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## The humanitarian crisis emerging for Afghanistan and Afghan refugees

### Report<sup>1</sup>

Committee on Migration, Refugees and Displaced Persons

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### Summary

Since the seizing of Kabul by the Taliban in August 2021, Afghanistan has been plunged in an unprecedented humanitarian crisis aggravated by decisions made by, and the isolation of, the *de facto* authorities. The human rights situation has deteriorated, especially for women and girls, compared to the already concerning situation prevailing before 2021. Iran and Pakistan, hosting more than 95% of Afghans refugees, are increasingly unwilling to let refugees in. The seriousness of the situation is such that the United Nations High Commissioner for Refugees has maintained its call to bar forcible returns to Afghanistan and to neighbouring countries.

Taking stock of the European response to one of the largest protracted refugee crises to date, the report provides concrete avenues for member States to better address Afghans' protection needs inside and on their way to Europe, exploring innovative ways to consider Council of Europe's tools as co-ordination and solidarity means across member States. Drawing on [Resolution 2403 \(2021\)](#) "The consequences of the situation in Afghanistan for Europe and for the region", the report calls on member States to restore their political engagement in Afghanistan in line with the Council of Europe's standards and norms, and to engage with all political stakeholders in Afghanistan.

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1. Reference to committee: [Doc. 15414](#), Reference 4621 of 24 January 2022.



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## A. Draft resolution<sup>2</sup>

1. The Parliamentary Assembly reiterates its deepest concern at the ongoing situation in Afghanistan as well as the protracted Afghan refugee crisis as expressed in its [Resolution 2403 \(2021\)](#) “The situation in Afghanistan: consequences for Europe and the region”. It acknowledges that the situation dramatically worsened since August 2021.
2. The Assembly strongly condemns the exclusion by the *de facto* authorities, of ethnic and religious minorities as well as particular groups in society – especially the Hazaras, the Tajiks, Christians, LGBTIQ+ communities and women – from the management of public affairs and their exposure to discrimination and targeted violence.
3. The Assembly forcefully condemns the systemic violence against women and girls enshrined in rights-violating edicts. It considers that documented evidence exists which may justify the consideration of gender persecution under crimes against humanity in the International Criminal Court’s ongoing investigation on Afghanistan pursuant to Articles 5(b) and 7.1(h) of the Rome Statute.
4. The Assembly expresses its solidarity with the Afghan people and salutes the courage of all Afghans, not least women and girls, who strive to claim their rights in extremely dangerous and adverse circumstances inside Afghanistan and in exile.
5. The present resolution aims to explore concrete avenues for the Council of Europe and its member States to further address the immediate protection needs of Afghans whilst envisioning some policy co-ordination mechanisms beyond the humanitarian and short-term protection approach.
6. The reaffirmed values and standards by the Heads of State and Government of the Council of Europe in the Reykjavík Declaration constitute a robust baseline to delineate such an approach based on the respect of individual human rights as enshrined in the European Convention on Human Rights (ETS No. 5) as well as on solidarity across member States in Europe. This approach is also reinforced through political dialogue with external partners notably the United Nations and the European Union.
7. In this effort, the Assembly acknowledges [Resolution S/RES/2626 \(2022\)](#) by the United Nations Security Council as well as the European Parliament [Resolution 2022/2955\(RSP\)](#) on “The human rights situation in Afghanistan, especially the deterioration of women’s rights and attacks against educational institutions.”
8. The Assembly notes that Afghans are the third largest nationality seeking asylum across Europe among them many unaccompanied children and teenagers in transition to adulthood. It recalls the commitments by the Council of Europe member States enshrined in the 2021-2025 Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe ([CM\(2021\)67-final](#)), in Recommendation of the Committee of Ministers to member States [CM/Rec\(2022\)22](#) on human rights principles and guidelines on age assessment in the context of migration and its explanatory memorandum, as well as in Recommendation [CM/Rec\(2019\)4](#) on supporting young refugees in transition to adulthood.
9. People fleeing persecutions, hunger, or insecurity, be they recognised as refugees or not, cannot be blamed for seeking safety and integration. The Assembly warns against anti-migrant and anti-refugee sentiment mounting across Europe, including against Afghans.
10. With 95% of displaced Afghans in Pakistan and in Iran, the Assembly acknowledges that both countries have contributed an important share to the reception of these people and stresses the importance for member States to contribute to this effort as well. It regrets that many member States lowered their annual resettlement quotas at a time when reception needs have never been higher according to 2022 Global Trends Report on forced displacement of the United Nations High Commissioner for Refugees (UNHCR).
11. In line with UNHCR’s Guidance Note on the International Protection Needs of People Fleeing Afghanistan issued in February 2023:
  - 11.1. the Assembly considers deportations to Afghanistan are not acceptable under the current circumstances and that forced removals should be immediately halted;

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2. Draft resolution adopted unanimously by the committee on 21 September 2023.

