

# **M. et al. v. Germany**

**Human Rights Committee**

## **Counsel**

Sarah Lincoln

## **Authors/Complainants**

M. M.


Nationality: Afghanistan

Date of Birth: 1974

Name should be anonymized

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Nationality: Afghanistan

Date of Birth: 

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## **Interim Measures Request**

Due to the German Governments withdrawal of the individual admissions of the authors to Germany, the lack of Pakistani visas, the expiry of the temporary halt of deportations between Pakistan and Germany on 31 December 2025 and the impending evictions from the accommodation in Peshawar provided by Germanys service provider GIZ, the authors are now in an immediate and life-threatening situation.

They face arrest and forcible return to Afghanistan within the next weeks.

In Afghanistan, they are at high risk of persecution, torture, ill-treatment and death by the Taliban, not only as involuntary returnees but, in particular, on account of the first authors previous position as a higher judge and the threats received from formerly sentenced Taliban members who are now in high-ranking positions. The authors therefore face an imminent risk of irreparable harm to their rights in Art. 6 and 7 of the Covenant which is not susceptible to reparation, restoration or adequate compensation. The German Federal Government did not assess these necessary and foreseeable consequences of arrest, ill-treatment, torture and extrajudicial killing in Afghanistan when withdrawing the authors declaration on admission and rejecting their visa applications.

Accordingly, the authors request that the Committee indicate interim measures to the German Government. More specifically the authors suggest that the Committee request Germany to:

- review the withdrawal of the declaration on admission without delay, including an individual and rigorous assessment of the real and imminent risk of a violation of Article 6 and Article 7 of the Covenant in the event of the authors' removal or deportation, directly or indirectly, to Afghanistan.
- re-examine the authors' visa application without delay, including an individual and rigorous assessment of the real and imminent risk of a violation of Article 6 and Article 7 of

the Covenant in the event of the authors' removal or deportation, directly or indirectly, to Afghanistan.

- take all effective and practical measures to prevent the authors' removal or deportation by the Pakistani authorities, including, but not limited to, ensuring safe accommodation and taking the necessary diplomatic and administrative steps – such as the extension or renewal of relevant bilateral arrangements with the Government of Pakistan – to guarantee that the authors are not deported to Afghanistan for the duration of the complaint procedure before the Committee or at least until the authors have exhausted domestic remedies against the rejection of their visa application.

## **Lis Pendens or Res Judicata**

The author confirms that the same matter has not been submitted to another procedure of international investigation or settlement.

## Facts

The authors are an Afghan family who were included in a German resettlement program in September 2022 and have been accommodated by Germany since, first in Iran and then in Pakistan during their visa proceedings. In December 2025 Germany arbitrarily revoked the declaration on admission of the authors (and around 600 other Afghans in the same resettlement program) and they now face immediate deportation to Pakistan, where they are at real, imminent and personal risk of torture and death. The authors allege a violation of Articles 6 and 7 and request interim measures.

The first author is a former high-ranking Afghan judge, the second author is his wife, and the authors nos. 3 to 10 are their eight children, aged [REDACTED]. Until the Taliban seized power in August 2021, the authors resided in a house in [REDACTED]

The first author was admitted in 2005 to the official judicial preparatory service ('Judicial Apprenticeship Program') of the Afghan Supreme Court. This judicial training program was supported substantively by several international institutions, including the Max Planck Institute for Comparative Public Law and International Law. He successfully completed the program in 2006 and was subsequently appointed as a judge, after which he participated in further training events supported by international institutions in the following years (Certificate, **Annex 1** ; Affidavit, **Annex 2** ).

The first author was head of the [REDACTED] for three years and then head of the [REDACTED] for eight months. In 2010, he was appointed president of the criminal division of the [REDACTED]. From 2012 he was chairman for the chamber handling terrorist and high security offences, and from 2015 he was chair of the chamber combating corruption offences at the [REDACTED] of Appeal. From 2018 he was president of the [REDACTED] Court of Appeal and from 2020 President of the [REDACTED] where he remained until [REDACTED] August 2021 (Affidavit, **Annex 3** ).

In his capacity as a judge, the first author sentenced a large number of Taliban members to long prison terms. In total, he ruled on more than 300 cases involving Taliban members and other terrorists. Furthermore, the first author dealt with hundreds of cases of rape, divorce, and domestic violence, sensitive issues in traditional Afghan society (Affidavit, **Annex 3** ).

Following the Taliban takeover, the first author was dismissed and lost his income, while Taliban members and other criminals previously convicted by the first author were released, as their convictions were declared un-Islamic and null and void

(Affidavit, **Annex 3**). Some of them now serve in high-ranking positions within the political and military structures of the Taliban:

[REDACTED]

Many of them threatened during the proceedings to commit violence against the authors and his family if they were released. After the government was overthrown in August 2021, many of these individuals were indeed released, while at the same time acts of violence against judges and government officials were documented (Emails Foreign Office, **Annex 4**, p. 1; Affidavit, **Annex 3**).

As a result, the applicants initially fled to Kabul. As house searches by the Taliban began in Kabul, the authors felt compelled to leave the city to avoid being identified during the searches and moved to [REDACTED]. In order not to endanger his family, the first author decided in December 2021 to hide at a friend's house. The Taliban conducted a house search of the other family members in [REDACTED] 2022. As they were unable to locate the first author, they instructed the family that he must report to the police station immediately upon his return. The first author did not report to the police due to the high risk of arrest and serious harm, prompting the authors to flee again within [REDACTED]. On [REDACTED] 2022, the first author fled to Iran and had to leave his family behind (Affidavit, **Annex 3**).

In despair, the first author contacted the Max Planck Foundation for International Peace and the Rule of Law, as he had been trained as a judge in its training program. On 30 August 2022, the German Federal Foreign Office contacted the author via email and asked him to send proof of the identity of his family members in order to verify his personal details for the visa application and possible admission (Emails GIZ, **Annex 5**, p. 2 et seq.).

