional Protocol.

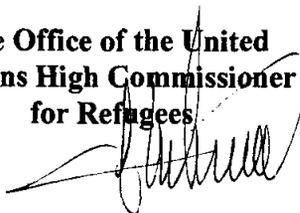
(4) Following entry into force of the present Agreement, MIAR shall communicate to the other Parties the units responsible with the implementation of the present Agreement, as established by art. 3 para. (2).

Signed in Bucharest, on ~~8 May 2005~~ *8 May 2008*, in three original copies, each in Romanian and English, all texts being equally authentic. In case of differences in interpretation, the English text shall prevail.

On behalf of
the Government of Romania



On behalf of
The Office of the United
Nations High Commissioner
for Refugees



On behalf of
The International
Organization for Migration

