



**TRIPARTITE MEMORANDUM OF UNDERSTANDING ON MODALITIES OF
MUTUAL COOPERATION AND COORDINATION TO SUPPORT THE ACCESS
OF ASYLUM SEEKERS TO THE TERRITORY OF, AND THE ASYLUM
PROCEDURES OF THE SLOVAK REPUBLIC**

PREAMBLE

The Office of the Aliens and Border Police of the Ministry of Interior of the Slovak Republic (hereinafter referred to as the “OABP”), **the Regional Representation of the United Nations High Commissioner for Refugees for Hungary, Poland Slovakia and Slovenia (UNHCR)**, and **the Human Rights League (HRL)**, as UNHCR’s duly authorised implementing partner (hereinafter referred to as the “Co-operating Parties”),

Recognising that the right of all persons to seek and enjoy in other countries asylum from persecution is a basic right enshrined, *inter alia*, in Article 14(1) of the 1948 Universal Declaration of Human Rights,

Recalling the United Nations Convention Relating to the Status of Refugees adopted on 28 July 1951 (Convention) and the Protocol Relating to the Status of Refugees adopted on 31 January 1967, which entered into force in the Slovak Republic on 1 January 1993; in particular Article 1 concerning the definition of the term refugee and Article 31 concerning refugees unlawfully in the country of refuge and Article 33 concerning the prohibition of expulsion or forced return (“*refoulement*”) of refugees,

Recalling Article 35 of the Convention obliging contracting States to co-operate with the Office of the United Nations High Commissioner for Refugees in the exercise of its functions, in particular providing in appropriate form information and statistical data requested concerning the conditions of refugees, the implementation of this Convention, and law, regulations and decrees which may relate to refugees,

Recalling that the United Nations General Assembly Resolution 428(V) of 14 December 1950, which adopted the Statute of UNHCR, ascribes to the High Commissioner the function of providing international protection to refugees, including promoting the admission of refugees, not excluding those in the most destitute categories, to the territories of State Parties to the Convention, and of seeking permanent solutions for the problems of refugees,

Recalling the Constitution of the Slovak Republic and in particular Article 53 thereof which provides the right to seek asylum,

Recalling Act No.480/2002 Coll. on asylum and on amending certain related acts, as later amended, and the Act No.48/2002 Coll. on the stay of aliens and on amending certain related acts, as later amended, as well as regulations, implementing these acts,

Considering that ensuring access to the territory and asylum procedures constitutes the most effective way to provide protection to refugees, asylum-seekers and others of concern in need of protection (**hereinafter referred to as “persons of concern”**), and Conclusions 22 (Session XXXII), 71 (Session XLIV), 74 (Session XLV), 81 (Session XLVIII) and 82 (Session XLVIII), of the Executive Committee of the High Commissioner's Programme (EXCOM), set out internationally accepted principles and standards governing the protection of refugees,

Bearing in mind the importance of the co-operation agreement of 1 March 1994 between the Government of the Slovak Republic and the United Nations High Commissioner for Refugees relating to the legal status, immunities and privileges of the United Nations High Commissioner for Refugees Branch Office and its staff in the Slovak Republic (Communication by the Ministry of Foreign Affairs of the SR No. 219/1994 Coll.) and which this memorandum of understanding does not in any way amend,

Recognising the need to return to the countries of their origin persons found not to be in need of international protection, in a humane manner and in full respect for their human rights and dignity, and, in the case of children, taking due account of their best interests,

Have agreed to carry out a joint activity that will be guided by the following provisions:

Article I

ESTABLISHMENT OF A MONITORING FRAMEWORK

1. With due regard to the principle that the Slovak Republic has the primary responsibility of ensuring that persons of concern in need of protection have access to the territory and asylum procedures, in accordance with the Regulation (EC) No. 562/2006 of the European Parliament and of the Council of the European Union of 15 March 2006- Establishing a Community Code on the Rules Governing the Movement of Persons Across Borders, Act No. 48/20002 Coll. of Acts on the Stay of Aliens and on change and amendments of certain acts, and Act No. 480/20002 Coll. of Acts on Asylum and on change and amendments of certain acts, the Co-operating Parties agree that the United Nations High Commissioner for Refugees (UNHCR) and Human Rights League (HRL) will monitor the entry of such persons to the territory of the Slovak Republic and access to the asylum procedure in the Slovak Republic as well as their protection against expulsion or forced return (**“refoulement”**).

2. The Co-operating Parties agree that UNHCR and HRL will carry out the process of monitoring in an orderly, humane, safe and dignified manner, as dictated by the sensitivities needed to assist persons of concern in need of international protection.
3. The OABP undertakes to facilitate the monitoring activities of UNHCR and HRL stipulated in sub Articles 1 and 2.
4. In accordance with the principle of family unity, the Co-operating Parties shall make every effort to ensure that asylum seeking families are admitted into the asylum procedure as units.