Following an individual assessment of the risk arising from the author's work as a judge, the authors were granted a declaration on admission under the admission program 'Menschenrechtsliste' on [REDACTED] 2022 (Declaration on Admission, **Annex 6**). The 'Menschenrechtsliste' aimed at the protection of individuals who had exposed themselves through their commitment to freedom of expression, democracy and human rights (Background German resettlement programs, **Annex 7**). The declaration on admission, transmitted via email from the 'Gesellschaft für Internationale Zusammenarbeit' (GIZ), in its wording, stated:

*'We would like to inform you that we have received feedback from the German Federal Ministry of the Interior (BMI) regarding its declarations on admission (Aufnahmeerklärungen) under the German Residence Act (Aufenthaltsgesetz). These declarations provide the basis for subsequent applications for German visa.*

*In your case, the BMI has made the declaration for the following persons, who are thus now eligible to apply for a German visa:*

*[List of names and dates of birth of the authors, File numbers]*

The GIZ explained further that two transit options to Germany were available, via Pakistan or via Iran, and set out the conditions for support in each case. For travel via Pakistan, GIZ stated that applicants were required to obtain a Pakistani visa, after which it would assist with flight bookings from Kabul to Islamabad, provide administrative and organizational support upon arrival in Pakistan, arrange accommodation and visa appointments at the German embassy in Islamabad, and support onward travel to Germany once the German visa had been issued. For travel via Iran, GIZ the support would be limited to assistance with the stay in Tehran, accommodation shortly before the visa appointment, and onward travel to Germany after the issuance of the German visa.

The actions of the GIZ, wholly owned by the Federal Republic of Germany and represented by the German Federal Ministry for Economic Cooperation and Development (BMZ), are attributable to the Federal Republic of Germany. The German Federal Government commissioned the GIZ with the organization and implementation of the reception programmes on site, especially regarding support for the visa proceedings and the accommodation of the protection-seekers (GIZ, 'About us', <https://www.giz.de/en/regions/asia/afghanistan> ).

In order to comply with GIZ's instructions , the authors 2 to 10 prepared to depart and end their lives in Afghanistan permanently. By selling their assets and taking out loans from relatives, the authors financed the passports and visas required to enter Iran (Affidavit, **Annex 3** ). They entered Tehran on [REDACTED] 2022.

On [REDACTED] January 2023, the authors were finally able to apply for the German visas. However, due to procedural changes in the German procedure, the authors visa applications could not be processed in Tehran and visa issuance under the resettlement program was to take place exclusively from the Germany Embassy in Islamabad. Consequently, the authors applied for the necessary tourist visas for Pakistan, which allowed a stay of up to six months but required them to leave the country every 60 days and then re-enter. The authors were resettled to Pakistan on [REDACTED] November 2023 (Emails GIZ, **Annex 5** , p. 4).

During the now over three-year visa procedure, the authors were housed by GIZ in Tehran, Islamabad, and Peshawar, with meals and basic medical and psychological care provided;



the minor authors (nos. 6–10) did not attend school throughout this period (Affidavit, **Annex 3**).

The authors reapplied for German visas at the Embassy in Islamabad on [REDACTED] November 2023. Their passports were retained there. Security interviews took place on [REDACTED] February 2024; the first author was initially misclassified as an Islamist ally, but the security note was later removed. Despite repeated inquiries to GIZ regarding delays and psychological strain (Emails GIZ, Annex 5, pp. 6, 74, 76, 78, 127), they were informed that the procedure was ongoing (Emails GIZ, **Annex 5**, pp. 8, 14, 62, 77, 117). The visas were issued on [REDACTED] March 2025 (Clearance Form, **Annex 8**).

The authors received information on the visa issuance on [REDACTED] April 2025 and were told that their passports with the German visas arrived at the GIZ' office (Emails GIZ, **Annex 5**, p. 35). However, no further steps were taken. The first author repeatedly asked about the delays (Emails GIZ, **Annex 5**, p. 105), and GIZ repeatedly replied that it had no further information (Emails GIZ, **Annex 5**, p. 18, 20, 28, 31, 59).

The Pakistani visas of the authors no. 4 to 10 expired on [REDACTED] 2024 and the Pakistani visas of the authors 1 to 3 expired in July 2025. The authors' and GIZ's attempts to further extend their visas were unsuccessful (Affidavit, **Annex 3**; Emails GIZ, **Annex 5**, p. 23 et seq.).

Afghan nationals in Pakistan are no longer able to extend expired visas. GIZ informed applicants under the admission programs about this fact (Email Visa Suspension, **Annex 9**). Since 2023, and increasingly since 2025, Pakistan has been deporting hundreds of thousands of Afghans without legal residence permits back to Afghanistan. This also affects applicants under the German admission programs. In August and September 2025, Pakistani authorities conducted raids directly in GIZ accommodations and many of them were deported (Background Deportations, **Annex 10**).

GIZ warned the authors of arrest risks by Pakistani authorities, advised them to remain in accommodation and carry protection letters, but stated it could not prevent deportation if arrested (Emails GIZ, **Annex 5**, pp. 57, 70, 117; Email Security Measures, **Annex 11**; Email Deportation Support, **Annex 12**). The authors repeatedly expressed fear of deportation (**Annex 5**, pp. 80, 83, 115).

Out of fear of deportation, the authors have not left the GIZ accommodation, except during the period when the Pakistani authorities were carrying out deportations from GIZ accommodation (Affidavits, **Annexes 2, 3**). During that time, they hid in public parks, green spaces, or forests during the day to evade the Pakistani police and returned to the accommodation only late at night. In light of the intensified deportation measures in Islamabad, the authors were transferred to Peshawar on [REDACTED] September 2025.

