

DECISION
on Approval of Regulation on Procedure for Repatriation of Child
and Adult Victims of Human Trafficking, Trafficking of Illegal
Migrants,
and Unaccompanied Children
No. 948 of Aug. 07, 2008

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The Government takes the **DECISION**:

1. The Regulation on procedure for repatriation of children and adults – victims of human trafficking, illegal migrants’ trafficking, as well as unaccompanied children (Annex) is approved.
2. The central specialized public authorities shall ensure implementation of provisions of Regulation on procedure for repatriation of children and adults – victims of human trafficking, illegal migrants’ trafficking, as well as unaccompanied children.
3. The Ministry of Finance shall allocate annually, starting in the 2009 budget year, state budget funds for repatriation of said persons pursuant to provisions of the abovementioned Regulation.
4. The National Committee for Combating Human Trafficking shall supervise implementation of this Decision.

PRIME MINISTER

Zinaida GRECEANII

Other signatures:

Vice Prime Minister, Minister of Foreign Affairs

and European Integration

Andrei Stratan

Minister of Internal Affairs

Valentin Mejinschi

Minister of Social Protection, Family and Child

Galina Balmos

Minister of Finance

Mariana Durlesteanu

REGULATION
on Procedure for Repatriation of Children and Adults – Victims of
Human Trafficking, Illegal
Migrants’ Trafficking, as well as Unaccompanied Children

Chapter I
GENERAL PROVISIONS

1. This Regulation establishes the procedures for:

repatriation into the country of human trafficking victims (adults and children); of children unaccompanied by parents or legal representatives that stay on the territory of foreign states (hereinafter, unaccompanied children) and of victims of illegal migrants’ trafficking;

covering expenses incurred over the process of repatriation into the country of human trafficking victims (adults and children); of unaccompanied children and of victims of illegal migrants’ trafficking;

identification of parents and other legal representatives of children, of human trafficking victims unable or with limited ability to take care of themselves;

emergency protection of persons stipulated in this Regulation by provision of competent protection services.

2. For the purpose of this Regulation, the following terms shall mean:

victim of human trafficking – physical person presumed or determined to have been subjected to trafficking actions mentioned in items 1) and 2) of Article 2 of the Law No. 241-XVI of October 20, 2005 on prevention and combating human trafficking;

victim of illegal migrants’ trafficking – person, that has been subjected to actions stipulated in art. 3621 of the Penal Code;

unaccompanied child – person under 18, that was found without an accompanying person on the territory of a foreign state.

3. The provisions of this Regulation shall be applied in respect to persons mentioned in item 2 of the Regulation, which are citizens of the Republic of Moldova or people with no citizenship that have been residing permanently in the Republic of Moldova prior to entering the territory of another state.

4. This Regulation provides for nominating contact persons in all responsible ministries (Ministry of Social Protection, Family and Child, Ministry of Foreign Affairs and European Integration, Ministry of Internal Affairs, Ministry of Education and Youth, Ministry of Informational Development), as well as consular offices of the Republic of Moldova abroad, diplomatic missions and other organizations in the area.

Chapter II

PRINCIPLES

5. Repatriation into the country of persons specified in item 2 of this Regulation shall be done in a voluntary manner, based on a written agreement signed by them, except for children under ten or, as the case may be, signed by a legal representative of the person, under which the respective person accepts assistance in the repatriation process. Repatriation shall be also assisted when the legislation of the foreign state allows no possibility for a temporary or permanent stay of the person on the territory of that state.

6. The repatriation procedures shall be initiated only upon determination by competent authorities that the opinion of the person regarding repatriation has been taken into consideration.

7. Taking into account the age and level of maturity of the child, his/her opinion will be taken into consideration in all decisions and actions which might affect him/her, except for cases stipulated in item 5 of this Regulation, including return to the country of origin, reunification with the biologic family, extended family or placement in other types of care, etc.

8. Repatriation of children shall be done with care for the best interests of the child, by submitting documents confirming a sustainable solution for the child's care.