11.2. any voluntary return of Afghans including via state-sponsored programmes should be monitored in co-ordination with the UNHCR in line with applicable the European Convention on Human Rights standards and European Court of Human Rights case law on the various aspects of vulnerability to which returnees may be exposed;

11.3. the Assembly observes that growing restrictions apply for Afghans in Iran and Pakistan with increasing risks of forced removal. It considers that member States should not return Afghans to Pakistan and Iran as it may expose them to discrimination in accessing their rights and to deportation to Afghanistan.

12. The Assembly considers that Afghans in exile should be provided with dignified reception and integration as long as durable and safe return to Afghanistan is impossible:

12.1. the Assembly aligns with the European Union Agency for Asylum (EUAA) which considers that women and girls are at risk of persecution and that their fear of persecution is in general well-founded and substantiated. It welcomes efforts made by some member States which facilitate access to protection for Afghan women and girls, and encourages all member States to harmonise their practices accordingly;

12.2. the Assembly welcomes the adoption by the Committee of Ministers of Recommendation [CM/Rec\(2022\)17](#) on protecting the rights of migrant, refugee and asylum-seeking women and girls, and calls for a fast and effective implementation of this important instrument across Europe;

12.3. the Assembly recalls that the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210) requires that signatory States take the necessary measures to prevent, investigate, punish and provide reparation for acts of gender-based and domestic violence. Such measures should be implemented without discrimination on any ground, including on the basis of migrant or refugee status;

12.4. the Assembly urges member States to commit to the resettlement and humanitarian pledges they have announced for Afghans and to increase their quotas. Concrete relocation and family reunification mechanisms must be enacted rapidly and should involve co-ordination with the relevant European Union authorities and the UNHCR. The Assembly welcomes the establishment in 2021 by the EUAA of the Expert Platform on safe pathways for Afghans in the framework of its Resettlement and Humanitarian Admission Network;

12.5. ensuring that Afghans are provided with a form of registration should be considered a priority by all member States. Particular attention should be given to unaccompanied minors and children transiting to adulthood. The Assembly recalls Recommendation [CM/Rec\(2019\)11](#) and Explanatory Memorandum [CM\(2022\)81-add](#) on effective guardianship for unaccompanied and separated children in the context of migration. It draws attention to the role of local and regional authorities as well as civil society organisations in these efforts and recalls [Resolution 487\(2022\)](#) and [Recommendation 481\(2022\)](#) of the Congress of Local and Regional authorities of the Council of Europe “Reception of women and children refugees in Europe’s cities and regions”, and Recommendation [CONF-AG\(2023\)REC2](#) for a Global Approach of the Rights of Refugees and Migrants and the Role of Civil Society, adopted by the Conference of international non-governmental organisations of the Council of Europe;

12.6. in instances where Afghans do not hold a form of international protection and associated residence permit, other forms of legal registration providing (at least temporary) leave to remain should be made accessible (such as work or student visa). This would help ensure that return decisions do not result from a lack of any alternative to a an ultimately non-durable and potentially dangerous return.

13. The Assembly is very concerned about the obstacles faced by asylum-seekers, including Afghans, to access fair, effective, and individualised procedures in Europe, as well as obstacles to family reunification when applicable:

13.1. in line with rulings from the European Court of Human Rights, as well as Assembly [Resolution 2462 \(2022\)](#) “Pushbacks on land and sea: illegal measures of migration management”, pushbacks preventing individuals from seeking asylum on European territory, whether perpetrated by State or non-State actors, must immediately cease. Allegations of pushbacks must be fully investigated and those responsible be held to account. Effective complaints mechanisms for victims should be in place to allow such investigations;

13.2. all efforts should be made by State authorities to facilitate access to independent monitoring bodies in areas where people on the move are known to arrive, including border areas, as recommended by the Committee for the Prevention against Torture in its 32nd General Report of March 2023;

13.3. safe third country clauses cannot be used as a justification for providing lesser procedural safeguards to asylum-seekers. The burden of proof should not be heavier when assessing the admissibility of asylum requests against such clause for it often results in blocking access to protection for people in need.

14. The Assembly reasserts its commitment expressed in [Resolution 2379 \(2021\)](#) “Role of parliaments in implementing the United Nations global compacts for migrants and refugees” to operationalise the principles of burden and responsibility-sharing:

14.1. in line with [Resolution 2502 \(2023\)](#) “Integration of migrants and refugees: benefits for all parties involved”, the Assembly calls on member States to engage in the European Qualifications Passport for Refugees (EQPR) programme which comprises a tailor-made module on Afghan refugees and asylum-seekers, targeting credential evaluators. All member States are encouraged to recognise the EQPR as a valid assessment of the holders’ qualifications to enrol in higher education across Europe, even if to be used in a country that is not part of the EQPR;

14.2. the Assembly echoes the invitation made by the Committee of Ministers in its reply to the Assembly’s [Recommendation 2248 \(2023\)](#) “European solidarity in the context of asylum and international protection” to all member States to consider acceding to the Council of Europe Development Bank (CEB). It calls on member States to maintain their support to the Migrants and Refugee Fund especially through grants;

14.3. the Assembly emphasises that lack of a harmonised approach across States may increase the risk of unaccompanied children going missing. It encourages member States to co-ordinate on resettlement and relocation procedures, in line with the European Union law and Visa Code when pertinent. Unaccompanied Afghan children should be registered as international protection holders to ease family reunification;

14.4. the Assembly invites member States to maintain and increase their support to UNHCR especially through unearmarked funding so that UNHCR programmes in support of Afghans displaced in Afghanistan and in neighbouring countries can be sustained;

14.5. the Assembly is hopeful that member States, but also local authorities, will continue allocating sufficient funding to support their reception efforts. It stresses the importance of refraining from nationality-specific earmarking which may exclude some people from reception and support programmes which they might otherwise be eligible for, based on vulnerability and other individual criteria.