Following diplomatic discussions between Germany and Pakistan in late August 2025, Pakistan indicated a temporary halt of deportations until the end of 2025 to allow time for ongoing German visa procedures (German Federal Foreign Office, Government press conference, 29 August 2025, <https://www.auswaertiges-amt.de/de/newsroom/regierungspressekonferenz-2732814>). Pakistan made clear that this

measure was not permanent, emphasized its sovereign authority over residence decisions, and stated that deportations would resume once the year-end deadline approached. The defence minister recently reiterated that asylum seekers would be deported if Germany did not accept them (Background Deportations, **Annex 10** ).

Against the background of this agreement between Germany and Pakistan, GIZ informed the authors on 3 November 2025 that the Federal Government had decided to terminate all admission programs by the end of 2025. Since it could not be guaranteed that all procedures could be completed by then, the Federal Ministry of the Interior offered the authors financial and material support in the event they chose to withdraw from the admission procedure (Email Reintegration, **Annex 13** ). The first author rejected this offer and clarified that he and his family face could not return to Afghanistan where they face a real risk of being killed and no amount of money could compensate this (Email Rejection, **Annex 14** ).

In response to the financial offer, all the affected individuals jointly wrote to the Federal Government, emphasizing that they did not need money, but had fled from death and violence, and that returning to Afghanistan was not an option. They also pointed out that this monetary offer, which had been reported by the media in Pakistan and Afghanistan, had made their situation even more dangerous. Staff of the Pakistani intelligence service were questioning them about this offer, and the risk of extortion in Afghanistan had increased ( **Annex 15** ).

On 8 December 2025, the Federal Ministry of the Interior revoked all admission declarations under the ‘Menschenrechtsliste’ and the ‘Überbrückungsprogramm’, on the grounds that there was no longer a political interest in their admission ( **Annex 16** ). An exception is the [REDACTED] family, whose declaration on admission was initially revoked on 8 December 2025, but reissued one week later, on 16 December 2025 (Second Declaration on Admission (Rohani), **Annex 17** ). The family subsequently entered Germany on 22 December 2025. Although their risk profile – the principal applicant is also a former high-ranking judge – was comparable to that of other families (Affidavit [REDACTED], **Annex 18** ), they were the only beneficiaries under the “Überbrückungsprogramm” and the “Menschenrechtsliste” resettlement schemes who were permitted to enter Germany.

On 11 December 2025, the Federal Foreign Office rejected the authors’ visa applications on the ground that, following the withdrawal, the requirements under Section 22 of the German Residence Act were no longer met (Rejections, **Annex 19** ). The rejections did not address the risks the authors would face if deported to Afghanistan, as well as the real risk of persecution there. The Federal Government stated that accommodation and support would only be provided until the border between Pakistan and Afghanistan at Torkham reopens to individual travelers (Federal German Government, Government Press Conference, 10 December 2025, <https://www.bundesregierung.de/breg-de/aktuelles/regierungspressekonferenz-vom-10-dezember-2025-2399020> ). The authors were informed by email that the Federal Ministry of the Interior, through GIZ, provides a flight to Kabul and accommodation there for a period of 30 days (Flight Offer, **Annex 20** ).

Now, the authors neither have Pakistani visas nor any realistic chance of obtaining a visa for a third country with their Afghan passports. Returning to Afghanistan is entirely impossible

due to the severe threats they face there. Due to the revocation of their declaration of admission, the authors now face imminent eviction from the GIZ accommodation, which is provided only as long as the border between Afghanistan and Pakistan remains closed and may change at any time. Once the authors are without accommodation, they face an even greater risk of deportation, as they would have no place to seek shelter. Moreover, there are grounds to believe that Germany provides Pakistan with lists of individuals whose declarations on admission have been revoked, thereby facilitating deportations (Tagesschau, „Verzweiflung bei geflüchteten Afghanen in Pakistan“, 17 December 2025, <https://www.tagesschau.de/ausland/asien/afghanistan-pakistan-bundesinnenministerium-100.html> ) . The authors witness deportations nearly daily (Affidavit, **Annex 2** ). A UNHCR update from 15 January shows that deportations have increased in January 2026 (UNHCR-IOM FLASH UPDATE #77, <https://pakistan.iom.int/sites/g/files/tmzbd1121/files/documents/2026-01/unhcr-iom-flash-update-77.pdf> ).

If deported to Afghanistan, the authors would face a real risk of detention, torture, and death by the Taliban, not only as involuntary returnees but, in particular, on account of the first author's professional activities. Former government officials, including former members of the judiciary, are particularly at risk of persecution and continue to face extrajudicial killings, enforced disappearances, arbitrary arrests, imprisonment, and torture (UNHCR, “Guidance note on Afghanistan – Update II”, September 2025, para. 24 - 26, <https://h7.cl/1mNZo> , last accessed on 12 January 2026. Between January 2023 and February 2024 alone, 20 former prosecutors were killed (UN Human Rights Council, Situation of human rights in Afghanistan, 29 February 2024, para. 85, <https://www.ohchr.org/en/documents/country-reports/ahrc5580-situation-human-rights-afghanistan-report-special-rapporteur> , last accessed on 12 July 2025). UNAMA reported in a 2023 report at least 800 human rights violations against former members of the state apparatus (UNAMA, “A barrier to securing peace: Human rights violations against former government officials and former armed forces members in Afghanistan: 15 June 2021 – 30 June 2023“, August 2023, [https://unama.unmissions.org/sites/default/files/a\\_barrier\\_to\\_securing\\_peace\\_aug\\_2023\\_english\\_0.pdf](https://unama.unmissions.org/sites/default/files/a_barrier_to_securing_peace_aug_2023_english_0.pdf) , last accessed on 12 January 2026).

