

Agreement

between

the Government of the Republic of India

and

the Government of the Federal Republic of Germany

on

a Comprehensive Migration and Mobility Partnership

The Government of the Republic of India
and
the Government of the Federal Republic of Germany,
both hereinafter referred to as the “Parties”, –

Having regard to the historic links of friendship and cooperation that unite the two Parties and to give a new impetus to the German-Indian Strategic Partnership in the interests of fair globalisation,

Bearing in mind the benefits which migration managed within the meaning of the Agenda 2030 and the Global Compact for Safe, Orderly and Regular Migration and migration policy cooperation in a spirit of partnership have for both Parties and for their mutual economic, social and cultural relations where a special focus is on promoting economic, social and cultural rights, as well as the benefits for the persons concerned,

Based on their resolution announced jointly and by common agreement at the 5th German-Indian government consultations to finalise as quickly as possible the Migration and Mobility Partnership Agreement between the two Parties, building on the Statement of Intent on the key elements of the German-Indian Migration and Mobility Partnership Agreement,

Resolved to facilitate temporary migration based on fair mobility,

Committed to strengthening the transfer of skills to the home country of the migrants concerned in the interests of fair globalisation and decent work,

Taking into account the Joint Declaration of Intent on Cooperation in the Field of Skill Development and Vocational Education and Training signed on 1 November 2019 by the responsible ministries of the Parties,

Determined to jointly take appropriate steps to prevent and fight irregular migration, smuggling of migrants and trafficking in human beings, in accordance with international and national law,

Desiring to establish, by means of this Agreement and on the basis of reciprocity, rapid and effective procedures for the identification and return of persons who do not, or no longer, fulfil the conditions for entry to, presence in, or residence on the territory of the other Party, and to facilitate the return of such persons in a spirit of cooperation,

Respecting the rights and guarantees set forth in their respective national law and the relevant international treaties and conventions,

Acknowledging the need that migrants who have decided to come to the Federal Republic of Germany or the Republic of India shall be prepared for their new life by qualification offers in their country, especially information concerning the labour market, labour rights and the possibilities of recognising degrees and qualifications, as provided for in the National Action Plan on Integration by the German Party –

Have agreed as follows:

Part 1
General Objectives

Article 1
Scope of the Agreement

(1) This Agreement aims to establish and develop cooperation between the Parties in the following areas:

1. promoting the fair mobility of skilled workers aiming to take up employment in either country, and of students and apprentices, skilled workers in the cultural sector, journalists, and scientists;
2. promoting temporary migration for vocational reasons and for the purpose of gainful employment within the framework of the applicable rules of national and European Union law;
3. promoting longer-term residence for vocational reasons and for the purpose of gainful employment;
4. preventing and fighting irregular migration and trafficking in human beings;
5. facilitating the return of nationals of either Party residing in the country of the other Party, who are in violation of the national immigration or residence laws and/or such laws of the European Union;
6. establishing a joint working group on migration, return and mobility issues; and
7. exchanging migration data and statistics, especially visa statistics.

(2) This Agreement establishes a partnership for migration and mobility between the Parties within the limits of their respective competences and in accordance with their

national laws, procedures and resources and in full respect of international rules and standards.

(3) All actions pursuant to this Agreement shall be consistent with the Parties' obligations under relevant international law.

Part 2

Cooperation on temporary migration

Article 2

Short-stay multiple-entry visas with a long validity

(1) In order to promote fair mobility between the two countries, both Parties shall, in compliance with their respective obligations and within the framework of the applicable rules of European Union and national law, favourably consider the issuance of short-stay, multiple-entry visas, valid for at least one year, to the other Party's nationals who hold valid regular passports and make an active and lasting contribution to the exchange between the two countries.

(2) Persons making an active and lasting contribution to the exchange between the two countries belong, in particular, to the following groups: businesspersons including start-up entrepreneurs, skilled workers with recognised professional qualifications, skilled workers in the cultural sector, journalists, scientists, experts and specialists, provided they are conducting missions not exceeding 90 days and are participating actively in the economic, commercial, academic, scientific and cultural relations between the two countries.

(3) The German Party shall, within the framework of the rules defined by the Visa Code of the European Union and applicable national law, favourably consider the facilitated issuance of such multiple-entry visas which allow for stays not exceeding 90 days in any 180-day period to Indian citizens who are members of the groups of persons mentioned in paragraph 2 above. These multiple-entry visas are issued with a validity between one year

and five years, depending on the documents presented, the length of activities planned in the Federal Republic of Germany and the length of validity of the passport.