15. In Afghanistan, the Assembly:

15.1. calls on member States whose consular services have been suspended to explore the possibility of co-ordinating some part of the visa request processes with member States whose consular services are still functioning in Kabul, provided that they share similar eligibility criteria for humanitarian or family reunification visas;

15.2. calls on member States to explore the possibility to resume their consular services in Kabul with a view to facilitating access to protection for Afghans most at risk especially women and children, in the case where individuals are unable to or prevented from exiting Afghan territory;

15.3. agrees that the external representations of member States may inform country of origin information reports and be instrumental in enhancing support, including financially, to Afghan civil society especially in support of women and girls. The possibility for direct scholarship for private education in medical studies, one of the only areas of education still accessible to women to date, may be explored. Such efforts should be co-ordinated with United Nations programmes deployed in Afghanistan, the European External Action Service and the European Civil Protection and Humanitarian Aid Operations field office in Kabul;

15.4. in line with UN Security council [Resolution S/Res/2626 \(2022\)](#), encourages member States, in co-ordination with the European External Action Service, to increase aid and co-operation funding. It highlights the importance of a gradual shift from humanitarian assistance to a development-oriented approach in Afghanistan.

16. In Pakistan and in Iran, the Assembly:

16.1. encourages member States to streamline visa processes and to alleviate some of the eligibility and administrative requirements for visa requests. Member States should harmonise procedures and practices whenever imposing similar admissibility thresholds. They should co-ordinate their approach with the European Union to adopt a common approach on family reunification and relocation of Afghans whenever such relocation into an European Union member State involves elements falling under the European Union Visa Code requirements;

16.2. aligns itself with Recommendation [CM/Rec\(2022\)17](#) and calls on member States “to fund specific assistance and humanitarian resettlement programmes for women and girls who are victims, or at risk, of violence against women or trafficking in human beings”;

16.3. urges member States to allocate greater human and financial resources in consulates but also in the capitals of member States to effectively increase access to resettlement and alternative pathways for Afghans and ensure that cases are processed in a timely fashion;

16.4. suggests that the EQPR programme, in co-ordination with the UNESCO Qualifications Passport for Refugees and Vulnerable Migrants programme, be used as a canvas for tailor-made education assessment certificates to be issued by consulates in cases of partial or missing documentation as a means of proving and validating the educational background of Afghans who submit applications from Kabul, or, alternatively, from Islamabad or Tehran;

16.5. draws attention of member States to the assistance and reception fatigue in countries hosting Afghan refugees especially in Iran and Pakistan and expresses its concern at the risk that this may result in increased vulnerability and possibly human rights violations in first countries of asylum. Echoing principles stated in its [Resolution 2380 \(2021\)](#) “[Humanitarian action for refugees and migrants in countries in North Africa and the Middle East](#)”, the Assembly reiterates the need to provide national humanitarian aid to support access to education and to health care for Afghan children and teenagers, boys and girls in co-ordination with the United Nations agencies and their implementing partners.

17. In line with [Resolution 2487 \(2023\)](#) “European solidarity in the context of asylum and international protection” and with [Resolution 2379 \(2021\)](#), the Assembly is committed to reinforcing political leadership to support the Afghan people through parliamentary co-operation especially with the European Parliament and with the Inter-Parliamentary Union. Exchanges between the Assembly and former members of the Afghan Parliament now in exile may be explored.

18. The Assembly reiterates its position expressed in [Resolution 2403 \(2021\)](#), namely that it considers that isolating the *de facto* authorities has led to the further suffering of the Afghan people. It stressed that:

18.1. engaging in targeted political dialogue with the *de facto* authorities does not imply a recognition on the part of member States of the Taliban as a legitimate authority in Afghanistan;

18.2. highlights that any engagement with the *de facto* authorities should aim to secure the unconditional respect and protection of the human rights of women and girls. Such engagement should also work towards respect of the rights of all ethnic, religious and minority groups in Afghanistan. In this regard, the Assembly recalls that Afghanistan remains a party to several international human rights treaties by which it is obliged to abide;

18.3. engaging a dialogue with all political stakeholders in Afghanistan, including the *de facto* authorities, should be inclusive of members of all communities and minority groups within Afghanistan. In addition, the voices of Afghans in exile willing to contribute to such dialogue should be duly heard, including former members of the Afghan Parliament, judges, and lawyers, coming from all communities and minority groups of Afghanistan.