9. The decision for repatriation of a child shall be taken only when a secure reunification of the child with his/her family may be attained in which, upon consultation with the Ministry of Social Protection, Family and Child, an appropriate institution agrees to provide and is capable of providing adequate protection and care upon arrival of the child in the Republic of Moldova. The competent authorities involved in the process recognize that repatriation may fail to take place. If,

upon social and family assessment, risk and safety assessment, the evaluation of the level of integration of the child in the host country and his/her length of absence from the native country, desirability of continuing education of the child in the host country and ethnic, religious, cultural and language aspects related to the child, indices exist that repatriation is not in the best interests of the child, the competent authorities may take the decisions for nonrepatriation of the child.

10. When the age of the identified person is not known precisely, but grounds exist to believe that the person is a child, the respective person shall be treated as a child and he/she shall be granted all special protection measures, stipulated in this Regulation and in legal acts referring to child's rights and protection of the child until the exact age of the person is established.

11. The person shall be provided all relevant information related to rights, available services, communication means, means for family identification and for seeking a protection institution as well as other information regarding the country of origin in his mother tongue or other language known by the person taking into consideration the person's level of understanding.

12. Any information on the identity of the person shall be examined by competent institutions, with observance of confidentiality principles in order to avoid stigmatization and endangering the person and his/her relatives.

13. The identity and the details leading to identification of the child shall not be made public in mass media or other means, except in exceptional circumstances, when facilitating identification of the family members is necessary or aiming at child protection.

14. Personal data shall be processed (compiled, registered, stored, corrected, deleted and transmitted) with the consent of persons mentioned in item 2 of this Regulation, or, as the case may be, with consent of his/her legal representatives with due respect to right to privacy and identity. The person has the right to know which institution owns his/her personal data and to obtain a copy of the respective information.

15. The Ministry of Social Protection, Family and Child is responsible for undertaking all actions related to preparing for and initiation of repatriation procedures for persons mentioned in item 2 of this Regulation.

16. Activities related to identification of human trafficking victims and their families, provision of travel and identity documents for persons mentioned in item 2 of this Regulation, as well as translation/interpretation services as needed, pursuant to law provisions should be exempt from consular taxes and other existing taxes or/and fees.

17. Transportation expenses of the repatriated person and his/her accompanying persons shall be covered in compliance with the readmission agreements and other cooperation agreements signed by the Republic of Moldova with other states.

18. When no signed readmission agreements exists, the expenses shall be covered by the Ministry of Social Protection, Family and Child.

Chapter III

COOPERATION WITH COMPETENT AUTHORITIES OF THE DESTINATION COUNTRY FOR IDENTIFICATION OF PERSON'S PLACE OF RESIDENCE, HIS/HER PLACEMENT UNDER PROTECTION AND INITIATION OF REPATRIATION PROCEDURE

19. The authorities, responsible for implementation of this Regulation, shall enhance cooperation with authorities of other countries, national and foreign international and nongovernmental organizations with a view of improving and making more efficient the repatriation procedures as well as the procedures for search of persons believed to be victims of human trafficking, victims of illegal migrants' trafficking or unaccompanied children.

20. Upon receipt of information about existence of persons stipulated in item 2 of this Regulation in a foreign country, competent state authorities, as well as other persons, institutions and associations of the Republic of Moldova shall, within 5 days of receiving the information, inform the Ministry of Social Protection, Family and Child in writing. This Ministry shall seek the assistance of diplomatic and consular missions of the Republic of Moldova in the matter through Ministry of Foreign Affairs and European Integration.

21. The provisions of item 20 shall be observed also when information about existence of persons stipulated in item 2 of this Regulation is received from the respective persons themselves or from their families, as well as when notification was made by a third party.

22. The diplomatic and consular missions of the Republic of Moldova, shall, immediately upon receipt of information about existence of persons stipulated in item 2 of this Regulation in a host country, undertake the necessary actions for identification of such persons and shall request information about data and identity documents of the respective person, other useful and necessary information, about applied protection actions, psychic and physical state of the person and his/her fitness to travel, repatriation agreement, etc. from competent authorities of the respective country.