(4) The Indian Party shall, in accordance with the applicable national law, favourably consider the facilitated issuance of such multiple-entry visas which allow for stays of up to six months on each visit and are valid for one to five years. These multiple-entry visas are issued with a validity between one year and five years, depending on the documents presented, the length of activities planned in the Republic of India and the length of validity of the passport. Persons travelling on a visa referred to in paragraph 1 above with a validity of up to 180 days are not required to accomplish any registration formality upon their arrival in the Republic of India. If the stay is going to exceed 180 days, prior registration shall be required.

Part 3

Cooperation to facilitate fair mobility for students, apprentices, volunteers and scientists; migration for vocational and economic reasons; vocational education and training

Article 3

Admission of students and apprentices; acquisition of initial professional experience

(1) Both Parties undertake to strengthen German-Indian cooperation by exchanging students and apprentices within the framework of the applicable rules of national and European Union law.

(2) To this end, the Parties shall keep each other regularly informed, within the Joint Working Group referred to in Article 16, of the conditions for entry and residence concerning students and apprentices and establish a bilateral exchange on the possibilities and the improvement of procedures for immigration and pre-integration of students and apprentices.

(3) In order to facilitate the entry of qualified Indian students, the German Party will open an Academic Evaluation Centre at its Embassy in New Delhi to improve the quality of applications of qualified Indian students as well as the application process experience for the applicants. The use of external service providers to reduce waiting times of qualified Indian students shall be regularly checked and adjusted.

(4) Both Parties shall endeavour to enable students and apprentices of either country to acquire learning experiences, professional competence and foreign language skills in the host country and to provide information prior to immigration about existing possibilities to get scholarships or assistance for internships in the other country. For the German Party, the German Academic Exchange Service (Deutscher Akademischer Austauschdienst – DAAD) in particular, provides scholarship opportunities and support services that help students find a suitable study programme based on their academic background and interests and inform them about entry and study in the Federal Republic of Germany. The programmes of the DAAD are regularly adapted.

(5) Both Parties shall mandate the Joint Working Group to be established under Article 16 to examine and provide tailor-made information for Indian apprentices in favour of pre-integration, taking into account existing resources such as the Federal Government internet portal “Make it in Germany”, a website for skilled workers from abroad.

(6) The German Party, within the framework of the applicable rules of national and European Union law, shall issue long-stay visas for residence in the Federal Republic of Germany to eligible Indian nationals for the purposes of study or vocational training. The German Party shall explore ways and means to see that the student visas are issued as quickly as possible while taking into account the academic exigencies. On the expiry of the long-stay visa, Indian nationals may receive

1. a temporary residence permit for study purposes in the Federal Republic of Germany for up to two years, which may be extended to cover the duration of their studies, or

2. a temporary residence permit for the purpose of vocational training in the Federal Republic of Germany to cover the duration of the training, provided the requirements stipulated in the applicable law are met.

(7) Both Parties shall expressly promote the possibilities of seeking employment upon completing academic or vocational training, within the framework of the applicable rules of national and European Union law. To this end, Indian students or apprentices wishing to gather initial professional experience after completing their academic or vocational training in the Federal Republic of Germany may be granted permission to continue their temporary residence in the Federal Republic of Germany for the purpose of seeking employment for up to 18 months in the framework of the applicable rules of national and European Union law, the length depending on the respective qualification. In the framework of the applicable rules of national and European Union law and after the successful search for an employment, the students and apprentices may be granted a residence title, issued with a validity of up to four years, for the purpose of employment, which may be prolonged indefinitely provided proof can be furnished of an adequate employment corresponding to the qualification obtained in the Federal Republic of Germany.

(8) Both Parties shall favourably consider the further development of offers for the purpose of pre-integration.

Article 4

Student or vocational internship (work-based learning); voluntary service

(1) Both Parties, within the framework of the applicable rules of national and European Union law, shall favourably consider issuing visas to students or apprentices for temporary longer stays for an internship in the territory of the other Party as part of their studies or vocational training in their home countries.

(2) Both Parties, within the framework of the applicable rules of national and European Union law, shall favourably consider issuing visas to volunteers for temporary longer stays for their voluntary service in the country of the other Party.

(3) For the German Party, the duration of the visa or temporary residence permit granted for the purpose of internships or voluntary work under a voluntary service scheme shall depend on the specific nature and length of the internship or voluntary work carried out according to the applicable rules of national and European Union law and may be granted for up to one year. Within this framework, a residence title for a student or work internship or for voluntary service may be issued upon presentation of an agreement with a host institution on participation in the internship or in the voluntary service scheme. In particular, the agreement has to contain the description and the conditions of the programmes for the internship or voluntary work and its duration. After the completion of the study-related internship EU, the German Party may grant, according to applicable law, a temporary residence permit for up to six months, if the prerequisites are met, for eligible skilled workers to seek employment in the Federal Republic of Germany without the requirement of returning to the Republic of India to obtain the visa.