19. The Assembly is hopeful that this resolution may lay the ground for a roadmap on Afghanistan and will contribute to the reflection of member States especially ahead of the Global Refugee Forum in December 2023 and the Annual Tripartite Consultations on Resettlement in 2024.

20. The Assembly encourages the Council of Europe to explore avenues for contribution to the EUAA-led Expert Platform on Afghanistan which brings together major partners of the Organisation worth co-ordinating with such as EU+ countries, Canada, the European Union, UNHCR, and the International Organization for Migration.



## B. Explanatory memorandum by Mr Birgir Thórarinsson, rapporteur

### 1. Introduction

1. The humanitarian situation in Afghanistan has worsened since the Taliban seized power in August 2021, and has seen millions displaced within Afghanistan or seeking safety in exile. Purely and simply, the most fundamental principles of equal human rights for all and the rule of law are being trampled on.
2. The situation in Afghanistan has led to one of the largest protracted refugee situations for decades. For the third year in a row, Afghans constitute the second largest displaced population in the world equal to Ukrainians as of early 2023. Only Syrian refugee numbers are greater.<sup>3</sup> In August 2021, the United Nations High Commissioner for Refugees (UNHCR) issued a [non-return advisory on Afghanistan](#) which is illustrative of the level of risk which civilians are exposed to in this country. This advisory remains in force as of today. UNHCR also recommends that Afghans should not be returned to Iran and Pakistan which “have for decades generously hosted the vast majority of the total global number of Afghan refugees.”
3. The magnitude of the crisis in Afghanistan makes the prospect of durable return unforeseeable in the near future. The international community and the Council of Europe in particular should take stock of the efforts made over the past two years, and urgently decide on concrete co-ordinated efforts to address the immediate protection needs as well as reflect on a vision beyond humanitarian engagement in Afghanistan.
4. On 30 September 2021, the Parliamentary Assembly adopted [Resolution 2403 \(2021\)](#) “The situation in Afghanistan: consequences for Europe and the region” calling on member States “to make available political and financial support to help” neighbouring countries to support Afghans fleeing Afghanistan and on national parliaments of Council of Europe member and observer States as well as parliaments of States enjoying observer or partner for democracy status “to scrutinise their governments and hold them to account for the way in which they respond to the current situation.”
5. This report is based on exchanges with field actors at local, international and diplomatic levels deployed in Europe, in Afghanistan and in its neighbouring countries. It should be considered as a direct continuum of the considerations and decisions made by the Assembly in [Resolution 2403 \(2021\)](#).
6. In April 2023, the Committee on Migration, Refugees and Displaced Persons authorised my visit to Türkiye as rapporteur. I express my gratitude to the Turkish authorities and the various political parties I had the honour to meet in Ankara, as well as to refugee rights organisations, the Bar Association, and the Metropolitan Municipality of Istanbul who all shared insightful views about Afghans as well as concrete avenues to enhance European solidarity to better support Afghans in exile.
7. Between December 2022 and July 2023, I had the opportunity to visit Afghanistan, Iran, and Pakistan in my capacity as a member of the Icelandic Parliament, visits which were distinguished from my mandate as rapporteur for the Assembly, but which have contributed to my understanding of the magnitude of the ongoing displacement crisis in the region.

## 2. The protracted refugee crisis in Afghanistan: a regional crisis

### 2.1. An unprecedented humanitarian crisis

8. In March 2023, it was estimated that 6 million people were on the brink of famine in Afghanistan, according to the European Union’s Foreign Affairs Council. As of April 2023, an estimated 40% of the Afghan population were experiencing high levels of acute food insecurity<sup>4</sup> in a country-ranking 5th among the countries most at risk due to the climate change worldwide, as recalled by the United Nations Development Programme (UNDP) in their 2023 report entitled *Afghanistan Socio-Economic Outlook*.
9. The resuming of the financial support by the World Bank and the Asia Development Bank to private actors operating health care centres as of late 2021 is positive news. Yet, since the Taliban decrees of May and October 2022 banning women from the public sector and then from the UN and NGO placements, the

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3. UNHCR, “[Global Trends Report 2022](#)”, June 2023.

4. “[Integrated Food Security Phase Classification, Afghanistan: Acute Food Insecurity Situation for April 2023 and Projection for May – October 2023](#)”, May 2023.

entire aid and development sector – not least the education and the health sector – is deprived of female workers, severely impacting the capacity to meet needs in the field of reproductive health and identification of and support to victims of gender-based and domestic violence.

## **2.2. Security issues and systemic violations of human rights**

10. Widespread human rights violations have been perpetrated in Afghanistan for decades as various factions and armed groups have fought for leadership in the country. In 2019, the International Criminal Court accepted that an investigation be launched on the “alleged crimes against humanity and war crimes committed in Afghanistan since 1 May 2003”.<sup>5</sup>

11. The early days under the ruling of the *de facto* authorities may have initially led to a decrease in security incidents and attacks, which has enabled the UN to reach areas inaccessible to them in the previous years; however the various reports by the UN Special Rapporteur on Afghanistan and the Country Guidance on Afghanistan by the European Union Agency for Asylum (EUAA) from January 2023<sup>6</sup> indicate that the situation remains unstable with a number of security incidents recorded, including attacks perpetrated by the Taliban, ISIS and other armed groups, targeting civilians.