The first author highly exposed himself through his work as a criminal judge, particularly in the areas of counter-terrorism and anti-corruption, where he sentenced over three hundred Taliban members to long prison sentences. He has received death threats and had to hide from the Taliban, who searched his house, thus forcing him to leave the country.

By revoking the declarations on admission, the Federal Government knowingly exposed the authors to an even greater danger than they faced before leaving for Pakistan. People who return to Afghanistan involuntarily face a specific and increased risk of coming to the attention of the Taliban (Background Afghanistan, **Annex 21** ).

Moreover, the authors have exposed themselves through the resettlement program. There have been continuous media reports in Germany (e.g. Frankfurter Allgemeine Zeitung, “As a judge, he sentenced Taliban – now he is supposed to return to them“, 15 December 2025, available online at <https://www.faz.net/aktuell/politik/ausland/afghanistan-deutschland->

[verweigert-aufnahme-zugesagter-afghanen-accg-110803105.html](https://www.tagesschau.de/ausland/asien/afghanistan-taliban-razzia-ortskraefte-100.html) , last accessed on 12 January 2026) , describing the profiles of the people in the programs and it can be assumed that the Taliban is well aware of the impending return of former higher judges. Their whereabouts will become known to the Taliban at the latest during the deportations and the authors are at risk of being arrested by the Taliban authorities even upon crossing the border. At the border with Afghanistan, returnees are checked and registered by the Taliban border police (Background Afghanistan, **Annex 21** ). Based on the descriptions of people who have gone through this process, it can be assumed that a comparison is also made with a database in which employees of the former government are registered (Affidavit F.A., **Annex 22** ). The so-called safe house which is run [REDACTED] and which accommodates returnees for 30 days after return (Flight offer, **Annex 20** ) was raided on 18 January 2026 by Taliban, employees of the service provider arrested and all passports of the residents confiscated, the police action is ongoing (Tagesschau, Former local staff targeted by Taliban, <https://www.tagesschau.de/ausland/asien/afghanistan-taliban-razzia-ortskraefte-100.html>)

In Afghanistan, the authors would no longer be able to help themselves by continuously hiding. They will be in a significantly worse socio-economic situation than before their departure. The authors have devoted all their resources to the visa procedure (Affidavit, **Annex 3** ).

The immense dangers and precarious living conditions threatening authors and other asylum seekers in Afghanistan are illustrated by the reports of other applicants under the admissions programs who have already been deported to Afghanistan and with whom contact is still maintained.

The severe dangers and precarious conditions faced by the authors and other asylum seekers deported to Afghanistan are illustrated by other cases admitted under the programs:

A young activist, J., and her widowed mother were evicted from GIZ accommodation within a week after their admission was revoked. Unable to rent housing without valid visas, they were deported by Pakistani authorities. Arrested by the Taliban, they were confined in a Taliban member's house; Ms. J. has since faced repeated sexual abuse (Affidavit J., **Annex 23** ).

Former prosecutor M.A.H. was deported and quickly located by Taliban intelligence, who instructed local lawyers to report him. He and his family now hide in multiple rented accommodations under his brother's name (Affidavit M.A.H., **Annex 24** ).

Former Afghan Women's Organization employee B.A. and her family were deported after revocation of their admission. Financially constrained, they returned to her father's house, where they were threatened by the Taliban and later forced to flee to her uncle's house, living in constant fear (Affidavit B.A., **Annex 25** ).

## Domestic Remedies

In [REDACTED] 2025, the authors filed a lawsuit and a preliminary injunction before the Administrative Court of Berlin (VG) seeking the issuance of a visa under section 22 (2) of the Residence Act and noting the dangers to life and the threat of torture and degrading treatment in Afghanistan ( **Annex 26** ).

On [REDACTED] 2025, the VG dismissed the request, holding that the suspension of the declaration on admission is not subject to legal requirements and that the authors have no entitlement to a visa ( **Annex 27** ).

On [REDACTED] 2025, the Berlin-Brandenburg Higher Administrative Court (OVG) dismissed the appeal for the same reasons ( **Annexes 28, 29** ). Subsequent motions alleging a violation of the right to be heard and seeking amendment were rejected ( **Annexes 30, 31** ). The authors then filed a constitutional complaint ( **Annex 32** ).

In a parallel case, the Federal Constitutional Court (BVerfG) ruled on 4 December 2025 that Germany must issue a decision on the visa applications ( **Annex 33** ). On 9 and 10 December 2025, the authors' visa applications were rejected ( **Annex 19** ). On [REDACTED] December 2025, the BVerfG declined to admit the constitutional complaint, noting that domestic remedies could be pursued against the visa rejections ( **Annex 34** ).

Under the Committee's jurisprudence, however, the authors are not required to exhaust domestic remedies a second time. Exceptions to the exhaustion requirement apply when domestic remedies would have no chance of success or if it would take the State an unreasonable amount of time to provide a remedy ( *Earl Pratt and Ivan Morgan v. Jamaica* , Communications Nos. 210/1986 and 225/1987, paras. 12.3, 12.5, *Kroumi v. Algeria*, CCPR/C/112/D/2083/2011, para. 4.5; *Young v. Australia*, CCPR/C/78/D/941/2000, para. 9.4).

Both exceptions are met. Previous proceedings demonstrate that summary proceedings before all domestic courts take several months, such that any final decision would likely be issued only after January 2026, when the risk of deportation is expected to have materialized. Moreover, calling upon the same courts in the same matter a second time would be futile as both the VG and the OVG already decided that the authors are not entitled to a visa. At the OVG, it is always the same chamber responsible for these proceedings and it has consistently ruled since 4 June 2025 that political discretion under section 22, sentence 2, of the Residence Act is non-binding and not subject to judicial review. Despite extensive submissions based on fundamental rights, the Court has adhered to this position. Subsequent decisions of 12 and 17 November 2025 ( **Annexes 35, 36** ) confirm that the OVG sees the revocation of an declaration on admission as an expression of the federal government's autonomous political discretion, which cannot be

challenged on the grounds of trust protection or the obligation to protect life and physical integrity, and that even considerations of equal treatment under Article 3 of the Basic Law do not alter this approach.

