

Memorandum of Understanding
Between
The Government of Sweden and the Government of the Islamic Republic of
Afghanistan
On cooperation in the field of migration

The Government of Sweden and the Government of the Islamic Republic of Afghanistan, hereinafter referred to as "the Participants",

- (a) Respecting the provisions of the 1951 Convention relating to the Status of Refugees and its 1967 New York Protocol;
- (b) Recognizing that the right of all citizens to leave and to return to their country is a basic human right enshrined, inter alia, in Article 13 (2) of the 1948 Universal Declaration of Human Rights and Article 12 of the 1966 International Covenant on Civil and Political Rights;
- (c) Welcoming the fact that a large number of Afghan citizens have already returned and that many more are in the progress of doing so bringing with them valuable experiences and skills;
- (d) Resolved to cooperate in order to assist the dignified, safe and orderly return to Afghanistan of Afghan citizens who do not have the legal right to stay in Sweden;
- (e) Noting the desire of the Participants to cooperate with each other to achieve full observance of international human rights and humanitarian standards;

Have reached the following understanding:

Article 1

Scope

This MoU intends to set up cooperation on addressing and preventing irregular migration, return and readmission of irregular migrants, who after consideration of all relevant international laws and legal procedures cannot be granted international protection status or permit to stay as part of overall cooperation between the Government of Sweden and the Government of Afghanistan.

Article 2

Objectives

With this MoU the Participants wish to lay the basis for a closely coordinated, phased and humane process of assisted return from Sweden which respects the primacy of voluntary return and which takes account of the conditions in Afghanistan and of the importance of safe, dignified and sustainable return.

Article 3

Modalities of Return

The Participants hereby accept that the return will, primarily take place on a voluntary basis and following any of the options for continued stay in Sweden hereunder:

- a) The Participants acknowledge their international obligations to readmit its own nationals who are required to leave each other's territories.
- b) Afghan nationals, who are found not to have legal right to stay in Sweden after their applications are legally processed, protection needs or compelling humanitarian reasons in accordance with Swedish legislation justifying prolongation of their stay in Sweden, could opt for voluntary return according to Swedish law based on the knowledge of the situation in the intended places

of their return after a final negative decision on their application to stay in Sweden or on their international protection claim. Afghan nationals, who nevertheless continue to refuse to avail themselves of the option of voluntary return, may be ordered to leave Sweden as an option of last resort.

The return process will be phased, orderly and humane. The details of the return process are described in Annex I (return process).

Article 4

Identification and Documentation

When the person to be returned has no valid passport, the Afghan competent authority will ensure that a passport or a travel document is issued no later than four weeks following the request made by Sweden. The list of travel documents is attached as Annex II.

When Sweden has evidence of the nationality of the person to be returned, the Afghan authorities will make every effort to verify the evidence and issue a passport or a travel document within two weeks.

When the travel document has not been issued within these time limits, Sweden may issue the EU standard travel document for return.

Article 5

Preservation of Family Unity

In accordance with the principle of family unity and in cases where all members of a family, who are all Afghan nationals covered by this MoU, are returning to Afghanistan, the Government of Sweden will make every effort to ensure that families are returned as units and that involuntary separation is avoided.

Article 6

Special Measures for Vulnerable Groups

The Participants will take special measures to ensure that vulnerable groups receive adequate protection, assistance and care throughout the return and reintegration process. In particular, measures will be taken to ensure that unaccompanied minors are not returned prior to successful tracing of family members or without specific and adequate reception and caretaking arrangements having been put in place in Afghanistan.

Prior to returning Afghan Nationals, Sweden will give fair consideration to humanitarian aspect in accordance with international law to unaccompanied minors, single women and women who are head of the their families, family unity, elderly and seriously sick people. Special measures will ensure that such vulnerable groups receive adequate protection, assistance and care throughout the whole process.