12. Attacks against the Hazara community members are regularly reported by civil society<sup>7</sup> with severe alerts that a genocidal intent may lie behind such attacks.<sup>8</sup> In June 2023, Amnesty International released a report based on documented evidence from the field accusing the Taliban of having “committed the war crime of collective punishment against civilians in Afghanistan’s Panjshir province.”<sup>9</sup>

13. Measures such as the suspension of the 2004 Constitution or the ousting of judges as from September 2021 have “precipitated the collapse of the rule of law and judicial independence in Afghanistan” according to the UN Special Rapporteur on the Independence of Judges and Lawyers and to the UN Special Rapporteur on the situation of human rights in Afghanistan.<sup>10</sup> The Afghan Bar Association’s office has been forced into exile and is now operating from Brussels, Belgium.<sup>11</sup>

14. Regular reports by the UN Special Rapporteur on the situation of human rights in Afghanistan leave no doubt as to the extent of the human rights violations and the gravity of the humanitarian situation. As anticipated, the Taliban-led regime excludes entire sections of the population who are therefore particularly vulnerable to discrimination and targeted violence (ethnic and religious minorities especially the Hazaras, the Tajiks and Christians, and the LGBTIQ+ communities).

## **2.3. A war on women**

15. The Office of the High Commissioner for Human Rights reported (OHCHR) in June 2023 that “[w]omen and girls are systematically discriminated against in every aspect of their lives.”<sup>12</sup> Since March 2022, an edict prohibits healthcare institutions to provide medical assistance to women not wearing the hijab.<sup>13</sup> According to the Women Advisory Group whom I met in Kabul during a visit undertaken in my capacity as a member of the Icelandic Parliament, women were barred from working in the public sector and told to train male staff to take over their position. Women are also banned from working in the judiciary, in the non-governmental sector (December 2022), and with the UN (April 2023).

16. Women are prohibited from accessing primary and thus secondary education above the 6<sup>th</sup> grade and are banned from public places such as parks. Their travel beyond 72 km is not authorised without being accompanied by a man legitimate in his role. Men taking side for women’s rights are arrested and jailed.<sup>14</sup>

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5. “Afghanistan” | International Criminal Court ([icc-cpi.int](https://www.icc-cpi.int)).

6. EUAA, “Country Guidance on Afghanistan”, January 2023, and OHCHR webpage of the Special Rapporteur on Afghanistan.

7. Amnesty International, “Afghanistan: 13 Hazara killed by Taliban fighters in Daykundi province – new investigation”, 5 October 2021.

8. Human Rights Law Centre Australia, “Statement at the 53rd Session of the UN Human Rights Council”, 19 June 2023.

9. Amnesty International, “Afghanistan: ‘Your sons are in the mountains’: The collective punishment of civilians in Panjshir by the Taliban”, 7 June 2023.

10. UN Special Rapporteurs on the situation of human rights in Afghanistan and the independence of judges and lawyers, “Joint Statement on the International Day of the Endangered Lawyer”, 20 January 2023.

11. CCBE et al, “The Afghanistan Independent Bar Association relaunches its activities in exile from Brussels”, International Day of the Endangered Lawyer 2023, January 2023.

12. OHCHR, “Situation of women and girls in Afghanistan (A/HRC/53/21)- Report of the Special Rapporteur on the situation of human rights in Afghanistan and the Working Group on discrimination against women and girls”, June 2023.

13. EUAA, op.cit.



Women in rural areas are particularly suffering from the severe restrictions on their freedom of movement and right to interact with male counterparts. This is severely impacting their access to aid and any form of support which they or their family may need.

17. Community-based organisations and field research report alarming suicide rates and suicidal ideation in women and girls,<sup>15</sup> alerting to the fact that “mental health, well-being and sense of hope among vulnerable Afghans plummeted in wake of Taliban takeover.”<sup>16</sup> In its latest conclusions on Afghanistan, the Council of the European Union clearly stated that human rights violations were systemic in Afghanistan.<sup>17</sup>

18. The International Commission of Jurists and Amnesty International consider that such a “war on women” would justify that the International Criminal Court investigate possible crimes against humanity.<sup>18</sup>

#### **2.4. Internally Displaced Persons and returnees: displaced persons in need of particular support**

19. Internally displaced persons fall within UNHCR’s mandate. Internally forced displacement is not new in Afghanistan for reasons of conflict or due to environmental disasters (earthquakes, droughts, floods) forcing people to leave their place of residence. As of 31 December 2022, UNHCR estimated that 3.25 million Afghans were internally displaced by conflict across the country.<sup>19</sup> Since August 2021, longer term internally displaced persons are hosting the new arrivals. This is putting households and regions with scarce resources under strain.