(4) For German students who wish to pursue such internships in the Republic of India, the Indian authorities shall issue, according to applicable national law, an "S-6 Visa" valid for more than three months but no longer than 12 months.

Article 5

Immigration for the purpose of taking up employment

(1) Both Parties undertake to encourage the fair mobility of skilled workers between the two countries and towards this end create optimal conditions for establishing contacts and the exchange of knowledge between employers' and workers' organisations in different sectors of the economy and expand pre-integration services.

(2) To this end, the Parties shall keep each other regularly informed, within the Joint Working Group referred to in Article 16, of the conditions for entry, residence and work in their country and of the situation on their respective labour markets and of the possibilities it offers and establish a bilateral exchange on the possibilities and the improvement of procedures for immigration and pre-integration of skilled workers, also in view of the changes brought about by the German Skilled Immigration Act (Fachkräfteeinwanderungsgesetz).

(3) The German Party shall endeavour to provide information about offers for pre-integration and possible immigration by skilled workers on the Federal Government internet portal "Make it in Germany", a website for skilled workers from abroad. Both Parties shall mandate the Joint Working Group to be established under Article 16 to examine and provide tailor-made information for skilled workers from the Republic of India and information about measures to recruit skilled workers taking into account existing resources such as the Federal Government internet portal "Make it in Germany".

(4) Both Parties recognise the added value that the activities of government agencies or government-funded partner organisations can bring in assisting the recruitment of qualified professionals such as health care workers, hospitality staff, car mechanics and electricians.

(5) In this context, both Parties shall work together within the mandate of the Joint Working Group to be established under Article 16 to examine in a partnership approach which regions and which specific occupational groups could be considered for further bilateral placement agreements between the German Federal Employment Agency (Bundesagentur für Arbeit – BA) and Indian parties on state or national level. In doing so, international principles for ethically responsible recruitment of skilled workers shall be respected and employee piracy, which would have adverse effects on development, shall be prevented. Offers for pre-integration should also be examined in this context.

(6) The Parties shall endeavour to swiftly process applications for entry and residence submitted by the other Party's nationals under this Article.

(7) The persons to whom the provisions of this Article apply shall benefit from equal treatment as accorded to host state nationals in all matters relating to the enforcement of laws, regulations and customs governing working relations and conditions, social protection, health, hygiene and workplace safety, within the framework of the applicable rules of national and European Union law and the Agreement of 12 October 2011 between the Federal Republic of Germany and the Republic of India on Social Security, which took effect on 1 May 2017.

(8) Both Parties shall mandate the Joint Working Group to be established under Article 16 to examine possibilities, in favour of pre-integration, of expanding the range of German language courses offered in the Republic of India by entities like the Goethe-Institut, including language courses aimed at certifying the language skills necessary for family members of skilled workers in the context of family reunification.

(9) Both Parties shall favourably consider the further development of offers for the purpose of pre-integration.

Article 6

Immigration of preferential groups; exchanges of young professionals

(1) The German Party shall welcome skilled workers who have completed an Indian vocational training or have undertaken their academic studies in the Republic of India and whose qualification, diploma or degree is recognised by the competent German authority, without a labour-market test. Within the framework of the applicable rules of national and European Union law, the German Party shall favourably consider, at individual request, the possibilities to seek employment without the need for an employment contract, to reside and work in the Federal Republic of Germany as well as the possibilities for prolongation of granted temporary residence permits for skilled workers for continued stay provided that they obtain an employment contract which is accepted by the host state's competent authority.

(2) Furthermore, the German Party shall favourably consider, in the framework of the applicable rules of European Union and national law, the possibility to grant information technology specialists without a formal qualification access to the German labour market.

