



20 December 2015

Dear Sir or Madam,

In relation to the meeting of 24 November 2015:

Your parliament (*Deutscher Bundestag*) discussed the issue of the Afghan asylum seekers with a view to finding an appropriate solution to the problem in the face of the current situation in Afghanistan, and considering possible changes in the German immigration law. The agenda of the meeting was proposed by political experts, parliamentarians, interior ministers of German republics, the German embassy in Afghanistan, and the German greens party.

You are aware that every day, tens and hundreds Afghans are being killed or wounded as a result of war. You can, likewise, better understand the depth of this tragedy and the sufferings of Afghans resulted therefrom, as hundreds of your sons were also killed or injured in Afghanistan.

In order to save their lives and escape the calamitous aftermaths of this situation, the Afghan asylum seekers sold out all their assets to arrive in Europe, including Germany.

With a view to contributing to the noble cause of seeking a viable solution to the issue, we respectfully forward herewith the opinion of the Afghan Lawyers' Association in Europe on the matter.

Forced Deportation of Afghan Asylum Seekers – A Violation of Legal and Humanitarian Values

October 2015

Asylum seeking is a universally accepted human right. Currently, 230 millions of world population reside outside their countries of birth. This principle occupies a particular position in the modern international law, being recognized as an undeniable right of the man. The Universal Declaration of Human Rights has approved this principle in its articles 13 and 14, and the instruments emanated from the Declaration have stipulated the scope of its realization, the most significant of which are the UN Convention of 1951 relating to the Status of Refugees, and its 1967 Protocol. Most countries of the world are party to these instruments,

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and committed to the undeviating implementation of the requirements thereof. The Convention describes the statuses of asylum seekers, refugees and displaced person.

Afghans, whose tragedies are caused by the interferences of the foreign forces, have constituted the highest number of refugees in the world during the successive years of the past four decade – five millions of them live outside their homeland.

Unfortunately, during the recent years, and particularly during the current year and the year before, the country suffered mass migration of its nationals, especially the most dynamic segment of the society – the youth. The number of migrants to Europe will exceed 1.5 million at the end of the year, of which the Afghans constitute 10 percent. The pitiful situation of Afghan refugees in Iran, Pakistan... and Europe and Australia depict calamitous picture of their lives, constituting part of the bleeding tragedy of Afghanistan (during the past 15 years, around thirty thousand of migrants have drowned in the waters, of which about 2500 persons, including our fellow-countrymen – the Afghan, have lost their lives in the waters during the past six months alone).

The ill-fated Afghan, whose country is undergoing the longest war of the world history, contends with immense calamities in his homeland, or after passing through arduous deserts, mountains and seas, finds himself facing new disasters and ordeals, and still more psychological tortures and humiliations wait here for those who have themselves reached to Europe.

Having earned the title of the “hell of refugees”, Greece has truly turned into a horrible exile-point of the world, where about forty thousand Afghans are residing in a complete uncertainty and suffering various types of insulations, tortures and humiliations (so far, several of our compatriots have committed suicide, and have set themselves on fire in public places). The Afghan refugees have also pathetic situation in other European countries. Long lasting uncertainty and poor living conditions in the asylum centers have caused various mental problems to our fellow-countrymen. The most horrible psychological torture is the risk of their deportation which always hangs above their heads like the Sword of Damocles.

The forced deportations of our fellow-countrymen are carried on by the states that are committed to the Universal Declaration of Human Rights and Geneva Convention. In contradiction to article 5 of the said Declaration, the police of these countries lock the Afghans in special detention centers and then return them using threats and even handcuffs. They even expatriate children, separate family members and aged parents from their offspring. They are even denied the right of access to lawyers which is against the established laws of Europe. (This gruesome game is likewise considered as a gross violation of Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment).