20. According to UNHCR, as of the end of 2022, a little more than 6 400 refugees had returned to Afghanistan, the vast majority from Pakistan (94%).<sup>20</sup> As of 11 July 2023, UNHCR estimates that 6 440 Afghan refugees voluntarily have returned to Afghanistan since the start of the year 2023.<sup>21</sup> The International Organization for Migration (IOM) estimates that between 1 January and 17 June 2023, at least 37 000 undocumented Afghans have returned from Pakistan to Afghanistan through the two border-crossing points, a number which is very likely to be lower than the actual number of returnees according to the organisation.<sup>22</sup>

21. Return is a costly process: IOM in Pakistan estimated that, as of 3 June 2023, the average cost of travelling from Pakistan to Afghanistan was PKR 58 619 (USD 206) per family.<sup>23</sup> Upon arrival, most returnees are reliant on cash assistance for livelihood (food and non-food item) and reintegration process to meet their immediate needs: the amount of cash assistance provided to returnees by UNHCR in Afghanistan from January-April 2023 alone was worth USD 621 000.

22. Afghans return to Afghanistan because they feel like there is no durable solution for them elsewhere, not because they consider that return is durable in Afghanistan. This is confirmed in interviews run by UNHCR.<sup>24</sup> Afghans supported by UNHCR after their return from Azerbaijan, and whom I met during my visit in Afghanistan (not as part of my mandate as Assembly Rapporteur) shared similar views with me. It is particularly concerning that the lack of integration prospects for Afghans in some member States of the Council of Europe leads to such decision to return.

#### **2.5. Regional impact especially on Iran and Pakistan**

23. Pakistan has hosted Afghan refugees for 43 years and proved to be the first country of asylum for Afghans newly displaced since 2021. We can only appreciate this immense effort. According to UNHCR and national NGO figures, Pakistan is hosting approximately more than 4 million refugees and a large number of undocumented stateless persons. Many of them are unaccompanied children. Yet, to date, no law, clear

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14. Human Rights Watch, “Afghan Professor Jailed After Protesting Restrictions on Women”, 6 February 2023.

15. Exchange of views with Ms Rana Refahi, Afghanistan consultant at the Asia Pacific Refugee Rights Network, meeting of the Committee on Migration, Refugees and Displaced Persons, 11 October 2022.

16. International Institute for Environment and Development, “Mental health, well-being and sense of hope among vulnerable Afghans plummeted in wake of Taliban takeover”, 28 November 2022.

17. Council of the European Union, “Council conclusions on Afghanistan” (Doc. 7264/23), 20 March 2023.

18. Amnesty International, “Afghanistan: The Taliban’s war on women: The crime against humanity of gender persecution in Afghanistan”, May 2023.

19. UNHCR Bureau for Asia and Pacific, “External Update: Afghanistan Situation #24 as of 1 May 2023.”

20. UNHCR Bureau for Asia and Pacific, “External Update: Afghanistan Situation #23 as of 1 February 2023”.

21. UNHCR Operational Data Portal, Afghanistan, last accessed 25 July 2023.

22. IOM, “Pakistan: Flow Monitoring of Undocumented Afghan Returnees from Pakistan (21 May – 3 June 2023)”.

23. Ibid.

24. <https://reporting.unhcr.org/voluntary-return-114>.

policy or system has been agreed upon in hosting this huge population including a system for managing new arrivals. In Iran, according to UNHCR, as of February 2023, the total number of Afghans stood at 4.5 million including almost 2.1 million undocumented persons,<sup>25</sup> the vast majority of whom reside in urban areas.

24. Pakistan and Iran have sheltered more than 95% of Afghan refugees for a period spanning over three generations. This has weighed heavily on the countries' infrastructure and public services, relying massively on international support. In both countries, Afghan children registered with the authorities can access primary and secondary school free of charge. Since 2015, a policy decision was made to allow Afghan children living in Iran to access primary and secondary education regardless of their documentation status. In Iran, all Afghan refugees are provided free-of-charge primary health care. In Pakistan, undocumented Afghans are not allowed to access the public healthcare system even though some practitioners may allow access in practice on a discretionary basis.<sup>26</sup>

25. The arrival of Afghans since mid-2021 has coincided with severe environmental disasters that hit both Iran and Pakistan. Devastating floods in September and October 2022 impacted 33 million people.<sup>27</sup> Furthermore both countries are experiencing significant economic hardship including two-digit inflation, subsequent rise in food prices, and volatile political contexts.

26. Mass delays in the management of registration cases have added to the preceding backlog accumulated over the years, even though significant numbers of newly arrived Afghans in either Iran or Pakistan are reported to have registered with UNHCR. To some extent, some of reception fatigue has been expressed by both countries' State authorities: registration with the authorities is more complicated or often delayed, or people are simply denied entry into the territory or forcibly returned if found undocumented in the country. Pushbacks are also to be deplored at the Afghan-Tajik border.<sup>28</sup>

27. In Iran, the authorities have conducted a registration operation for undocumented foreign nationals between April and June 2022: an estimated 2.6 million persons<sup>29</sup> received a headcount slip which provides a form of temporary protection valid for three months. According to local refugee-rights organisations, only a small percentage of newly arrived Afghans were able to register. Anyone considered undocumented may be deported if intercepted. For those registered, the Amayesh card shall be renewed yearly at their own expense, which they often cannot afford.<sup>30</sup> Afghans who need to renew their work permit must pay about USD 100, which represents more than one month of income. Importantly, nearly 50% of children do not have Amayesh cards; such lack of documentation can pass down over generations.