(3) Both Parties agree to foster exchange of young professionals of either country already in employment or entering working life, who wish to gather professional experience in the host country. With respect to the German Party, eligible young professionals who fulfil the conditions set forth in paragraph 1 above shall be authorised to seek and take up employment, which, if the respective prerequisites are met, shall, inter alia,

1. allow for a temporary residence permit to be issued in order to attend a language course in the Federal Republic of Germany for the duration of the language course which may be extended up to one year; subsequently
 - a) a temporary residence permit for up to six months may be issued, according to applicable law, to seek a training place in order to pursue quality vocational training (qualifizierte Berufsausbildung), or a temporary residence permit for up to nine months may be issued for the purpose of applying for a course of study, without the requirement of returning to the Republic of India to obtain the visa or
 - b) a temporary residence permit may be issued, according to applicable law, for the purpose of employment without the requirement of returning to the Republic of India to obtain the visa;
2. allow for a temporary residence permit to be issued for a duration of up to six months to seek a training place in order to pursue quality vocational training in the Federal Republic of Germany;
3. allow for a temporary residence permit to be issued for a duration of up to nine months for applying for a course of study in the Federal Republic of Germany;

4. allow, according to applicable law, for a transition from a previous visa or temporary residence permit for seeking a training place in order to pursue vocational training to a temporary residence permit to take up employment for skilled workers without the requirement of returning to the Republic of India to obtain the visa;
5. allow, according to applicable law, for a transition from a previous visa or temporary residence permit for the purpose of applying for a course of study to a temporary residence permit for the purpose of vocational training or to take up employment for skilled workers without the requirement of returning to the Republic of India to obtain the visa;
6. allow for a temporary residence permit to be issued for up to six months for skilled workers to seek employment in the Federal Republic of Germany;
7. allow for a temporary residence permit to be issued for up to 12 months to seek employment for skilled workers who have completed the necessary measures regarding the recognition of their professional qualification in the Federal Republic of Germany;
8. additionally, allow skilled workers to be granted a residence title issued with a validity of up to four years for the purpose of employment with possibilities for prolongation and without a labour-market test and without the requirement of returning to the Republic of India to obtain the visa or residence title;
9. allow benefitting from equal treatment as accorded to host state nationals according to paragraph 7 of Article 5.

The Indian Party shall endeavour to support young German professionals visiting the Republic of India to gather professional experience in accordance with the applicable national laws. The Joint Working Group to be established under Article 16 shall have an exchange on experiences and identify the modalities of the exchange of young professionals. If within one calendar year the number of eligible professionals between 18 and 35 years of age coming to the Federal Republic of Germany lies below 3000, the Joint Working Group shall analyse the situation and endeavour to find possibilities to enhance the exchange of young professionals, in particular with regard to job-seeking opportunities. In this context, the German Party shall favourably explore possibilities to improve job-seeking opportunities for eligible Indian applicants. This may include, as the case may be, the means and scope of information, modalities of the visa application procedure and the specific assistance to potential job seekers.

(4) The German Party shall favourably consider providing information relevant for young professionals on the Federal Government internet portal "Make it in Germany" in order to facilitate the access to relevant offers of employment.

(5) The Parties shall encourage the entry of media representatives and skilled workers in the cultural sector wishing to support the relationship between the two countries, within the framework of the applicable rules of national and European Union law.

(6) Both Parties shall favourably consider the further development of offers for the purpose of pre-integration.

Article 7

Cooperation in vocational education and training

(1) The Parties shall cooperate in the field of vocational education and training on the basis of joint agreements, and share the view that the German-Indian cooperation will foster the Indian Party's efforts to establish an innovative system of skill development and vocational education and training.

(2) The cooperation may include, in particular, the following activities:

1. sharing information on the vocational education and training systems they have in place;
2. holding regular consultations at political and expert level between the responsible organisations of the two Parties;
3. carrying out joint projects in the field of vocational education and training with the focus on the dual system of vocational education and training and on skill development in new, innovative and sustainable technologies;
4. organising joint conferences, symposiums and workshops; and
5. organising study visits.

(3) The German Party underlines the continuing commitment of the Indo-German Chamber of Commerce Abroad promoting dual vocational education and training according to German standards and information on the recognition of Indian vocational and academic qualifications, thereby facilitating mobility of skilled workers.

Article 8

Intra-corporate transfer and in-house training courses

(1) Both Parties undertake to encourage the international mobility of employees on secondment between enterprises of the same group including in-house training courses, within the framework of the applicable rules of national and European Union law.

(2) The German Party undertakes to issue a residence title to Indian nationals holding an employment contract with an employer outside the Federal Republic of Germany, seconded by that employer to the Federal Republic of Germany, in the framework of the applicable rules of national and European Union law. The duration of the residence title is based on the duration of the secondment; however, according to national law it may be issued for a maximum of three years.

(3) The Indian Party undertakes to facilitate the issuance to German employees seconded to the Republic of India between enterprises of the same group of an "employment visa" thereby also facilitating the granting of a temporary residence permit valid for two years, which may be renewed in the Republic of India for a maximum period of five years from the date of issue of the initial employment visa, on a year-to-year basis, on production of the necessary documents in support of continued employment and income tax compliance by the individual concerned.