23. The diplomatic and consular missions of the Republic of Moldova shall ensure transfer of information from authorized institutions of Moldova and of the destination country within five

working days if the international agreements entered into by the Republic of Moldova do not provide otherwise.

24. The diplomatic and consular missions of the Republic of Moldova shall inform the Ministry of Social Protection, Family and Child through Ministry of Foreign Affairs and European Integration within five working days about persons specified in item 2 of this Regulation, which request or need repatriation.

25. The diplomatic and consular missions are responsible for addressing applications to authorities within the country or the country on the territory of which any person specified in item 2 of this Regulation has been detected and shall apply to the authorities of the respective country to obtain adequate protection and assistance prior to repatriation.

26. The diplomatic and consular missions shall provide to persons specified in item 2 of this Regulation assistance with translation, accommodation, emergency healthcare, and other care as needed pursuant to the law of the respective state.

Chapter IV

PROCEDURES FOR CHILD REPATRIATION

Section 1

Checking child's identity, his/her documents and initiation of procedures for seeking his/her family or legal representative

27. When a detected child has no documents to confirm his/her identity, the diplomatic and consular missions shall check the child's identity through ACCES automated system or seek assistance from the Ministry of Information Development in the matter.

28. The Ministry of Information Development shall undertake the necessary actions for child identification and send the data to the Ministry of Foreign Affairs and European Integration and to the Ministry of Social Protection, Family and Child within three working days from receipt of request.

29. If the Ministry of Information Development has no information related to the child (its birth has not been registered in the Register of Births, Deaths and Marriages), the responsibility for checking the child's identity lies with the Ministry for Social Protection, Family and Child which, in cooperation with the Ministry of Informational Development and local public authorities shall undertake the following actions:

1) identify birthplace of the child;

2) obtain information from structures of the Ministry of Health regarding birth of the child by parents which are citizens of the Republic of Moldova; 3) obtain information about parents when birth has not been registered with the authority for registration births, deaths and marriages or with consular offices of the Republic of Moldova abroad to find out facts about child's birth.

4) initiate procedures for late or subsequent registration of child's birth in offices for registration of births, deaths and marriages pursuant to provisions of Law No. 100-XV of April 26, 2001 on personal documents.

30. The Ministry for Social Protection, Family and Child shall notify through Ministry of Foreign Affairs and European Integration the authorities of the destination country about initiation and evolution of the child's identification process.

31. Upon receipt of the information about the child, the Ministry for Social Protection, Family and Child shall urgently initiate the procedure for identification of the family / legal representative of the child (or, as the case may be, an institution which has the responsibility for the child's care) and shall request their agreement for repatriation., except when the search activity or method of its implementation is contrary to the best interests of the child.

32. When the persons referred to in item 31 of this Regulation cannot be found at their place of residence or disagree with the child's repatriation, the Ministry for Social Protection, Family and Child shall notify the guardianship authority of child's or family's last known residence, which shall write a note for child's repatriation and ensure that actions for child's protection are taken, as needed.

33. When child's family may not be identified, the Ministry for Social Protection, Family and Child shall request that diplomatic or consular mission contacts local authorities in the destination country in order to secure the opportunity to talk with the child for collection of biographic and social data, either involving the representatives of the diplomatic or consular mission, or, as the case may be, other nominated specialists, which shall inform the Ministry for Social Protection, Family and Child about the results.

34. If the identity of the child may not be determined, the Ministry for Social Protection, Family and Child through the Ministry of Foreign Affairs and European Integration shall inform the protection authorities in the destination country about the fact that the child may not be included in the category of persons referred to in item 2 of Regulation and, thus, the Moldovan authorities do not undertake further responsibility for the respective child's repatriation.

35. During the repatriation process and after it, the Ministry for Social Protection, Family and Child in cooperation with the Ministry of Internal Affairs, shall organize the risk and safety assessment of the child and the family, including examination of possible

stigmatization/harassment actions of the society or family, threatening, repression or coercion of the child or his/her relatives by traffickers or their accomplices; re-trafficking.

36. When it is found that the stay of the child on the territory of a foreign state is the result of a criminal act, the Ministry of Internal Affairs shall initiate criminal investigation procedures in respect to the case.

