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**Protocol between the Government of the Italian Republic and the Council of Ministers of the Albanian Republic**

The Government of the Italian Republic and the Council of Ministers of the Albanian Republic, hereinafter referred to as “the Parties”,

Given the Treaty of Friendship and Cooperation between the Republic of Italy and the Republic of Albania, signed in Rome on 13 October 1995,

Given the Protocol between the Minister of Home Affairs of the Republic of Italy and the Minister of Home Affairs of the Republic of Albania for strengthening bilateral cooperation in the fighting of terrorism and human trafficking, signed in Tirana on 3 November 2017

Given the interest of both Parties to promote the growth of bilateral cooperation in all policies, in the perspective of the accession of the Republic of Albania to the European Union.

Considered the necessity to intensify the cooperation in the framework of management of migratory flows, considering the geographical proximity and the shared aspirations and interests between the parties.

Being aware of the problematic deriving from illegal migration.

In accordance with international agreements in the area of human rights and, in particular, in the field of migration.

Convinced of the actions to be taken for preventing irregular migratory flows and human trafficking and, at the same time, to ensure protection of human rights,

Have agreed as follows:

**Article 1**

In the framework of this Protocol, the following terms mean:

- a) "Albanian party": the Council of Ministers of the Republic of Albania
- b) "Italian party": the Government of the Republic of Italy
- c) "Areas": state owned properties identified in the Annex 1 to the Protocol
- d) "migrants": citizens of third countries and stateless persons for whom has to be established the existence or has been established the nonexistence of the conditions to entry, stay and reside in the territory of the Italian Republic.
- e) "Italian personnel": the staff, who even if not in possession of Italian citizenship, has been sent by the Italian party in Albania to ensure the implementation of the activities as per the present Protocol.

## **Article 2**

This Protocol aims at fostering bilateral cooperation between the Parties in the management of migration flows coming from third countries, in conformity to international and European Law.

## **Article 3**

1. The Albanian party recognises to the Italian party the right to use the Areas, following the criteria established in the Protocol.
2. The Areas shall be granted free of charge for all the duration of the present Protocol, in accordance with Article 13.

## **Article 4**

1. The Italian party might realize in the Areas the facilities indicated in Annex I to the Protocol. The Parties agree that the total number of migrants present in the facilities, following the application of the Protocol, might not exceed 3000 persons.
2. The facilities as per paragraph 1 are managed by the competent Italian authorities following the applicable Italian and European legislation. Controversies which might arise from the aforementioned authorities and the migrants held in the facilities are subject exclusively to Italian jurisdiction.
3. The competent Albanian authorities allow entry and stay on the Albanian territory of the migrants hosted in the facilities as per paragraph 1 for the sole purpose of carrying out border and return procedures and for the time strictly necessary for it. In the event that the right to stay in the facilities ceases for any reason, the Italian side pledges to immediately transfer the migrants out of the Albanian territory. The transfers to and from the facilities are carried out by the competent Italian authorities.
4. The entry of migrants in the territorial waters of the Republic of Albania is carried out exclusively with resources belonging to the competent Italian authorities. Upon the arrival on the Albanian territory, the competent authorities of both parties proceed separately to fulfil the obligation prescribed by their national legislation and in respect with the present Protocol.
5. The costs for the establishment of one or more facilities on the territory of the Republic of Albania are entirely borne by the Italian party.

6. Within the facilities mentioned in paragraph 1 the Italian party proceeds to establish the healthcare facilities for the purpose of guaranteeing the necessary health services.
7. When it is ascertained that migrants are carriers of infectious diseases, the competent Italian authorities shall observe quarantine and treatment regulations according to their respective health protocols.
8. In case of health emergencies to which the Italian authorities cannot cope within the facilities as per paragraph one, the Albanian authorities will cooperate with the responsible Italian authorities to ensure the necessary medical treatments to the benefit of the migrants held in the facilities.
9. The costs of the health services provided by the Albanian party are borne by the Italian party in accordance with article 10, paragraph one of this Protocol.