(4) For Indian employees of German enterprises established in the Republic of India or of Indian enterprises linked by a partnership to a German enterprise who wish to come to the Federal Republic of Germany to accomplish a training course in an enterprise of the same group or a partner enterprise, a temporary residence permit may be issued within the framework of the applicable rules of national and European Union law for the duration of their training course, however, according to applicable national law for a maximum of one year. Following the successful completion of the training course, the temporary residence permit may be extended and changed into a special residence title for the purpose of seeking employment or pursuing gainful employment provided the requirements stipulated in the applicable law are met.

(5) German employees wishing to complete a work internship in the Republic of India for the same reasons as the Indian trainees mentioned in paragraph 4 above may receive a business visa leading to a temporary residence permit valid for up to eighteen months.

Article 9

Family Members

(1) After their entry with the necessary visa, spouses and registered civil partners and their minor unmarried children shall, subject to the prerequisites defined by the applicable rules of national and European Union law, receive a temporary residence permit, depending on (e.g. in terms of duration) the temporary residence permit of the beneficiaries (foreigners in possession of an appropriate permit), allowing the exercise of a professional activity under the conditions set forth in the respective laws.

(2) Depending on the specific kind of temporary residence permit, different language skills may be required. With reference to the groups referred to in Articles 5, 8 and 10, the respective language requirement for a temporary residence permit may be waived, subject to the prerequisites defined by the applicable rules of national and European Union law.

(3) The provision of pre-integration services to facilitate family reunification under the conditions of this Article shall be explored.

Article 10

Researchers and doctoral students

(1) Both Parties undertake to encourage the mobility of researchers and doctoral students with an appropriate contract or scholarship between the two countries within the framework of the applicable rules of national and European Union law.

(2) To this end, the Parties shall keep each other regularly informed, within the Joint Working Group referred to in Article 16, of the conditions for entry and residence for researchers and doctoral students and establish a bilateral exchange on the possibilities and the improvement of procedures for pre-integration and immigration of researchers and doctoral students.

(3) For German and Indian nationals wishing to carry out research or university level teaching in a public or private research or higher education institution in the country of the other Party under a hosting agreement, the Parties shall facilitate the issuance of a temporary residence permit or appropriate visa valid for the duration of their research or teaching activities under the conditions set forth in the applicable rules of national and European Union law.

Article 11

Promoting the engagement of the Indian diaspora

Both Parties shall leverage the benefits of diaspora cooperation for sustainable development in the Republic of India by promoting investment, knowledge exchange and innovation. The German Party shall continue its current support within the framework of the ongoing technical cooperation programme "Migration and Diaspora" to the benefit of skilled workers and professionals educated and/or employed in the Federal Republic of Germany who would like to apply their expertise in the Republic of India, based on the principles of fair mobility and decent work. The support encompasses financial and technical assistance for long and short-term assignments with Indian employers, institutions and organisations as well as funding for small-scale projects with Indian partner organisations.

Part 4

Cooperation on returns of persons required to leave the country and in the fight against irregular migration, human trafficking and document and visa fraud

Article 12

Forced return of persons required to leave the country

(1) Both Parties shall readmit their nationals who do not or no longer meet the conditions for legal entry into, or legal residence in, the territory of the other Party, and agree to simplify the procedures to be followed in such cases. Parties agree that those who are lawfully in their country do not fall within the scope of this Article and that the provisions of this Article shall only cover those nationals residing in either country who are in violation of the national immigration or residence laws and/or such laws of the European Union. Persons irregularly staying in the territory of one Party whose nationality has been conclusively verified by the requested Party shall immediately be returned by the requesting Party in accordance with procedures set out in national and international law and with the modalities agreed between the Parties, using both scheduled and non-scheduled flights. Any such forced return shall only be effected after the nationality is conclusively verified by the requested Party. Parties shall make use of the procedures referred to in paragraphs 3, 4 and 5 below for this purpose. Proof of nationality may not be furnished through false documents.

(2) It is understood that short deadlines are useful as regards the legal situation of a person irregularly staying in the territory of one Party and must be observed both for the reply to the readmission application and the issuance of the Emergency Travel Document (ETD) or consular laissez-passer.

(3) In order to verify the nationality of a person to be returned who is in an irregular situation in either Party's territory, the requesting Party shall submit a readmission application along with a copy of the person's passport or a copy of the person's expired passport and where available any one of the documents listed in Annex 1 which may serve as a basis to establish the nationality, subject to their verification by the requested Party. In such cases, the requested Party shall use best endeavours to communicate if the nationality of the person is conclusively established to its satisfaction within 30 to 45 days of the receipt of the request.