# Claims

Claim 1 - Article: 2 (1)

Germany exercises jurisdiction over the authors under Art. 2(1) ICCPR.

## 1. Legal framework

Jurisdiction is not confined to a State's territorial borders. Rather, extraterritorial jurisdiction also applies to individuals within the **power or effective control** of a State party acting outside its territory where the respective right is affected by the State's activities in a **direct and reasonably foreseeable** manner (Human Rights Committee, General Comment No. 31, UN Doc CCPR/C/21/Rev.1/Add.13, [10]; General Comment No. 36, UN Doc CCPR/C/GC/36, [63]).

The Committee has held that a State party may be responsible for extraterritorial violations of the Covenant where it constitutes a **link in the causal chain** making violations in another jurisdiction possible. The risk must be a **necessary and foreseeable consequence** and must be judged on the knowledge the State party had at the time (*Munaf v Romania*, CCPR/C/96/D/1539/2006 [14.2]; *AS et al v Italy*, CCPR/C/130/D/3042/2017 [7.5]).

In *AS et al v Italy*, although the vessel in distress was outside Italy's search and rescue region, the Committee found that in the circumstances of the case, a **special relationship of dependency** had been established between the individuals on the vessel in distress and Italy. Relevant factors included the initial contact made by the vessel in distress with the Maritime Rescue Coordination Center (MRCC), the proximity of the ITS Libra to the vessel in distress, the MRCC's **ongoing involvement** in the rescue operation as well as a legal obligation to respond in a reasonable manner to calls of distress pursuant and cooperate with other states undertaking rescue operations. As a result, the Committee considered that the individuals on the vessel in distress were directly and foreseeably affected by the decisions taken by the Italian authorities and thus fell within Italy's jurisdiction notwithstanding concurrent Maltese jurisdiction (*AS et al v Italy* [7.8]).

## 2. Application in the present case

In the present case, the Federal German Government has established a similar, but significantly stronger and longer relationship of dependency with the authors (aa), resulting in de facto control (bb). The imminent deportation to Afghanistan by Pakistani authorities and the real and personal risk of persecution, violence, and death are necessary and reasonably foreseeable consequences of the withdrawal of admission to Germany and the rejection of the visa applications (cc).

## aa) Relationship of dependency

Through the declaration of admission to Germany, the corresponding legal entitlement and issuance of visas, accommodation, food and health care via the GIZ, and the continuation of visa proceedings during the last three years, Germany has established a **relationship of total dependency on its protection** .

The proceedings were initiated by Germany due to the risk of torture, ill-treatment, and death in Afghanistan. The authors were **officially admitted via a personalized declaration** of the Federal Ministry of the Interior which pursuant to section 22 of the residence act **entitles them to a German visa** . Acting for the Federal Government, the GIZ requested the authors to travel to Iran or Pakistan to apply for visas. Germany **actively maintained the visa process for three years** while **accommodating and providing for the applicants** , first in Iran and later in Pakistan. The German Embassy issued visa for the authors in March 2025, however they expired before they were handed out to the authors. Throughout this period, the authors remained in **continuous contact** with the German Embassy and the GIZ, were reassured about admission, informed about security developments in Pakistan, and offered psychological support. Germany thus **voluntarily assumed a de facto** - and through the declaration pursuant to Section 22 sentence 2 of the Residence Act, also a legal - **duty of protection** , on which the authors relied. Through the personalized declaration on admission and the continued visa proceeding, accommodation and care throughout three years, the German Federal government has created a **legitimate expectation** that this protection will not arbitrarily be withdrawn.

Due to the withdrawal of their admission to Germany, the authors are **now in a more dangerous situation** than when they were hiding in Afghanistan. By entering Germany's admission programme and travelling to Pakistan, they have **exposed themselves** and now face deportation into Taliban hands. Returnees are registered by Taliban border police and may be detained if listed on search lists. After return, the authors would be unable to go into hiding or leave the country again. All resources were devoted to the relocation and German visa process. While alternative programmes such as the United States Refugee Admissions Programme existed in 2022, by 2025 all escape options have closed.

A special relationship of dependency also arises from **Germany's international responsibility** following its military involvement in Afghanistan. By attempting to evacuate individuals who worked for German institutions or furthered the goals of the military mission, Germany acknowledged this responsibility. During the military operation, the first author was trained as a judge to uphold human rights and the rule of law, sentencing numerous Taliban members, thereby placing himself at serious risk. His training was supported by the German Max Planck Institute for Comparative Public Law and



International Law. By withdrawing from its commitment to evacuate the authors, Germany undermines this assumed responsibility and jeopardizes Germany's reliability and credibility in the international community.

#### **bb) Effective control**

Germany has not only created dependency but also exercises **effective control**. The authors are housed in GIZ reception facilities and provided with food and medical care. Since the expiry of their Pakistani visas in January 2024 and July 2025, they have been unable to leave the facilities for fear of deportation, in line with GIZ recommendations. Even if unintended, the situation is **comparable to detention or other forms of State custody**. The only way out of the accommodation leads back to Afghanistan: via a German-organized flight to Afghanistan or imminent deportation by Pakistan. German diplomatic and consular agents also exercise control: the applicants' passports have been retained by the German Embassy throughout the visa proceedings and have not been returned. Afghans have previously been deported from German facilities without identity documents. All logistical aspects of the authors' stay in Pakistan thus depend on German authorities. This is comparable to *MI et al v Australia*, where jurisdiction was found despite detention in Nauru, based on Australia's financing, management, monitoring, and provision of services (CCPR/C/142/D/2749/2016 [9.9]).