37. The Ministry for Social Protection, Family and Child shall request competent authorities of the territory of the last known place of residence of the child and family to carry out the emergency social assessment of the family and to develop an initial individual plan for preparing for social reintegration of the child.

38. As more relevant information about the child and family is collected (identity, primary evaluation of the family, initial individual plan, etc.), the Ministry for Social Protection, Family and Child shall pass it to the authorities of the destination country through the Ministry of Foreign Affairs and European Integration, diplomatic and consular missions. When the file is closed, the Ministry for Social Protection, Family and Child shall inform the destination country about: repatriation date, accompanying person, transportation means, border crossing points, actions necessary for preparing the child for travel, etc.

Section 2

Repatriation of the child and placing him/her under protection

39. Upon obtaining the consent for repatriation from the authorities of the destination country, the Ministry for Social Protection, Family and Child shall:

1) plan for the repatriation and carry out logistic arrangements taking into account available resources;

2) issue an order to nominate the accompanying persons, which should have the necessary abilities for carrying out the task;

3) prepare an accompanying letter comprising the data of the accompanying person/s and of the child to be repatriated, border crossing points, and, as the case may be, other relevant information to be presented by accompanying person/s upon request of authorities involved in repatriation;

4) carry out the translation of documents to be passed towards this aim to the authorities of the destination country.

40. When repatriation is done through a third country, the diplomatic and consular missions of the Republic of Moldova in the third country shall provide assistance to facilitate transit permission and issue of transit documents. When needed, the diplomatic and consular missions shall contact the authorities of the destination country to speed up transit, obtain necessary transit documents, provide assistance in finding/ identification/transportation/ accompanying in entry/exit points to/from the transit country based on a readmission agreement, facilitate communication with parents residing in a third country and facilitate family reunification in a third country.

41. The Ministry of Foreign Affairs and European Integration shall provide assistance in obtaining the visa/s for the accompanying person to reach destination country, take actions to remove existing barriers in destination country associated with repatriation process.

42. Upon arrival, the child shall be met by parents or other legal representatives. Alternatively, the guardianship authority of the last residence of the parents or, as the case may be, the Ministry for Social Protection, Family and Child shall nominate a person to accompany the child to his/her home or to the assigned protection institution, which has been determined and informed beforehand.

43. When a child is met at the border crossing point by a staff member of a protection institution, the person, which accompanies the child, and the person nominated to receive the child shall sign Minutes regarding the transmission/receipt of the repatriated child.

44. If authorities of the destination country undertake responsibility for accompanying and repatriation of the children, the diplomatic and consular missions shall inform the Ministry for Social Protection, Family and Child about this decision in the matter and any relevant details related to planned repatriation.

Section 3

Rehabilitation, monitoring and reporting

45. The protection institution, that has taken over the child at the border crossing point or at the final destination point is responsible for the child's life and safety and shall initiate the process for child's rehabilitation, taking into account his/her age, problems, suggestions of authorities of the destination country involved in repatriation, etc.

46. The Ministry for Social Protection, Family and Child shall request that the guardianship authorities on the territory of the child's residence or local authorities in the community where the protection institution admitting the child is situated , take needed social and family reintegration actions or select and establish another type of protection pursuant to the legislation.

47. The guardianship authority shall monitor the situation of the child pursuant to law provisions and submits respective reports to the Ministry for Social Protection, Family and Child.

48. The relevant information on repatriation procedure, reintegration and monitoring of the child upon repatriation shall be concentrated in a special file of the child, which is stored with the Ministry for Social Protection, Family and Child Ministry.

49. Upon request of some information regarding the situation of persons specified in item 2 of this Regulation after repatriation by foreign competent authorities, the Ministry for Social Protection, Family and Child shall send the relevant information, upon consent of the respective persons or their legal representatives, through the Department for Consular Affairs of the Ministry of Foreign Affairs and European Integration.

Chapter V

PROCEDURES FOR REPATRIATION OF ADULTS

Section 1

Verification of person's identity and documentation for initiating the repatriation procedure

50. If the adult, specified in item 2 of this Regulation, has no identity documents, the diplomatic and consular missions shall check the identity of the person through the automated system ACCES or request the assistance of the Ministry for Informational Development in the matter.