(4) Where a passport copy is not available, the documents listed in Annex 2 may serve as a basis to validly assume the nationality of a person in an irregular situation by the requested Party to be that of the said country, even if the validity of these documents has expired. If any such document is presented with the readmission application, the requested Party shall take all necessary steps to verify the nationality of the person irregularly staying in the territory of the other Party within a reasonable timeframe. In cases where at least two documents listed in Annex 2 are submitted, the requested Party shall use best endeavours to communicate if the nationality of the person is conclusively established to its satisfaction within 60 to 90 days of the receipt of the request.

(5) If, without proof of the documents listed in Annexes 1 and 2, it is assumed that a person irregularly staying in the territory of one Party is a national of the requested Party, the requesting Party shall require verification of nationality with a view to the possible issuance of an ETD or consular laissez-passer. To this end, at the request of the requesting Party, the person shall be interviewed without undue delay by officials of the diplomatic mission or other competent authorities of the requested Party in order to facilitate the verification of their nationality.

(6) Where the requested Party has given a positive reply to the readmission application, and where the person to be readmitted has no valid travel document, the competent diplomatic mission of the requested Party shall issue upon request, within seven calendar days, an ETD or consular laissez-passer with a period of validity of at least six months. In cases where the person concerned is not cooperating, the requesting Party shall submit the request signed by the competent authority along with a declaration that the person has no legal basis to reside in the country of the requesting Party and any action under this provision shall be without prejudice to any legal option available to the person concerned.

(7) The requesting Party shall use all reasonable endeavours to return the person using the ETD or consular laissez-passer provided, before its expiry. If, for reasons beyond the immediate control of the requesting Party, such as fresh legal proceedings, refusal to comply and absconding, the person to be returned cannot be transferred within the period

of validity of the ETD or consular laissez-passer that was initially issued, the competent diplomatic mission of the requested Party shall issue, within seven calendar days of a corresponding informal request, a new ETD or consular laissez-passer for a further period of six months if there is no reason to suppose that the circumstances of the person have changed.

(8) Where the requested Party does not approve an application for readmission of the person, it shall share the relevant reasons within the above-mentioned time frames. The decision of the requested Party is final, but it may agree to consider any reasonable request to review its decision, where the requesting Party has new evidence or considers there has been a misunderstanding of the evidence.

(9) Where the German Party has evidence that an Indian national is in an irregular situation in its territory, and is the parent of a minor child born in the Federal Republic of Germany, who is also in an irregular situation under the applicable law in the Federal Republic of Germany, but whose birth has not been registered with the relevant Indian diplomatic mission, the Indian Party shall accept a German birth certificate as evidence for securing an ETD or consular laissez-passer for the child only if the nationality of both the parents and their relationship with the child is conclusively established by the Indian Party. Any action under this provision shall be without prejudice to any legal option available to the child or to its parents. Minor child means a child who has not attained the age of 18 years on the date of submission of the request by the requesting Party.

(10) In accordance with their wish for effective cooperation, both Parties agree that e-mail or any other modern means of communication allowing the fastest possible data transmission may be used for communication between the competent authorities involved in the readmission procedures. They further agree to the use of biometric identification, as far as possible.

(11) Both Parties agree that the requesting Party shall cover the costs associated with forced returns.

(12) Any person who has been returned from the territory of the requesting Party shall be readmitted by the requesting Party at the request of the requested Party where it is established within a period of time not exceeding six weeks that the conditions for the person's forced return under paragraph 1 above were not fulfilled at the time they left that territory. On an exceptional basis, on the demand of the requested Party, this period may be extended to a maximum of twelve weeks.

(13) The Parties shall develop a common programme of action to share experiences and to strengthen capacity to fight irregular migration, human smuggling and human trafficking and to enhance cooperation in this field including through mutual visits.

(14) Details of the authorities responsible for implementing this Article are given in Annex 3.

Article 13

Voluntary return and reintegration

(1) Both Parties shall promote the voluntary return of nationals of the other Party who are subject to a return decision. If the person irregularly staying in the territory of one Party refuses voluntary return, the requesting Party, in accordance with the applicable laws, shall resort to forced return on a case-by-case basis after the verification of the nationality of this person by the requested Party.