Article II

RESPONSIBILITIES OF THE OFFICE OF THE ALIENS AND BORDER POLICE

1. The OABP undertakes to ensure that aliens who during the border inspection upon entry to the territory of the Slovak Republic seek international protection will be allowed access to the territory and the asylum procedure.
2. The OABP shall take all measures necessary to ensure that asylum seekers are in full knowledge of their rights as well as their right to access legal assistance in the Slovak Republic, in a language that the persons of concern understand. It also undertakes to make available to persons of concern the publications of UNHCR, HRL or its own printed protection information for such persons of concern.
3. The OABP stationed at the International Airports and other entry points into the Slovak Republic shall facilitate the unimpeded access and activities of the duly authorised representatives of HRL to areas designated for the processing and interview of persons of concern by the Director of the Department of Border Control of the Police Corp (OHK) of the relevant Airport and other entry points into the Slovak Republic.
4. The OABP shall assign a contact person whose responsibility will be to liaise with UNHCR and HRL and transmit at regular three month intervals (quarterly) statistical information to the UNHCR and HRL Focal Point representatives on the number of persons who have been denied admission into the territory of the Slovak Republic and reasons thereof. The information will be communicated by electronic mail to the offices of UNHCR and HRL.
5. The OABP, undertakes, in accordance with its technical means, to ensure that the monitors examine file documentation regarding aliens, containing the information on the number, age, sex and nationality of persons of concern, as well as the circumstances of their detention if detained. The examination of files shall be undertaken under conditions which comply with the protection of personal data of aliens within the meaning of the Act No. 428/2002 Coll. on personal data, as amended.

6. The OABP shall without delay inform UNHCR in electronic form (or by facsimile) the number and nationality of aliens who are persons of concern in particular:
- a) aliens who are detained under Section 5
 - b) aliens who were granted permission for tolerated stay in accordance with Section 43 (1) of the Act No. 48/2002 Coll. on the stay of aliens in the territory of the Slovak Republic;
 - c) aliens to whom Section 62 and Section 63 shall be applicable of the Act No. 48/2002 Coll. on the stay of aliens in the territory of the Slovak Republic.

Article III

RESPONSIBILITIES OF UNHCR

1. UNHCR having free and unimpeded access to all persons of concern will undertake monitoring visits to places defined in Article V where persons of UNHCR concern may be located, to examine and verify the implementation of, and adherence to international protection standards. In case of identified issues of concern, UNHCR will immediately inform the OABP and communicate the concerns in writings transmitted by facsimile or any other appropriate mode of communication.
2. In its monitoring activity, UNHCR shall focus, in particular, on the treatment of persons with special needs, (e.g. persons with disabilities, separated families members, and unaccompanied children) and on the respect for the principle of family unity.
3. UNHCR shall coordinate the mobilisation of funds for this project implementation from the international community.

Article IV

RESPONSIBILITIES OF THE HRL

1. HRL shall undertake the implementation of this Memorandum on behalf of UNHCR and as specified in the partnership agreement of UNHCR and the implementing partner.
2. HRL shall inform aliens not only of their rights and obligations but also of the international obligations of the Slovak Republic with regard to the provision of international protection to persons of concern.
3. HRL shall implement activities stipulated in Article III (1 – 3) on the basis of authorisation that will form part of its partnership agreement with UNHCR. A copy of this authorisation shall be forwarded to the Director of the OABP.

4. The monitoring staff of HRL shall identify themselves as such to those persons of concern whom they may wish to interview during the course of implementing this agreement, and shall inform them of the purpose and voluntary nature of the interview and their right to refuse to be interviewed.

5. HRL shall monitor at the relevant OABP units the ease of accessibility to persons of concern of UNHCR, HRL and other information materials and, in case of need, it shall replenish the supply of protection information.

6. HRL shall make a written report on each monitoring visit within 10 working days that shall be shared with the other Co-operating Parties. The other Co-operating Parties are entitled within 30 days upon receipt of the written report to submit comments and observations. The HRL, after consultation and agreement with UNHCR, may publish reports on the activities related to the implementation of the provisions of this memorandum of understanding. The OABP will be notified of the contents of any such report in advance and will have the right to have its comments and observations reflected in the report.

Article V

SITES COVERED BY THIS MEMORANDUM

This memorandum shall apply to OABP units where persons of concern may from time to time be located.

Article VI

FINAL PROVISIONS

1. This Memorandum of Understanding is concluded for an indefinite period. The amendment of the text of the Memorandum of Understanding or the adoption of addendums may be initiated in written form by either of the Co-operating Parties. The text of this Memorandum of Understanding can only be amended in written or by addendum agreed upon by all Co-operating parties.

2. The termination of this Memorandum of Understanding can be initiated by any of the Co-operating Parties by submitting a written notice of termination to each of party. The notice of termination shall be 30 days and shall start running on the day of the delivery of the written notice of the termination of the Memorandum of Understanding to all Co-operating Parties.

3. The Co-operating Parties undertake to resolve any potential uncertainties or questions regarding the implementation of the present Memorandum of Understanding amicably through mutual consultations on working-meetings called by anyone of the Co-operating Parties, at least twice a year. The date of a proposed working meeting has to be notified in advance giving

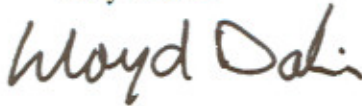
each partner sufficient time to prepare for the meeting which shall take place not more than 10 days after such notification to all Co-operating Parties.

4. The present Memorandum of Understanding shall be concluded in the Slovak and English languages, each being equally authentic. In case of divergence in interpretation the Slovak language version of the Memorandum of Understanding shall be used as the authoritative and decisive text.

5. The present Memorandum of Understanding shall enter into force on the date of signature by the Contracting Parties.

Done at Bratislava this 05 day of 09 2007 in sets of three originals, in the English and Slovak language.

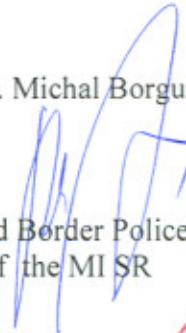
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JUDr. Michal Borgula



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