## **Article 5**

1. The facilities referred to in Annex 1 are build and managed in accordance with Italian legislation, without the need for building permits or other similar formalities required by Albanian law.
2. The Italian party pledges to build the facilities dedicated to the Albanian personnel in charge of the security of the external perimeter of the areas, in order to carry out the obligations stated in Article 6 paragraph 2 of this Protocol.
3. The Albanian party facilitates the provision of the necessary services for the operation of the facilities referred to Annex 1 to which are applied conditions no less favorable than those applied to similar facilities.
4. The expenses incurred by the Italian party for the construction of the facilities are exempt from indirect taxes and custom duties. The Italian party does not ask for exemptions from taxes or other payments however called which represent fees for the use of public services.
5. For the purposes of implementing and managing the facilities referred to in Article 4, the competent authorities of the Italian Party shall be exempt from restrictions or currency controls and may freely transfer currencies in derogation from the provisions in force in the Republic of Albania.

## **Article 6**

1. The competent authorities of the Parties shall cooperate in order to maintain the security of the areas.
2. The competent authorities of the Albanian party shall ensure the maintenance of law and order and public security on the perimeter outside the areas and during land transfers to and from the areas in Albanian territory.
3. The competent authorities of the Italian party shall ensure the maintenance of law and order and public security on the perimeter within the areas. The competent authorities of the Albanian party shall have access to the areas, subject to the consent of the person responsible for the facility. Exceptionally, the authorities of the Albanian party may enter the facilities, informing the Italian responsible for the same, in case of fire or other serious and immediate danger that requires immediate intervention.
4. Regarding their respective safety obligations, each Party shall establish an authority responsible for the smooth running, coordination, and supervision of security matters.

5. The competent national authorities shall take the necessary measures to ensure the permanence stay of migrants within the areas, preventing their unauthorised exit into the territory of the Republic of Albania, both during and after the completion of administrative procedures, irrespective of the final outcome.
6. In case of unauthorised exit of migrants from the Areas, the Albanian authorities will lead them back to them. The costs arising from the implementation of these operations shall be borne by the Italian Party, in accordance with Article 10 of this Protocol.
7. The competent Italian authorities shall bear all costs necessary for the accommodation and treatment of persons held in the facilities listed in Annex 1, including food, medical treatment (including in cases requiring the assistance of the Albanian authorities) and any other service deemed necessary by the Italian Party, undertaking that such treatment respects fundamental human rights and freedoms in accordance with international law.
8. Official documents held by the Italian authorities and Italian personnel in any capacity are exempt from seizure or other similar measures by the Albanian authorities.

## **Article 7**

1. The Italian side shall communicate in advance, through diplomatic channels, the names of the Italian personnel.
2. The entry and residence in Albania of Italian staff for the purposes set out in this Protocol is exempt from visa and other formalities provided for by Albanian immigration legislation. The Italian personnel who remain in the Albanian territory for more than 90 days are issued, free of charge and on request, an identification document (single permit).
3. The working conditions of Italian personnel are governed exclusively by Italian law. The salaries received by Italian personnel are exempt from income tax and social assistance contributions provided for by the relevant Albanian legislation, except in the case in which the personnel member is an Albanian citizen resident in the Republic of Albania.
4. For any word said or written, for acts performed in the exercise of their duties, Italian personnel are not subject to Albanian jurisdiction, even after the end of the exercise of their functions on Albanian territory.
5. Except as provided for in paragraph 4 of this Article, Italian personnel shall be subject to Albanian jurisdiction if, during their stay under this Protocol, they commit, outside the service, offenses under Albanian law in violation of the rights of Albanian citizens or the Albanian state.
6. Without prejudice to paragraph 4, Italian personnel shall enjoy immunity from all forms of detention in Albania, except for the cases provided for in paragraph 5, subject to Albanian procedural criminal law and bilateral agreements in force. In the cases referred to in paragraph 5, where measures restricting personal freedom are applied to Italian staff, the Albanian authorities shall immediately communicate them to the Italian authorities.
7. For urgent care, Italian personnel can have access to Albanian health facilities. The costs shall be borne by the person concerned or by the Italian Party in accordance with this Protocol.