#### **cc) Causal link and necessary and foreseeable consequences**

Germany's actions—particularly the withdrawal of admission, rejection of the visa applications, and imminent eviction from GIZ accommodation—constitute **a decisive causal link** in the impending forcible return of the authors to Afghanistan. Deportation by Pakistani authorities and the real, personal, and imminent risk of persecution, violence, and death are **necessary and reasonably foreseeable consequences** of these actions. The only reason the authors haven't been deported so far is the bilateral agreement between Pakistan and Germany to halt deportations until end of December 2025, which has expired. The German Government is also aware of the personal and imminent threats the authors face in Afghanistan. This has been set out in detail in the claims under Article 6 and Article 7.

Excluding jurisdiction in the face of a state **intervention of such duration and scope** – aimed at safeguarding fundamental rights yet now increasing the risk of death, torture, and ill-treatment – would be incompatible with the purpose of fundamental rights obligations.

Claim 2 - Article: 6 (1)

Germany has breached its obligations under Art. 6 (1).

## 1. Legal Framework

States Parties must respect and protect the right to life. The obligation of States Parties to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life (General Comment No. 36: right to life, CCPR/C/GC/36 [7]; Chongwe v. Zambia CCPR/C/70/D/821/1998, [5.2]).

The duty to respect and ensure the right to life requires States Parties to refrain from **deporting**, extraditing or otherwise transferring individuals to countries in which there are substantial grounds for believing that a **real risk exists that their right to life would be violated** (CCPR/C/GC 36 [30, 55]; Kindler v Canada, CCPR/C/48/D/470/1991 [13.2]).

The authors must show that deportation to a third country would pose a **personal, real and imminent threat** of violation of Art. 6 of the Covenant (Dauphin v Canada, CCPR/C/96/D/1792/2008 [7.4]). While general conditions alone are insufficient (GC 36 [30]), protection applies where applicants belong to a group systematically exposed to ill-treatment, provided they establish serious reasons for believing in the existence of such a practice and their membership of the group (ECtHR, NA v United Kingdom, appl. No. 25904/07 [115]; ECtHR, Saadi v Italy, appl No. 37201/06 [132]).

In cases involving allegations of risk to the life of the removed individual emanating from the authorities of the receiving State, the **situation of the removed individual and the conditions in the receiving States need to be assessed**, inter alia, based on the **intent** of the authorities of the receiving State, the **pattern of conduct** they have shown in similar cases, and the **availability of credible and effective assurances about their intentions** (CCPR/C/GC 36 [30]).

In light of Art. 2(1) of the Covenant, a State party has an obligation to respect and ensure the rights under Art. 6 of the Covenant of all persons who are within its territory and all persons subject to its jurisdiction, that is, all persons over whose enjoyment of the right to life it exercises power or effective control. This **includes persons** located **outside any territory** effectively controlled by the State whose **right to life is nonetheless affected** by its military **or other activities in a direct and reasonably foreseeable manner**. States also have obligations under international law not to aid or assist activities undertaken by other States and non-State actors that violate the right to life (CCPR/C/GC 36 [63]). States must also protect individuals against deprivation of life by other States operating within their jurisdiction (GC 36 [22]) and take special protective measures for vulnerable persons, including asylum seekers and refugees (GC 36 [23]).

## 2. Application in present case

a) **personal, real and immediate risk of ill-treatment and execution** in Afghanistan.

The first author has been **individually targeted** by the Taliban due to his work as a judge sentencing numerous Taliban members. As a judge he handled terrorist and high security offences. In total he ruled on more than 300 cases involving Taliban members and dealt with hundreds of cases of rape, divorce, and domestic violence, sensitive issues in traditional Afghan society. Many of the Taliban members sentenced by the first author **threatened him with violence and death**. After the Taliban's return to power, convictions were declared void and former convicts—many now in high ranking political and military positions—were released. Taliban members **searched his home** in January 2022 and ordered him to report to authorities, forcing him to flee ( **Annex 2** ).

If returned, the author **faces a high likelihood of arrest, torture, disappearance or extrajudicial killing**. Reports show that former government officials, particularly judges, face severe persecution, including killings, enforced disappearances, arbitrary detention and torture and are forced into hiding due to death threats (UNHCR 2025, para. 24-27; Human Rights Watch 2025; UNAMA, no safe haven, 2025). UNAMA documented at least 800 violations against former state officials between 2021–2023 (UNAMA 2023, p. 5). 20 former prosecutors were killed in 2024 alone (UN Human Rights Council, Situation of human rights in Afghanistan, 29 February 2024, para. 85). Amnesty declarations have not prevented such abuses. Family members of at-risk individuals are also frequently targeted (UNHCR 2025, para. 17), including retaliatory killings of judges' relatives ( **Annex 18** ).

If returned to Afghanistan, the authors are at greatly increased risk of coming to the attention of the Taliban. The Taliban regime control all territory and border crossings. Returnees are registered and checked against databases of former officials ( **Annex 18** ). The safe house provided by the GIZ for the first 30 days after return ( **Annex 20** ) was raided by Taliban on 18 January 2026.

b) **Direct and foreseeable impact of Germany's activities**

The risk to the authors' lives follows directly from Germany's withdrawal of the declarations on admission and rejection of the visa applications, leading to imminent deportation to Afghanistan in January 2026. This risk is concrete and immediate. Germany knows Pakistani authorities will not prevent refoulement. A bilateral halt to deportations expired on 31 December 2025. Germany withdrew the admissions for the authors and around 600 others in December 2025, thereby further facilitating their removal. By offering paid transfers to Afghanistan, Germany is actively supporting return and exposing the authors to an Art. 6 violation. Germany is also facilitating deportations to Afghanistan by notifying Pakistan about individuals whose admission declarations had been revoked.