28. In Pakistan, 1.3 million refugees have been issued proof of registration cards following the Document Renewal and Information Verification Exercise (DRIVE)<sup>31</sup> conducted by the government until the end of 2022 in conjunction with UNHCR. DRIVE targeted specifically refugees who had arrived before 2021 and were registered by the Government of Pakistan. Those who arrived in 2021 and after are still uncertain about their situation.<sup>32</sup> Indeed, according to information shared by UNHCR's office in Pakistan, since mid-January 2022, UNHCR was advised by the Pakistani Government to refer all asylum applications to the relevant ministries and to halt issuing documentation to asylum-seekers. The Pakistani authorities announced that Afghans overstaying their visa beyond 31 December 2022 would be fined or blacklisted – whilst stressing however that no deportation and no imprisonment would be carried out, as initially announced weeks earlier.<sup>33</sup> This is generating a general climate of insecurity among the community, which is therefore less prompt to make itself known when in need or to register with UNHCR.

29. The growing reluctance of Iran and Pakistan to let Afghans in has translated into higher administrative requirements to cross the border, or even to the turning down of people at the border. In the case of women, this comes as an additional obstacle – and brings additional risks – on the route of exile. In practice, Pakistani

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25. "Iran-Afghan water tensions surge amid drought, complicating Taliban ties", *Al-Monitor*, 6 June 2023.

26. Refugee International, "They Left Us Without Any Support": Afghans in Pakistan Waiting for Solutions", June 2023.

27. UNHCR, Briefing Note: "Humanitarian needs remain acute for displaced in flood-hit areas of Pakistan", September 2022.

28. UNHCR, "UNHCR raises concerns over Afghan refugee forced returns from Tajikistan", 25 August 2022.

29. UNHCR, "Regional Refugee Response Plan for Afghanistan Situation", March 2023.

30. Norwegian Refugee Council, "Renewing key documents brings hope to Afghans in Iran", 1 June 2023.

31. UNHCR, Briefing Note: "Pakistan concludes 'drive' to issue smartcards to registered Afghan refugees", 4 January 2022.

32. UNHCR, "Regional Refugee Response Plan for Afghanistan Situation", March 2023.

33. "Paperless Afghan Migrants to be Fined or Blacklisted, not Deported: Pakistan", *Khaama Press*, 23 December 2022.

visas are expensive, from USD 7 to USD 1 200. Most people get their application rejected, with no reimbursement of the fees paid. Since June 2022, Afghans can only be issued a visa if they have a letter of invitation from a Pakistani national who shares their ID reference.

30. Pakistan is often a transit country onto further destinations including Europe. This makes the situation more challenging for people who want to travel to Pakistan to process their visa applications – including humanitarian visas – onto other countries. Forced returns and deportations have also not halted since the Taliban takeover. According to UNHCR’s office in Pakistan, as of April 2023, 4 331 individuals had been deported to Afghanistan since 2021.

31. In Iran, Afghans face huge challenges, not least pushbacks. Tens of thousands of undocumented Afghans are deported monthly. UNHCR recorded an estimated number of 65 100 in April 2022. In April 2023 only, according to UNHCR border monitors, an estimated 45 500 undocumented Afghans were deported from Iran through the Islam Qala and Zaranj crossing points. An estimated 61 970 Afghans were deportees in March 2023.<sup>34</sup> In July 2023, an Iranian police official reported that almost 18 000 Afghans were deported within a couple of weeks.<sup>35</sup>

## 2.6. UNHCR’s non-return advisory

32. In August 2021, UNHCR issued a [non-return advisory on Afghanistan](#) which is illustrative of the level of risk which civilians are exposed to in Afghanistan. Importantly, UNHCR stressed that it would not be appropriate to return Afghans to neighbouring countries such as Iran and Pakistan which “have for decades generously hosted the vast majority of the total global number of Afghan refugees.”

33. Certain State authorities sometimes argue that many of the Afghans coming to Iran or Pakistan do not have a well-founded protection claim and mostly emigrate to escape very dire economic conditions. This is often an argument used with respect to Afghan male men, including very young adults. If this cannot be excluded, it holds also true that returning to a country when one is at risk of facing extreme poverty and hunger may appear as a legitimate reason for seeking opportunities elsewhere.

## 3. The European response: a forgotten refugee crisis

### 3.1. Strong statements as early as August 2021

34. In August 2021, more than 100 countries, including at least 41 member States of the Council of Europe, committed to supporting, “working to secure, and [called] on all parties to respect and facilitate, the safe and orderly departure of foreign nationals and Afghans who wish to leave the country.”<sup>36</sup>

35. On 23 August 2021, the president of the Consultative Council of European Judges called on “the competent authorities of Council of Europe member States to ensure that meaningful action is taken to secure the safe passage, refuge and protection for Afghan judges and other legal professionals, and for their family members, who have well-founded fears of persecution in their country.”<sup>37</sup>

36. Between 15 and 31 August 2021, more than 122 000 people were evacuated in what the Council of Bars and Law Societies of Europe (CCBE) described as “one of the largest airlifts in history.”<sup>38</sup> Shortly after, several Afghan-specific visa schemes were announced by many countries across the world, including by several Council of Europe member States.