8. Without prejudice to the provisions of this Article, Italian personnel shall be obliged to comply with the laws in force in the Republic of Albania and not to interfere in its internal affairs.
9. The Italian party shall make available to the Albanian authorities the list of personnel with firearms permit in the performance of their duties, as well as the relevant provisions for the reception and delivery of the firearm to and from such personnel.
10. The personnel referred to in paragraph 9 shall be prohibited from carrying the weapon into Albanian territory when not performing its duties. For the purposes of this paragraph, the duty shall include accompanying migrants to and from the areas. The Italian Party shall take the necessary measures to ensure the security of the arms and ammunition used pursuant to this Protocol.

#### **Article 8**

1. The access to the Albanian territory of vehicles of the Italian party shall be subject to the subsequent arrangements between the Parties which enter into force on the date of signature.
2. The transfer procedure of migrants into the Albanian territory to and from the Areas is carried out in accordance with the agreements aforementioned in paragraph 1 of this article.
3. The costs relating to the use of vehicles and units of the Albanian party, arising from the implementation of this Protocol, shall be borne by the Italian party, in accordance with article 10 paragraph 1 of this Protocol.

#### **Article 9**

1. The period of permanent stay of migrants on the territory of the Republic of Albania for the purpose of the implementation of this Protocol, cannot exceed the maximum period of detention allowed by the Italian legislation. The Italian authorities, once they carried out the procedures in accordance with Italian legislation, pledge to remove the migrants from Albanian territory. The costs deriving from these procedures shall exclusively be borne by the Italian party, in accordance with the provisions of this Protocol.
2. To ensure the right of defense, the Parties allow the access to the facilities of lawyers, their assistants, as well as to international organisations and European agencies which provide advice and assistance to people seeking international protection, within the limits of the applicable Italian, Albanian and European law.
3. In case of birth or death within the facilities, the migrants are subject to the rules of Italian legislation. In case of death, the Albanian party gives availability of the morgue facility and the Italian party pledges to transfer the corpse out of the Albanian territory within 15 days from the death.

#### **Article 10**

1. The expenses referred to in article 4 (9), in article 6 (6), in article 8(3) and in article 12(2), and the expenses not foreseen but arising under this Protocol, are reimbursed by the Italian party to the Albanian party in a flat rate, to the extent and in accordance with Annex 2 of this Protocol.

2. Annex 2 also provides the conditions and the modalities with which the Italian party takes charge of the expenses incurred by the Albanian party in the case in which migrants might initiate administrative procedures before the Albanian authorities.

#### **Article 11**

1. At the end of the 5-year period for which this Protocol is signed, the Italian party returns the Areas to the Albanian party, which is not required to pay any compensation for the improvements made.
2. The Italian Party shall remove all migrants present on Albanian territory at the end of this Protocol.

#### **Article 12**

1. Each Party shall indemnify any damage caused to the other Party by wilful misconduct or gross negligence on the part of its personnel and any loss resulting from any obligation to compensate third parties for any damage caused to the other Party by wilful misconduct or gross negligence on the part of its personnel.
2. In accordance with Article 10, the Italian party shall bear the costs of legal representation, costs of proceedings and costs of damages in the case of actions brought against the Republic of Albania by third parties in connection with the implementation of this Protocol, including actions or omissions of the Italian party in relation to migrants, or following the activities of the Italian authorities.
3. In the cases referred to in this Article, the Parties shall promote discussions in good faith with a view to achieving a mutually acceptable solution.

#### **Article 13**

1. This Protocol shall enter into force on a date to be agreed by the Parties with the subsequent exchange of notices.
2. The Protocol shall remain into force for five years. Unless one of the two parties communicates, with advance notice of at least six months, its intention not to renew this Protocol, it will be automatically renewed for a further period of five years.
3. Each of the two Parties can, at any time, report / denounce the present Protocol, with a written advance notice of at least six months. The report / denunciation highlights the motivation to the other party. The Protocol can be reported / denounced not earlier than one year after its publication.

#### **Article 14**

1. Any controversy/dispute which might arise between the Parties regarding the interpretation, or the application of this Protocol and its agreements is solved amicably, through consultation between the parties.