
2 October 2016

JOINT DECLARATION
OF INTENT ON COOPERATION IN THE FIELD OF MIGRATION
BETWEEN
THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY
AND
THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF AFGHANISTAN

The Government of the Federal Republic of Germany and the Government of the Islamic Republic of Afghanistan declare their joint desire and willingness to strengthen their cooperation in the field of migration of their nationals and to facilitate the return and reintegration of those who are required to leave each other's territories in accordance with the framework of existing national and international law and to assist each other in identifying their nationals.

Both sides declare their intent to guarantee the dignity and human rights of returnees without discrimination, respect the rights and freedoms guaranteed in the International Covenant on Civil and Political Rights, and not to submit anyone to torture or to cruel, inhuman or degrading treatment.

Both sides declare their intent to follow the principles of the Universal Declaration of Human Rights (1948), International Covenant on Civil and Political Rights (1966), UN Conventions relating to the Status of Refugees (1951), New York Protocol (1967), Vienna Convention on the Law of Consular Affairs (1963), UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), UN Convention against Transnational Organized Crime and the Protocols thereto (2000) supplemented by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and by the Protocol against the Smuggling of Migrants by Land, Sea and Air.

Both sides share the understanding that Afghan nationals who are required to leave the Federal Republic of Germany and are willing to do so voluntarily in order to return to the Islamic Republic of Afghanistan or another country will receive all available benefits from current programmes, such as travel assistance and start-up support, upon successful application. In addition, they will have the right to apply for any future return programme, including bilaterally developed programmes.

Furthermore, both sides seek to actively support the return and reintegration of returnees in order to curb illegal migration.

Both sides acknowledge with appreciation the existing and past cooperation in the field of migration. Over the past four decades Germany has granted a great number of Afghan nationals and their families' refuge and protection from persecution and war and has given many thousands of Afghan asylum applicants access to the labour market and generous social benefits. In 2015 alone, more than 150,000 Afghan nationals came to Germany. Germany will continue to grant protection to those of them who are entitled to it under German law and in full compliance with international law.

The Federal Republic of Germany has greatly contributed to Afghanistan's development and civilian reconstruction effort including the establishment of a high-quality education system, and water and energy supply. Furthermore, Germany has provided significant support for Afghanistan to build up its military and police forces. The scope of the financial and technical assistance given by the German side towards the development and rebuilding of Afghanistan is a symbol of the deep and trusting cooperation between the two countries.

Both sides reiterate their commitment towards the protection of asylum seekers and refugees rights which are enshrined in relevant national and international documents. Therefore, in any procedure for international protection and, if applicable, in case of a rejection, subsequent return procedure regarding Afghan nationals, Germany will apply existing international, European and national law and, therefore, assure to take duly into account:

- i) a possible individual threat a person might face upon return;
- ii) the vulnerability of minors;

- iii) the rights of families;
- iv) the particular situation of single women;
- v) a severe medical condition, for which sufficient medical care is not available in Afghanistan or which does not allow for a safe return; and
- vi) the right of each person to take all available legal remedies as enshrined in the guarantee to recourse to the courts in Article 19 (4) of the Basic Law of the Federal Republic of Germany.

Both sides have come to the understanding that their cooperation in the field of migration should be guided by the following general principles:

1. General principles of cooperation

- a) Both sides share the understanding of their international obligations to admit their own nationals who are required to leave the territory of the other side.
- b) Both sides reiterate that the voluntary return of the persons concerned is the preferred way of fulfilling the obligation to leave the country. Both sides further reiterate that effective enforcement measures need to be taken in a timely fashion, if the voluntary return does not take place within the given time limit. Respecting the principle of proportionality and applicable law in each individual case an adequate time limit will be set for leaving the country within which the individual could still apply for the voluntary return programme.
- c) Both sides are committed to establishing effective, predictable, orderly and manageable return processes. Return operations should be operated in an efficient, manageable and logistically feasible way. In the initial phase of the implementation of this declaration it is necessary to limit the number of returnees per flight for involuntary return operations. Details of return operations are attached as Annex I of this Declaration.
- d) Both sides intend to continue their productive cooperation in all policy areas. Germany intends to continue providing financial support for Afghanistan's civilian re-

construction programme. Both sides want to coordinate reintegration aid and development cooperation to a greater extent than to date. The nature and scope of reintegration related cooperation will be discussed and agreed by an expert group on a priority basis.

e) The Federal Republic of Germany intends to cover the cost of travel for returns to Afghanistan.

f) Current return and reintegration assistance to Afghan returnees, which is subject to change, is described in the letter of 22 September 2016 by the German Ambassador in Kabul.