(2) Without prejudice to Article 12, the German Party shall endeavour to provide all Indian citizens required to leave the territory of the Federal Republic of Germany with advice on returns as well as on financial support for voluntary returns (REAG/GARP and Starthilfe Plus). Moreover, information shall be provided on reintegration assistance to returnees to the Republic of India through the new reintegration programme by Frontex, which is planned as a continuation of the European Return and Reintegration Network (ERRIN).

(3) The German Party shall advocate for the development of suitable project ideas to offer reintegration support to Indian returnees or to support the capacity-building process within the Indian administration taking into account existing resources and in line with the needs of the German Party and the Indian Party and possibly European Union needs.

Article 14

Fighting irregular migration and human trafficking

(1) Both Parties agree to exchange contact addresses of the competent authorities and to promote the exchange of experts and training for officers to fight illegal migration networks.

(2) Both Parties agree that the competent authorities will share information related to human trafficking, illegal migration networks and the individuals caught up in them as well as on organised crime related to migration within the limits of their respective competences and in accordance with their national laws and procedures as well as in full respect of international rules and standards.

(3) This Agreement shall not establish any right to use the information provided in accordance with this Agreement as evidence in judicial proceedings.

Article 15

Fighting document and visa fraud

(1) With regard to fighting the fraud of identity and travel documents, both Parties shall promote the exchange of sample documents to fight fraudulent documents and provide training in the specific area of identifying fraudulent documents.

(2) The German Party shall share its expertise to train specialists in the fight against document and visa fraud and to provide its expertise in the field of detection equipment.

Part 5
Final Clauses

Article 16

Joint Working Group on migration and return issues

(1) Both Parties agree to establish a Joint Working Group comprising representatives of both Parties. The Joint Working Group shall monitor the implementation of the provisions set forth in this Agreement, decide on implementing arrangements necessary for the uniform application of this Agreement and frame all appropriate proposals to improve its application, as necessary, which include numbers and duration of visas and procedures for visas and forced returns. Furthermore, the Joint Working Group shall enable a regular exchange of information in particular as to conditions of entry and residence in relation to the specific groups mentioned in the Agreement, especially young professionals.

(2) The establishment of the Joint Working Group shall be without prejudice to the agreed German-Indian consular consultations.

(3) The Joint Working Group shall meet regularly, at least once a year in the country of either Party alternately, or as necessary at the request of either Party. The agenda and the composition of the Joint Working Group shall be set for each meeting by mutual consultations.

(4) The Joint Working Group shall submit proposals to the Parties for amendments and additions to the Annexes to this Agreement.

(5) The Joint Working group shall explore possibilities for pilot projects for the purpose of pre-integration in the Republic of India.

Article 17

Disputes regarding the interpretation and application of the Agreement

Any disputes relating to the interpretation or application of this Agreement shall be settled within the Joint Working Group referred to in Article 16 or otherwise through diplomatic channels.

Article 18

Duration, renewal, termination and amendment of the Agreement

(1) This Agreement shall remain valid for a period of seven years from the date of its entry into force.

(2) Unless terminated by a Party, this Agreement shall be automatically renewed for the same period.

(3) This Agreement may be terminated in writing by either Party subject to twelve months' prior notice served through diplomatic channels. Such termination of this Agreement shall not affect the Party's rights and obligations resulting from the implementation of this Agreement, unless otherwise agreed by the Parties.

(4) This Agreement may be amended or supplemented by mutual consent of the Parties. Amendments and additions shall be laid down in the form of separate protocols, which shall form an integral part of this Agreement and shall enter into force in accordance with the procedure laid down in Article 20.

(5) Amendments and additions to the Annexes to this Agreement shall be made through an exchange of diplomatic notes.

Article 19

Data protection clause

The processing of personal data for the purposes of applying this Agreement shall be governed by the applicable law of the respective Party.

Article 20

Entry into force

This Agreement shall enter into force on the date on which the Parties notify each other through diplomatic channels that their respective national requirements for entry into force of this Agreement have been fulfilled. The relevant date shall be the day on which the last notification is received.

Article 21

Annexes

- (1) The Annexes shall form an integral part of this Agreement.
- (2) Following consultations, other documents than those listed in Annexes 1 and 2 may be designated through an exchange of diplomatic notes. If either of the two Parties deems it necessary for the readmission application to be laid out in a particular manner, it shall inform the other Party beforehand through diplomatic channels.
- (3) Both Parties shall inform each other through diplomatic channels about the direct contact details of the competent authorities and of any subsequent changes thereto. Following consultations, other border crossing points than those listed in Annex3 may be designated through an exchange of diplomatic notes.

New Delhi 5 December 2022
Done at on in two originals each in the German, Hindi and English languages, all
three texts being authentic, in case of divergent interpretations of the German and Hindi
texts, the English text shall prevail.