Article 7

Commitments upon Return

The Government of the Islamic Republic of Afghanistan will, together with other relevant bodies, carry out the necessary measures to ensure that Afghan nationals abroad can return without any fear of harassment, intimidation, persecution, discrimination, prosecution or any punitive measures whatsoever. These safeguards do not preclude the right of the competent authorities of Afghanistan to prosecute individuals on account of war crimes and crimes against humanity, as defined in international instruments, or very serious common crimes involving death or severe bodily harm in accordance with established human rights standards.

Article 8

Freedom of Choice of Destination

The Government of the Islamic Republic of Afghanistan accepts that Afghan nationals returning from abroad will be free to settle in their former place of residence or any other place of their choice in Afghanistan in accordance with the domestic legislations.

Article 9

Mode of Return

The Participants decide that the appropriate mode of return from Sweden to Afghanistan is by air. Sweden will be responsible for the safety of returnees until they get to Afghanistan in the case of non-scheduled flights.

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 MoU.

While travelling to Afghanistan the Swedish escort staff will carry a valid Afghan visa at all time. The Afghan mission will issue such visas without delay. The details concerning this is attached in a diplomatic note to this MoU.

Article 10

Return and Reintegration Assistance

- a) The Government of Sweden will meet the costs of travel and return assistance for Afghan nationals covered by this MoU up to the final destination in Afghanistan according to Swedish legislation. Information concerning the assistance mentioned in this Article is attached as Annex III of this MoU.

- b) The Government of Sweden will continue to consider favourably the provision of support to reconstruction, rehabilitation and reintegration projects with a view to facilitating the re-establishment of livelihoods in Afghanistan of returnees taking into account the broader reconstruction needs of Afghanistan.

Article 11

Personnel

The Participants will facilitate the entry and stay, through issuance of visas as necessary, in accordance with their applicable national immigration laws, of their officials and personnel facilitating the implementation of this MoU.

Article 12

Joint implementation group

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

- a) to monitor the application of this MoU;
- b) to decide on implementing arrangements necessary for the uniform execution of it;
- c) to decide on specific implementing arrangements aiming at an orderly management of return flows;
- d) to recommend amendments to this MoU.

In implementing this MoU, the Participants are committed to coordinating and consulting closely with each other. In this regard, relevant information - except personal data and person-specific information related to the content of international protection claims - will be shared between the Participants.

The joint group will meet when necessary at written request of one of the Participants or both Participants. The joint implementation group if mutually agreed may invite representatives of relevant organizations to participate in its deliberations in an advisory capacity. Decisions of the joint group will be based on the mutual consent of the designated representatives or their designated alternates.

Article 13

Exchange of Documents

Both sides declare their intent to exchange the following documents:

- a) All information to facilitate communication or the proper implementation of this MoU including information on diplomatic and consular contact points.
- b) A list of documents to be considered as evidence of citizenship.

Article 14

Exchange of views

Both sides declare that, in the case of differences concerning the understanding of this MoU or the cooperation based on this MoU, 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.

Article 15

Continued Validity of other Arrangements

This MoU will not affect the validity of or derogate from any existing instruments, agreements, arrangements or mechanisms of cooperation between the Participants.

Article 16

Resolution of Disputes

Any question arising out of the interpretation or application of this MoU, or for which no provision is expressly made herein, will be resolved amicably between the Participants through consultations or through the joint implementation group.

Article 17

Coming into Effect

This MoU will come into effect upon signature by the Participants. This MoU is valid for a period of two years from the moment of its coming into effect. If neither side announces termination of this MoU (30) calendar days before its stated expiration, this MoU will be automatically extended for two years.

Article 18

Amendment

This MoU may be amended by mutual consent in writing between the Participants.

Article 19

Termination

Each Participant has the right to denounce this MoU at any time by notification in writing to the other Participant communicated via diplomatic channels. This MoU will cease to apply 30 calendar days after the date of the receipt of any such notification.

Article 20

Relationship with national law, European Union law and international law

This MoU is not intended to supersede national law, European Union law or international obligations by which the Participants are bound. The Participants will notify each other in case of any conflict arising from this MoU.