According to the IOM figures, many thousands of Afghans have so far been forcefully deported. In recent days, this exercise has specially been resorted to, against all legal norms, during night by countries like Germany, Sweden ... and some others. A shameful aspect of

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this game is that the Afghan ministry of refugees and its former minister also played a role in it by reaching agreements thereabout with the authorities of some countries (9 countries including some European countries) in the absence of the entities defending the rights of Afghan refugees to provide a justification for the forced expatriation of Afghan by the police of these countries, only to arrange a number of European trips, and make *Halal* the travel allowances for themselves.

Taking into consideration the actual volatile situation in Afghanistan (as admitted even by the incumbent minister of refugees who called for putting an end to the forced deportation of Afghan in accordance with the resolution of 27 October of this year of the Upper House), and with a view to finding a practical, just and legal solution for the current difficult situation of the Afghans, the Afghan Lawyers' Association in Europe proposes the following points in accordance with the accepted principles of the International Law, and the establish European and Afghan legislation:

The four under mention points can be considered in the present situation:

Firstly:

- The countries that host the Afghans, including the asylum granting European countries,
- The United Nations Organization, and particularly the UNHCR,
- The government of Afghanistan,
- The Afghan asylum seekers, and the organizations defending their rights (including the Afghan Lawyers' Association in Europe), have obligation as per the constitution of Afghanistan to protect the rights of the nationals of the country inside and outside the country.

Based on this, we call on the President of Afghanistan that, with a view to preserving at least his own prestige, and protecting the honor, and alleviating the pain of the poor and helpless Afghan, to:

- Speedily issue strict orders to the ministry of refugees to suspend and nullify the above referred shameful agreements in order to deny the European police the excuse for forced expatriation of the Afghans,
- Give strict orders to the ministries of foreign affairs (and its European embassies) and refugees to staunchly defend the Afghans,
- Ensure that an embassy or a consular post is established in Greece for taking urgent actions.

Secondly:

- Necessary efforts are made aiming at drawing the attention of the United Nations and its refugee agency towards ever more protection of the Afghans. It is to be kept in mind that: each asylum seeker is entitled to the status of "refugee mandate" and shall enjoy international (UNHCR) protection.

Thirdly:

The asylum granting countries:

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The responsibility of these countries against Afghans is emanated from the three internationally accepted principles:

- Legal principle: Universal Declaration of Human Rights and the instruments resulted therefrom, Geneva Convention and its Protocol, and Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Likewise, the legislations of these countries provide for certain cases according to which justification for the forced expatriation of Afghans can be nullified.
- Humanitarian principles: in accordance with article 5 of the Universal Declaration of Human Rights, the forced deportation of Afghans runs contrary to all humanitarian reservations, and its violation can be regarded as an inhumane act. A piece of Saadi's poetry in Dari which decorates the entrance of the UN, says: "the sons of Adam are limbs of each other ... till the end" shall serve as the basis for actions of all true human lovers.
- Principle of moral obligation: it is brighter than the sun that international community, including the European countries in question have responsibility towards the on-going tragedy of Afghanistan and its continuation which is the main reason for the Afghan youth (mostly well educated) to leave their country. They need to comply with this internationally accepted principles. We all know that this huge mass of the unfortunate and ill-fated Afghans does not belong to any specific ethnicity, religion, region, or party or ideology. They shall, therefore, receive our protection and care as human beings and Afghans, as per our humanitarian obligation and the call of our consciences.

In view of the above:

- The Afghan Lawyers' Association in Europe sincerely call upon all Afghans in Europe, social entities, unions, lawyers, activists of media and social networks to launch a massive campaign aiming at defending justice and the rights of our fellow-countrymen, and putting an end to the forced deportation of Afghans, thus, showing to the world and the parties involved in the issue that the Afghans are capable of exerting joint efforts and work to protect and attain the legitimate rights of their oppressed compatriots.

We are confident that you are making every effort to materialize the provisions of the Universal Declaration of Human Rights and to enable human beings enjoy their rights and freedoms.

With regards,

Executive Board,
Afghan Lawyers' Association in Europe.

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