2. Valid travel documents and identification

a) Both sides share the understanding that the return is carried out on the basis of a valid passport or passport substitute issued by the competent authority of the state of which the returnee is a national. If within four weeks, the relevant side is unable to produce a valid passport or passport substitutes, then, alternatively, the return will be carried out on the basis of a European standard travel document for the return of third-country nationals issued in line with the regulations of the European Council Recommendation of 30 November 1994, the EU laissez-passer. In this regard the Afghan side will provide consular experts to the German side to assist in the identification process of its nationals.

b) Both sides share the understanding that the following documents, in particular, may be used to clarify the nationality of the returnee: Passports of all kinds (national passports, diplomatic passports, service passports), identity cards/*tazkera*, citizenship certificates which can be attributed to a person, and any other document recognized by the government of the requested side which enables the identification of the person in question. The list of national passports and passport substitutes, including specimen documents, and an EU laissez-passer specimen document are attached to this declaration as Annex II.

c) Both sides declare their intent that, in cases where the authorities fail to clarify the nationality of the returnee on the basis of the documents listed in lit. b), the returnee will be assumed to have the nationality he or she was found to hold when interviewed by members of the responsible diplomatic or consular mission of Afghanistan or by an expert delegation.

3. Return

a) Where aviation security so requires, the persons to be returned will be accompanied by specialized staff. Returns may be conducted by scheduled and non-scheduled flights in accordance with Annex I of this Declaration. Both sides declare their intent to provide flight data, the maximum number of returnees and personal information of identified returnees in a pool three weeks prior their return date. The German side may have to overbook the flight with persons out of the pool, but not exceed the maximum number as previously announced.

b) Both sides declare their intent that the requesting side should readmit any returnee when it has been established that the returnee is not a national of the requested side. A request for readmission should be made as soon as possible, preferably no later than fourteen days after the return to the respective diplomatic and consular missions.

4. Subsequent re-entry

The re-entry of returnees into the territory of the requesting side should be governed by the laws and regulations of the requesting side.

5. Responsible authorities

a) For the cooperation intended with this Joint Declaration of Intent and for all other matters related to it, the Government of the Islamic Republic of Afghanistan designates the Ministry of Refugees and Repatriation as the responsible authority, and the Government of the Federal Republic of Germany designates the Federal

Ministry of the Interior, represented by the Federal Police Headquarters, as the responsible authority.

b) Either side may, vis-à-vis the other side, designate another authority as the responsible authority instead of those mentioned here at any time.

6. Exchange of documents

Both sides declare their intent to exchange the following documents:

- i) a list of diplomatic and consular staff in the territory of the requesting side for the purpose of issuing travel documents;
- ii) a list of airports that should preferably be used for return operations; and
- iii) all information to facilitate communication or the proper implementation of this Declaration.

7. Information bureau

The German side is considering, in the light of progress made under this joint declaration, setting up a bureau to observe and support voluntary returns to and reintegration in Afghanistan. The bureau should have the following tasks:

- i) counselling for Afghan nationals
- ii) point of contact for German authorities, institutions and organizations dealing with the return of Afghan nationals to their home country.

The details of this project will be discussed between the experts of both sides.

8. Joint implementation committee

Both sides will set up a joint implementation committee to facilitate the application and interpretation of this declaration. The said committee will carry out the following functions;

- i) to monitor the application of this declaration;
- ii) to decide on implementing arrangements necessary for the uniform execution of it;

- iii) to decide on specific implementing arrangements aiming at an orderly management of return flows;
- iv) to recommend amendments to this declaration.

9. Start of cooperation


Cooperation begins on the day this Joint Declaration of Intent is signed. The Joint Declaration is intended to be in operation for a period of two years from the moment of its coming into effect. If neither side announces termination of this Joint Declaration 60 calendar days before its stated expiration, this Joint Declaration is intended to remain in operation for another two years.

10. Exchange of views


Both sides declare that, in the case of differences concerning the understanding of this Declaration or the cooperation based on this Declaration, a mutually acceptable solution should be found by means of mutual consultation and communication between the responsible authorities on the basis of the English version.

This Joint Declaration of Intent was signed in on 2 October 2016 in the English language. The translations into the Dari and German languages yet to be drawn up will be equivalent.

For the Government of the
of the Federal Republic of Germany


Walter Haßmann
Ambassador

For the Government
of the Islamic Republic of Afghanistan


Dr. Alema
Deputy Minister of
Refugees and Repatriation

2 October 2016

Annex I

Return Process

1. Both sides are committed to establishing an effective, predictable, orderly and manageable return process that could include scheduled and non-scheduled flights on the basis of the given conditions.
2. In the initial phase of six months the number of returnees for involuntary return operations will be limited to 50 per flight. Non-scheduled flights will be processed at a designated facility at Hamid Karzai International Airport or any other mutually agreed regional airport.
3. If aviation security measures become necessary in the return process, the German side will ensure the dignity and safety of each returnee until they are handed over to the relevant authorities in Afghanistan.
4. While traveling to Afghanistan German Aviation Escort staff will carry valid Afghan visas at all time. The Afghan missions will issue such visas without delay.
5. Aviation escort staff on board will be specially trained and will treat each returnee with respect and compassion.
6. Considering the Afghan cultural norms and sensitivities, the German side will take specific measures in the return process of female returnees, including providing female escorts and medical staff in their return process.

Annex II

Documents

Afghanistan

1. Specimen the Afghan Tazkira
2. Specimen of the Afghan Passport
3. Specimen of the EU laissez-passer
4. Specimen of the Afghan Return Certificate (عودت به وطن)
5. Specimen of the EU Standard Travel Document
6. Specimen of the Afghan Birth Certificate

Germany

1. Picture of the German Passport



3. Picture of the German laissez-passer