FOR THE GOVERNMENT OF THE
REPUBLIC OF INDIA



Dr SUBRAHMANYAM JAISHANKAR
UNION MINISTER FOR EXTERNAL
AFFAIRS

FOR THE GOVERNMENT OF THE
FEDERAL REPUBLIC OF GERMANY



ANNALENA BAERBOCK
FEDERAL MINISTER FOR FOREIGN
AFFAIRS

Annex 1
to the
Agreement
between
the Government of the Republic of India
and
the Government of the Federal Republic of Germany
on
a Comprehensive Migration and Mobility Partnership

Documents serving as a basis to establish the nationality of a person by the requested Party

For the purpose of paragraph 3 of Article 12, nationality shall be deemed to be conclusively established on the basis of the following documents subject to their authenticity, verified by the requested Party:

- an expired national passport and where relevant, a reference to a valid Indian passport number extracted from the European Visa Information System (VIS)

and where available any one of the documents listed below:

- a national identity card, valid or expired;
- a certificate of nationality;
- an expired ETD or consular laissez-passer;
- where relevant, an expired European travel document for return or an international travel document issued by the Indian authorities;
- a certificate of naturalisation or of recovery of nationality;
- a military passbook;

- a seafarer's discharge book or seafarer's identity document issued under the Geneva Convention of 19 June 2003 and the London Convention of 9 April 1965;
- any government document, issued by another government agency, bearing a photograph and stating or clearly indicating the citizenship such as a driving license or a birth certificate.

Annex 2
to the
Agreement
between
the Government of the Republic of India
and
the Government of the Federal Republic of Germany
on
a Comprehensive Migration and Mobility Partnership

Documents concerning nationality validly assumed

For the purpose of paragraph 4 of Article 12, where a passport copy of the person is not available, the nationality validly assumed to be that of the requested Party subject to their authenticity, verified by the requested Party, may be based on the documents listed below:

- a reference to a valid Indian passport number extracted from the European Visa Information System (VIS);
- a national identity card, valid or expired;
- a certificate of nationality;
- an expired ETD or consular laissez-passer;
- where relevant, an expired European travel document for return or an international travel document issued by the Indian authorities;
- a certificate of naturalisation or of recovery of nationality;
- a military passbook;
- a seafarer's discharge book or seafarer's identity document issued under the Geneva Convention of 19 June 2003 and the London Convention of 9 April 1965;

- any government document, issued by another government agency, bearing a photograph and stating or clearly indicating the citizenship such as a driving license or a birth certificate;
- photographic and digital copies of the documents listed above;
- a positive response to a readmission application;
- a statement obtained from the concerned person by the judicial or administrative authorities of the requesting Party.

Annex 3
to the
Agreement
between
the Government of the Republic of India
and
the Government of the Federal Republic of Germany
on
a Comprehensive Migration and Mobility Partnership

Responsibilities and readmission modalities

1. The competent authorities for implementing Article 12 shall be

a) for the German Party:

- filing of readmission applications: the competent foreigners authorities, the Federal Office for Migration and Refugees, the Federal Police Headquarters;
- processing of readmission applications: the Federal Police Headquarters;
- settling disputes relating to the interpretation of this Agreement: the Federal Ministry of the Interior and Community;

b) for the Indian Party:

- filing of readmission applications: the competent state governments;
- processing of readmission applications: the competent diplomatic mission or consular post;

- settling disputes relating to the interpretation of this Agreement: the Ministry of External Affairs. For Articles 14 and 15, the Ministry of Home Affairs shall be the competent authority.

2. The competent authorities of the Parties shall use their national official language(s) or the English language when implementing the readmission procedure. Where a language other than the English language is used, an English translation is to be provided.

3. For the purposes of forced returns, the Parties have designated the following border crossing points:

a) for the German Party: all international airports;

b) for the Indian Party: international airports at Delhi, Mumbai and Bengaluru.

4. The date, time, border crossing point and other arrangements for forced returns shall be decided upon by mutual agreement between, and notified to, the competent authorities of the Parties.

5. Before transferring a person, information on the transfer date, the border crossing point and possible escorts shall be transmitted to the competent authorities of the requested Party via e-mail or any other modern means of communication allowing the fastest possible data transmission, subject to general arrangements on these issues which may be agreed on at any time through diplomatic channels.

6. Both Parties agree that escorts accompanying persons being returned are not required to be in possession of a visa unless they intend to disembark and leave the direct transit area of the airport. Where necessary, both Parties assure the other of their support in issuing visas to escorts.