The Ministry of Informational Development shall undertake the necessary actions for identification of the adult and pass the results to the Department for Consular Affairs and to the Ministry for Social Protection, Family and Child within three working days from the receipt of the request.

51. The diplomatic and consular missions shall issue the necessary documents to the person to be repatriated within three days.

52. The diplomatic and consular missions and the Honorary Consuls of the Republic of Moldova in a third country shall grant assistance for facilitating permission for transit and issue of travel documents for the repatriation of the respective person.

In case of need, the diplomatic missions and consular offices, as well as Honorary Consuls of the Republic of Moldova shall contact authorities of the third country to speed up physical transit, obtaining of necessary transit documents, provision of assistance in finding / identification / transportation / accompanying the person in entry / exit border crossings of the transit country based on a readmission agreement; facilitation of communication with parents or children staying in a third country and facilitation of family reunification in a third country.

53. During the repatriation process and upon repatriation, the Ministry for Social Protection, Family and Child in cooperation with the Ministry of Internal Affairs shall carry out the risk and safety assessment of the person to be repatriated and his/her family, including examination of possible stigmatization/harassment actions of the society or family, threatening, repression or coercion of the person or his/her relatives by traffickers or their accomplices; re-trafficking.

54. For efficient and accurate risk assessment, the opinion of the respective person shall be taken into account throughout the process, while the repatriation decision shall be based on voluntary participation of the person in the repatriation procedure.

55. If risk and safety assessment has shown impending danger for the life and safety of the person to be repatriated, the competent service of the Ministry of Internal Affairs shall, upon request of the Ministry for Social Protection, Family and Child, nominate one or more accompanying policemen, that will travel to the destination country to accompany the person throughout the travel or meet the person at the border crossing point in the Republic of Moldova, thus ensuring the person's physical safety.

56. When the person to be repatriated has serious psychic or physical disorders, confirmed by a fit to travel certificate issued by competent authorities of the destination country, the Ministry of Health, upon request of the Ministry for Social Protection, Family and Child shall appoint one or more specialist doctors to travel to the destination country in order to accompany the person throughout the travel or meet the person at the border crossing point in the Republic of Moldova .

Section 2

Person's repatriation and placing under protection

57. The Ministry for Social Protection, Family and Child is responsible for implementing all actions for preparing and launching person's repatriation procedures (questionnaire on social and family circumstances, setting the repatriation conditions and date, nomination of an accompanying person, taking care of emergency placement and/or long term placement upon arrival in the country, referral to available services).

58. Upon finalizing risk and safety assessment, issue of travel documents and obtaining the consent for repatriation from the respective person, the Ministry for Social Protection, Family and Child shall plan repatriation, protection actions to be taken and send the diplomatic missions and consular offices, the Ministry of Internal Affairs, the Border Service the last and first names of the person to be repatriated, number and series of the travel documents, transportation means, date and hour of arrival in the border crossing point for entering the territory of the Republic of Moldova. When there is an accompanying person, the identity data of the accompanying person/s shall be provided.

59. The Border Service of the border crossing point of the Republic of Moldova shall facilitate the access of the representatives of the Ministry for Social Protection, Family and Child, Ministry of Internal Affairs, Ministry of Health appointed to meet the repatriated person and to accompany him/her home or to the specialized institution determined beforehand.

Section 3

Rehabilitation, monitoring and reporting

60. Upon conclusion of repatriation procedure, the Ministry for Social Protection, Family and Child shall, in accordance with the voluntary consent of the repatriated person, undertake all actions for his/her rehabilitation and reintegration within the National Referral System for providing assistance and protection to human trafficking victims and potential victims.

61. Any documentation and monitoring of individual cases should be done with observance of the right to privacy and international and regional standards for protection of information.

62. When foreign competent authorities request data regarding the circumstances of the person after repatriation, the Ministry for Social Protection, Family and Child shall provide any relevant data in the matter with prior consent of the respective person.