The German Government is also **aware of the risks** to the authors' lives in Afghanistan. The government included the authors in the resettlement program for human rights defenders due to their high individual risk in Afghanistan. The authors' imminent risks to ill-treatment and to their life in Afghanistan was also emphasized in domestic court proceedings and were **never disputed by the German government**. Despite this knowledge, the German Government revoked the declaration on admission and thereby exposed the authors to removal to Afghanistan. Moreover, **Germany did not adequately assess** the situation of the authors and the conditions in Afghanistan. There is **a clear pattern in the conduct** of the Taliban, especially regarding former members of the judiciary, particularly in cases where they had tried to seek asylum elsewhere.

Taking all this into consideration, there is a **real and personal risk** to the authors' lives, amounting to a violation of Art. 6(1) of the Covenant.

### c) **duty to protect**

Germany has a duty to protect the authors' lives. As refugees seeking protection through Germany the authors are **vulnerable persons**. While Germany is not responsible to protect all vulnerable people worldwide seeking protection, in this case their responsibility arises from the personalized commitment in form of the declaration on admission and the ongoing protection offered throughout the last three years. Germany cannot arbitrarily withdraw from this commitment without assessing the risks to Art. 6 and 7 of the Covenant. This applies regardless of the position taken by the Federal Government and the Higher Administrative Court of Berlin-Brandenburg that the declaration of admission pursuant to section 22 sentence 2 of the Residence Act can be withdrawn at any time if the political interest ceases to exist. The revocation of a declaration on admission must comply with minimum rule-of-law standards and the political interest must be assessed against fundamental and human rights, including the risk of a violation of Art. 6 and 7 of the Covenant and the protection of legitimate expectations and the prohibition of arbitrariness.

### Claim 3 - Article: 7

The German Federal Government has violated the authors' rights under Article 7 of the Covenant.

### 1. **Legal Framework**

Article 7 of the Covenant provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. States Parties have an obligation not to extradite, deport, expel or otherwise remove a person from their territory when there are

substantial grounds for believing that there is a real risk of irreparable harm such as that contemplated by Art. 6 and 7 of the Covenant (General comment No. 31(80): (80), The nature of the general legal obligation imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 [ 12]).

The risk of irreparable harm must be imminent **either in the country to which removal is to be affected or in any country to which the person may subsequently be removed.**

The relevant judicial and administrative authorities should be made aware of the need to ensure compliance with the Covenant obligations in such matters (ibid.; A.B., P.D. and their two children v Poland, CCPR/C/135/D/3017/2017 [9.5]). The state obligation does not relate solely to the act of expulsion but extends to any state action – including an administrative decision of a State – “which has as a direct consequence the exposure of an individual to the risk of proscribed ill-treatment” (see ECtHR, Hirsi Jamaa and others vs. Italy [GC], no. [27765/09](#) , 23 February 2012, § 114; Saadi v. Italy [GC], no. [37201/06](#) , 28 February 2008, §§ 126, 149; N.A. v. Finland, no. [25244/18](#) , 14 November 2019, § 85).

The Committee has also indicated that the risk must be personal and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists. All relevant facts and circumstances must be considered, including the general human rights situation in the author’s country of origin ( *X v. Denmark*, CCPR/C/110/D/2007/2010 [ 9.2] ).

## **2. Application to the Present Case**

### **a) Indirect refoulement resulting from German administrative decisions**

The withdrawal of the declaration on admission, the rejection of the authors’ visa applications, the offer to organize and finance their return to Afghanistan, and the imminent removal from GIZ accommodation amount to **indirect refoulement to Afghanistan** because they **foreseeably result in deportation** to Afghanistan by Pakistan

For more than three years, the authors have been under the **care and protection** of the German Federal Government. They were **personally admitted to Germany** pursuant to section 22 of the Residence Act and **accommodated and supported** by Germany’s implementing partner GIZ while awaiting the issuance of visas they were promised. The authors were **specifically selected by Germany as highly endangered individuals** due to their past activities in support of the objectives of the international military operation in Afghanistan. Through this sustained and deliberate course of conduct, Germany assumed responsibility for protecting the authors from ill-treatment by the Taliban.

By arbitrarily withdrawing the declaration on admission and rejecting the visa applications, Germany has **directly and foreseeably exposed** the authors to deportation by Pakistani

authorities to Afghanistan, where they **face a real risk of torture, degrading treatment and death** . These decisions are **comparable to chain-refoulement cases** , as the authors' removal to Afghanistan will be carried out by Pakistan as a **direct consequence of Germany's actions** . Until the withdrawal of the declaration on admission, the only obstacle preventing deportation was Germany's explicit commitment and a bilateral understanding with Pakistan to suspend removals pending the visa process. That understanding expired at the end of 2025, and **deportation now follows directly from Germany's decision** .

Moreover, by offering to organize and finance flights to Afghanistan, Germany is **actively facilitating the authors' return** . Given that the authors face either deportation by Pakistan or can accept Germany's offer, such return cannot be regarded as voluntary and is functionally equivalent to direct deportation. There are also credible reports that the German Embassy transmits the names of individuals whose admission they have revoked to Pakistani authorities, thereby enabling their identification, arrest and removal. Such conduct would constitute aid or assistance in acts violating Articles 6 and 7 of the Covenant, contrary to Germany's obligations under international law.

#### **b) Absence of protection against refoulement in Pakistan**

The authors have no effective protection against refoulement in Pakistan. They no longer possess valid visas and cannot obtain renewed residence permits. Pakistani authorities have publicly announced that all Afghan nationals remaining in GIZ reception facilities after the end of December 2025 will be deported to Afghanistan in January 2026 without individual assessment. Pakistan has neither signed nor ratified the 1951 Refugee Convention, and its domestic law provides no legal basis for residence on humanitarian or international protection grounds. Afghan nationals without lawful status are unable to secure accommodation, as persons hosting them risk criminal liability. The German Federal Foreign Office has confirmed that the bilateral suspension of deportations cannot be extended and that the previous arrangement already constituted an exceptional extension. For more details on the imminent risk of deportation to Pakistan see background deportation Afghans from Pakistan ( **Annex 10** ).

