

HRD+ Statement

The Collective Deportation of Afghan Refugees from Germany to Afghanistan

Recently, some criminals have carried out terrorist attacks against the police and German citizens, leaving harmful impacts on the political and social atmosphere of the country. Some of these lawless and criminal individuals, who have attacked, injured, or killed innocent people, are Afghan citizens who, due to difficult conditions, left their country and sought asylum in Germany. However, these individuals, without adhering to German law, culture, and social ethics, have committed such crimes, which are undoubtedly subject to legal prosecution.

Unfortunately, as a result of these shocking incidents, xenophobia and anti-immigrant sentiment have spread in Germany, influencing the country's policymakers. Recently, the German government has begun deporting groups of Afghan refugees, forcibly returning those with criminal and legal records to Afghanistan.

This approach has also led some other European countries, such as Austria, to emulate Germany, resulting in the expansion of the policy of deporting Afghan refugees and migrants across Europe.

The HRD+ has closely monitored the situation and declares:

- **Individual Responsibility for Crimes:** Since crime is considered an individual and personal act, the individual crimes of people should not be generalized to other asylum and migration cases. From a criminological perspective, a crime represents the actions of a legal or natural person and requires legal consequences and accountability. No one else, except the criminal individuals, is obligated to pay penalties or face punishment. Therefore, based on the principles of the rule of law, transparency, justice, and accountability must be applied according to individual responsibility before the law, and the outcome of a crime or its punishment should not be extended to innocent individuals.
- **Review of Criminal Cases:** The examination of criminals' cases by specialized groups should occur within the scope of access to justice, and the identities of the criminals should be considered confidential. This will allow the nature of the crime, the level of danger, and the consequences associated with the criminal to be recorded and reviewed in a case, preventing the creation of biased perceptions.
- **Consideration of Psychological Aspects:** Criminal cases from war-torn countries like Afghanistan should be reviewed with attention to psychological characteristics, particularly factors related to psychological trauma. This process helps in understanding the causes of crime, the criminal's personal background, and their current and past geographical context, which should then inform the decision-making regarding punishment.
- **Afghanistan as an Unsafe Country:** Afghanistan is not considered a safe country by the United Nations High Commissioner for Refugees (UNHCR) and European countries. Reports from the UN and many human rights organizations indicate serious violations of fundamental human rights in Afghanistan, including torture and inhumane punishment, arbitrary detention, and even killing of individuals who have been voluntarily returned or deported from other countries. Furthermore, the lack of international legitimacy, independent and specialized judicial structures, access to justice, and independent oversight bodies in Afghanistan mean that even deporting individuals under the label of "criminals" and handing them over to the



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Taliban constitutes a violation of these individuals' fundamental human rights. The HRD+ believes that Germany, by deporting Afghan refugees and handing them over to the de facto administration, has violated its international and regional commitments. The Federal Government of Germany, as a key member of the 1951 Refugee Convention and its 1967 Protocol, is obligated to implement this convention, especially Article 33. According to Article 33 of this convention, **if the life, freedom, or security of a refugee is at risk in a country due to reasons such as race, religion, nationality, membership in a particular social group, or political opinions, they should not be expelled or returned to that country.** Since there is a risk of arrest, torture, inhumane treatment, or even killing of individuals returned to Afghanistan, this action not only violates Article 33 of the Refugee Convention but can also be seen as a clear violation of Articles 6 and 7 of the International Covenant on Civil and Political Rights, which guarantee the right to life and prohibit torture and inhumane treatment. Furthermore, the European Court of Human Rights has ruled that deporting refugees to unsafe countries and not respecting the principle of non-refoulement violates Article 3 of the European Convention on Human Rights (ECHR), which prohibits torture and inhumane or degrading treatment. It should be noted that according to the decisions of the UN Human Rights Committee, the rights enshrined in Articles 6 and 7 of the International Covenant on Civil and Political Rights, as well as the decisions of the European Court of Human Rights, Article 3 of the ECHR is considered non-derogable and cannot be suspended, limited, or violated by member states, including Germany, under any circumstances, even in times of emergency or security threats.

- **Discrimination Against Afghan and Syrian Refugees:** Identifying Afghan and Syrian refugees among the numerous refugees from other countries in Germany is considered discriminatory and contributes to the formation of negative stereotypes against them. This leads to a negative change in the perceptions of German citizens and other Europeans toward Afghan and Syrian refugees, making them more identifiable and vulnerable. This action by the German Federal Government is a clear violation of international human rights and the Common European Asylum System. The Common European Asylum System, particularly the Return Directive 2008 for third-country nationals, prohibits members from discriminating based on race, language, ethnicity, or specific beliefs.
- **Political Exploitation of Refugee Issues:** We demand that the German government and its democratic parties refrain from politically exploiting the tragic situation of refugees and prevent the use of asylum issues as a tool for gaining power. In this regard, we call for control over the content of social media platforms used by extremist groups that spread hatred against migrants. Individual crimes should not be the source of public opinion formation against a social group.
- **Promoting Democratic Inclusion:** We ask the German government to support Afghan refugee civil and media organizations, facilitating their civic and democratic participation and enabling them to have representation in the media and public opinion formation. This will help create a neutral and humanistic image of refugees.

Therefore, **the HRD+ urges the German Federal Government, one of the most reputable states in supporting human rights and one of the most credible refugee-supporting states in the world, to treat Afghan citizens who commit crimes like other refugees under domestic laws and international commitments and bring them to justice.** The HRD+ opposes the identification of

Afghan, Syrian, or any other country's refugees and asks the German government to prevent the collective deportation of refugees and migrants under the label of "criminal migrants" to Afghanistan.

Additionally, **HRD+ requests that the German government refrain from any political interactions or establishing migration protocols with the de facto administration in Afghanistan, as this is contrary to accepted international norms and severely endangers the lives of deported individuals.**

Note: *HRD+ (Human Rights Defenders Plus), which includes **Yaar e.V.** as one of its members and founders, is based in Berlin, Germany.*

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