



Council of the
European Union

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NOTE

From:	Commission
To:	Delegations
Subject:	Commission's request for endorsement of the Joint Declaration on Migration Cooperation between Afghanistan and the EU

Background

With regard to the background, we refer to the 'I/A' Item Note from the General Secretariat of the Council to the Permanent Representatives Committee/Council on the extension of the Joint Way Forward on Migration Issues between Afghanistan and the EU (Doc. 9233/20, 3 July 2020).

Process

Following the Council's endorsement - confirmed by the Permanent Representatives' Committee on 8 July 2020 - of the Commission's proposal to hold consultations with Afghanistan on the prolongation of the Joint Way Forward, negotiations started immediately via exchange of texts and comments by email. A formal round of consultations took place by videoconference on 5 October 2020 followed by further exchanges of comments. Negotiations were completed and the text of the Joint Declaration on Migration Cooperation (JDMC), the successor document to the Joint Way Forward, was endorsed by the Parties at the meeting of the Joint Working Group under the Joint Way Forward via videoconference on 11 November 2020. On the EU side, the negotiations were conducted jointly by the Commission and the European External Action Service ('EEAS'),

Further editorial amendments to the text were brought in the course of the Commission's inter-service consultation and shared with Afghanistan. On 9 December, Afghanistan requested further modifications to the text regarding joint flights and reintegration. After providing further clarifications to the Afghan side, the Commission agreed to bring minor modifications to the text, notably introducing the specification that joint returns flights would be carried out under the Declaration and that the EU would support a coherent framework for reintegration. Minor drafting changes were also introduced in the provision regarding the return of unaccompanied minors in line with the EU legislation. The Commission adopted the decision on the signature on behalf of the European Union of the Joint Declaration on Migration Cooperation between Afghanistan and the EU on 12 January 2020.

To allow for the negotiation and finalisation of a renewed cooperation instrument, two technical extensions of the Joint Way Forward were agreed with Afghanistan through exchanges of Notes Verbales to allow its implementation to be continued first until 31 December 2020, then until 28 February 2021.

The Council Working Party on Expulsion and the JHA Counsellors have been kept regularly informed, as of 11 June 2020, about the discussions in view of the prolongation of the Joint Way Forward and the actual negotiations of the Joint Declaration on Migration Cooperation and about the envisaged date for its signature.

Content

The JDMC builds on the JWF and adapts the wording to the migratory situation in 2020. While preserving the main features of the JWF (the acceptance of non-voluntary returns, returns by non-scheduled flights coordinated by Frontex, strict deadlines for issuing travel documents for return and the use of the EU travel document for return purposes), the JDMC also brings significant improvements based on lessons learned from the implementation of the JWF and requests expressed by Member States, including:

- a tighter definition of vulnerable groups, notably the family unit and seriously sick people (Part I, point 5);
- clarification that all EU Member States may participate in joint return operations by non-scheduled flights under the JDMC, even if they have concluded a bilateral agreement or arrangement with Afghanistan, while specifying that joint return flights should be carried out under the JDMC (Part II, point 3; Part X);

- EU escort staff and other accompanying staff do not need to carry a valid Afghan visa unless they must enter the territory of Afghanistan (Part II, point 5);
- all Afghan returnees to be readmitted upon arrival (Part II, point 4);
- indefinite duration of the Declaration (Part VIII).

At the request of the Afghan side, and in line with the ongoing practice, the JDMC sets a maximum number of 50 returnees per non-scheduled flight and a ceiling of 500 returnees per month. Both figures can be increased after prior consultations (Part II, point 4).

It is worth noting that all requests made by the Member States in the run-up to the negotiations and expressed in Point 13 of the above-mentioned Note of the General Secretariat of the Council of 3 July 2020 are included in the new Declaration.

Conclusion

In light of the above, the Commission requests the Member States to invite the Council to endorse the Joint Declaration on Migration Cooperation, prior to its signing by the High Representative of the Union for Foreign Affairs and Security Policy, the Commissioner for Home Affairs or the person designated by them on behalf of the EU.