#### **c) Personal, real and imminent risk in Afghanistan**

If returned to Afghanistan, the authors face a **personal, real and imminent risk of arbitrary arrest, detention, torture or extrajudicial killing** by the Taliban. UNHCR identifies former government officials and those associated with them, as well as their family members, as groups at particular risk of persecution (UNHCR, Guidance Note on Afghanistan – Update II, September 2025). The first author, a former judge who sentenced

numerous Taliban members to long prison terms, faces an especially heightened risk. He **was repeatedly threatened** , his **home was searched** after the Taliban takeover, and he was forced to flee. These facts have been set out in detail in the claim under Article 6 and apply equally to the assessment under Article 7.

**d) Foreseeability and knowledge of risk**

The risk of violations of Articles 6 and 7 in Afghanistan is **known and foreseeable** to the German Government. Germany is aware that Pakistani authorities will deport the authors to Afghanistan in January 2026 and that they face a real and imminent risk of torture and death there. These risks were raised repeatedly in domestic proceedings and have **never been disputed** by the Government. This has been set out in detail in the claim under Article 6 and applies equally to the assessment under Article 7.

**e) Failure to conduct an individual risk assessment**

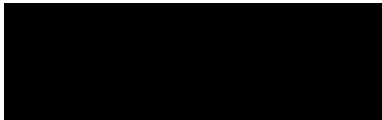
Despite this knowledge, Germany withdrew the declaration on admission and rejected the visa applications **without conducting any individual assessment** of the risks of ill-treatment and death. The authors provided substantial grounds for believing that they face a real and imminent risk in Afghanistan. Germany initially selected them precisely because of this risk. The decision to annul the declaration on admission was justified solely by a claimed loss of political interest in the admission of the authors (and around 600 other Afghans in the resettlement programme), treating the former declaration on admission as a discretionary political measure. By failing to assess the foreseeable consequences of its decision to the authors rights under Art. 7, Germany **breached its procedural obligations** under Article 7. If state decisions amounting in removals are taken without considering the risks of torture and ill-treatment the State **deprives the prohibition in Art. 7 of its practical effectiveness** .

## **Additional Comments**

It is proposed that the Committee recommend that the German Federal Government:

- revoke the withdrawal of the declaration on admission
- issue the authors' visa pursuant to section 22 sentence 2 of the Residence Act
- alternatively: review the withdrawal of the declaration on admission and re-examine the authors' visa application, including an assessment of the real and imminent risk of a violation of Articles 6 and 7 of the Covenant in the event of the authors' removal or deportation, directly or indirectly, to Afghanistan
- reimburse the authors for reasonable legal costs incurred for domestic remedies
- review section 22 of the Residence Act and clarify that revocation of an admission declaration must comply with minimum rule-of-law standards and be assessed against fundamental and human rights, including protection of legitimate expectations and the prohibition of arbitrariness.

## **Signature**

A solid black rectangular box used to redact the signature of Sarah Lincoln.

19 January 2026    Sarah Lincoln



## Attachments

Annex11\_Email\_security\_measures.pdf

Annex12\_Email\_deportation\_support.pdf

Annex13\_Email\_Support\_Reintegration\_Afghanistan en-US\_translated.pdf

Annex14\_Rejection\_Support\_Reintegration\_translated.pdf

Annex15\_LetterToGermanGovernment en-US\_translated.pdf

Annex16\_Revocation\_Declaration\_on\_Admission\_translated.pdf

Annex17\_2nd\_Declaration\_Admission [REDACTED] en-US\_translated.pdf

Annex18\_Affidavit\_Rohullah [REDACTED] translated.pdf

Annex19\_Rejection\_Visa\_Applications\_translated.pdf

Annex1\_Certificate\_of\_Attendance\_and\_Graduation.pdf

Annex20\_Offer\_Flight\_AFG.pdf

Annex21\_Background\_Risks\_Afghanistan.pdf

Annex22\_Affidavit\_F.A.pdf

Annex23\_Affidavit\_J\_PF\_EN.pdf

Annex24\_Affidavit\_M.A.H.pdf

Annex25\_Affidavit\_B.A.pdf

Annex26\_Lawsuit\_Administrative\_Court en-US\_translated.pdf

Annex27\_Decision\_Administrative\_Court\_translated.pdf

Annex28\_Appeal\_Higher\_Administrative\_Court en-US\_translated.pdf

Annex29\_Decision\_Higher\_Administrative\_Court\_translated.pdf

Annex2\_Affidavit\_author\_01-2026-2\_translated.pdf

Annex30\_Objection\_Higher\_Administrative\_Court en-US\_translated.pdf

Annex31\_Rejection\_Objection en-US\_translated.pdf

Annex32\_Constitutional\_Complaint en-US\_translated.pdf

Annex33\_Decision\_Constitutional\_Court\_R.R\_translated.pdf

Annex34\_Decision\_Constitutional\_Court\_translated.pdf

Annex35\_Decision\_Higher\_Administrative\_Court\_12\_11 en-US\_translated.pdf

Annex36\_Decision\_Higher\_Administrative\_Court\_17\_11 en-US\_translated.pdf

Annex3\_Affidavit\_author\_09-2025\_translated.pdf

Annex4\_Email\_Correspondence\_Federal\_Foreign\_Office de\_translated.pdf

Annex5\_Email\_Correspondence\_GIZ.pdf

Annex6\_Declaration\_on\_Admission.pdf

Annex7\_Background\_German\_resettlement\_programs.pdf

Annex8\_Clearance\_form\_of\_the\_German\_embassy\_translated.pdf

Annex9\_Email\_GIZ\_Visa\_Suspension.pdf