In witness, thereof, the representatives of the Participants have signed this MoU.

This MoU was signed in Brussels on 5/10 2016 in duplicate in the English language.


**For the Government
of Sweden**


**For the Government of the Islamic
Republic of Afghanistan**

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-schedule flights will be processed at Kabul International Airport (in existing designated facilities) or other mutually agreed regional airport.
3. Flight data, the list of returnees and their personal information shall be provided to the other side in a pool of identified returnees three weeks prior their return date. The Swedish side may have to overbook the flight with persons out of the pool, but not exceed the maximum number as previously announced.
4. If aviation security measures become necessary in the return process, the Swedish side will ensure the dignity and safety of each returnee until they are handed over to the relevant authorities in Afghanistan.
5. Aviation escort staff on board will be specially trained and will treat each returnee with respect and compassion.
6. The Swedish side will take adequate measures in the return process of female returnees, including providing female escorts and when necessary medical staff in their return process.

Documents

1. Specimen of the Afghan Passport
2. Specimen of the EU laissez-passer
3. Specimen of the Afghan Travel Document/ Return Certificate
4. Specimen of the EU Standard Travel Document

Return and Reintegration assistance

Sweden will, in accordance with its national legislation, provide persons to be returned with necessary support in order to provide for secure, dignified and humane return journeys and in order to create incentives for voluntary return. This can, when necessary, comprise support inter alia in planning and carrying out return journeys, covering the costs of air-tickets as well as providing escorting personnel to persons in special needs throughout the return journey. In addition, Sweden will continue to consider favourably the implementation of projects with the view to facilitate the re-establishment of returnees.

Information of the support mentioned above has been provided in details via diplomatic channels, and is also described below. The current support available is subject to any future revisions in accordance with Swedish national legislation and procedures.

Each and every Afghan national returning from Sweden is given extensive support: The Swedish Migration Agency provides assistance in counselling and planning the return journey.

- The cost for the return is carried in full by the Agency, such as necessary transportations and flight-tickets.
- In addition, Afghan returnees are eligible to apply for a reintegration grant. The grant is paid in cash, and amounts to 30 000 SEK per adult, 15 000 SEK per child and a maximum of 75 000 SEK per family. The support is codified in Government Ordinance no. (2008:778) on Reintegration Support.

In addition to the support mentioned above, Sweden is financing and implementing reintegration projects, with the view to facilitate the re-establishment of returnees. The projects provide voluntary as well as non-voluntary returnees with, inter alia, initial support after return as well as several reintegration offers; such as startup of small businesses, vocational or educational training, on-the-job training placement and employment through job referrals.



د افغانستان اسلامي جمهوریت
د بهرنیو چارو وزارت

Islamic Republic of Afghanistan
MINISTRY of FOREIGN AFFAIRS
ریاست امور قونسلې
General Directorate of Consular Affairs

جمهوری اسلامی افغانستان
وزارت امور خارجه

Number:4-2/390/95

Date:02/10/2016

شماره:
تاریخ:
موضوع:
ضمائم:

Note verbal

The Ministry of Foreign Affairs of Afghanistan present its compliments to the Embassy of Sweden in Kabul and has the honor to inform.

The bilateral arrangements between Sweden and Afghanistan with regards to visa requirement for escorts will continue to apply. The Afghan Mission will offer expedited visas services, within 5 working days, valid for up to one year, at the regular fees aligned closely to current reciprocal arrangements.

Escort visas can be issued in advance of any specific escort mission if desired. There will be no visa charge for escorts holding official passports.

The Joint Working Group will look into any relevant operational aspect of cooperation, including on practical issues regarding escorts and any possible visa aspects, which will be reviewed by the Joint Working Group after six months if deemed necessary.

The Ministry of Foreign Affairs of Afghanistan avails itself of this opportunity to renew to the Embassy of Sweden in Kabul the assurances of it is highest consideration.



To the Embassy of Sweden in Kabul.