37. The issuance of UNHCR’s non-return advisory prompted most member States of the Council of Europe to halt deportations of Afghans, including undocumented persons. The IOM as well as Frontex have suspended all activities aiming to facilitate or accompany return operations. To my knowledge, only Türkiye has maintained a voluntary return programme and is regularly sending back Afghans via charter and commercial flights (Ariana Afghan Air) to Kabul airport.

34. UNHCR Bureau for Asia and Pacific, op.cit.

35. “Iran departs nearly 18,000 Afghan migrants”, *Anadolu Ajansı*, 13 July 2023.

36. “Joint Statement on Afghanistan”, Media Note, Office of the Spokesperson of the US Department of State, 15 August 2021.

37. Consultative Council of European Judges, “Statement by the President of the CCJE on the protection needs of judges and other legal professionals in Afghanistan”, 23 August 2021.

38. CCBE et al, op.cit.

38. In October 2021, the European Commission convened a High-Level Forum on providing protection to Afghans at risk, meant to co-ordinate efforts devised unilaterally to provide sufficient safe and legal pathways for Afghans considered most at risk.<sup>39</sup> As of April 2022, EU member States had reported to the European Commission that almost 28 700 humanitarian admission arrivals had taken place out of the 36 000 pledges announced for 2021/2022. These figures include Afghans evacuated during the exceptional airlift in August 2021.

39. Across many European States, rejected asylum-seekers, Afghans left undocumented or being granted a temporary form of protection have been able to submit secondary application based on the situation now prevailing in Afghanistan. Importantly, Denmark, Finland and Sweden now consider women as a particularly vulnerable social group entitled to protection because returning them to Afghanistan would expose them to systemic and systematic gender-based persecution. These decisions are aligned with the conclusions drawn by the EUAA published in January 2023.

### **3.2. The challenge of materialising pledges**

40. The evacuations conducted occurred within a short period of time under exceptional circumstances, targeting mostly nationals from the United States, its allies and Afghan nationals who co-operated with or were employed by such foreign forces. Soon after, the standard procedure for visa applications including for emergency cases resumed except that most of the Western, and in fact European, embassies had closed in Kabul with barely any consular services remaining in the city.

41. Accessing protection for Afghans usually involves travelling to Pakistan, and to a lesser extent to Iran. Many of those eligible for international protection find it almost impossible to leave Afghanistan. A passport at least is needed to travel across the Pakistani border and most often a visa: both processes can cost up to several thousand USD. For Afghans who manage to travel, the waiting time needed for appointments to be booked and cases to be processed, can take months if not years. Whether in Pakistan or in Iran, UNHCR refugee registration is required before people may be referred to embassies. All these steps require financial resources, housing, and a permit to stay even temporarily. It also means that women need to travel accompanied by a man, or, if travelling alone, to face higher risks of arrest in Afghanistan, pushback at the border or abuse on the way.

42. Processing time in Pakistan and to a lesser extent in Iran is too long, prompting people into looking for alternatives to regular means to proceed with their lives. Let us not forget that a vast number of people dying *en route* to Europe or stranded in hotspots are Afghans.

43. Most countries are not accepting humanitarian visa or other legal pathways (family reunification, refugee sponsorship) for those still within Afghanistan. People must leave Afghanistan to attend an appointment in embassies still running outside of the country. Decision to systematically grant asylum to Afghan women and girls in Denmark, Finland and Sweden does not apply if visa requests are lodged in one of these countries' consulates: Afghan women must already be present in these countries to apply.

44. Finally, despite the sincere efforts to process thousands of cases at the fastest pace possible, over the past two years, it has to be acknowledged that these efforts have been clearly insufficient in comparison to the magnitude of the protection needs. In the case of EU countries, there have been 65 000 pledges made by 17 EU member States including 17 000 for resettlement between 2021/2022<sup>40</sup> and the year 2023.<sup>41</sup> These figures contrast sharply with the estimated 600 000 Afghans present in Türkiye (the majority of whom are unregistered). In a recent report, the International Rescue Committee alerted on the fact that only 271 Afghans were resettled in an EU member State in the year 2022.<sup>42</sup> The suspension by the German authorities of their programme in March 2023 due to suspected abuse of the procedure is an illustration of the difficulties facing State authorities in the materialisation of tangible and sound administrative procedures.<sup>43</sup>

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39. European Commission, "High-Level Forum on providing protection to Afghans at risk", Press Release IP/21/5088, 6 October 2021.

40. European Parliament, "Answer by Ms Johansson on behalf of the European Commission to Parliamentary Question E-001707/2022(ASW) on EU action plan responding to the events in Afghanistan", 17 August 2022.

41. European Commission, "Resettlement pledges submitted by Member States for 2023", 29 November 2022.

42. [www.rescue.org/eu/press-release/irc-new-research-reveals-eu-staggering-neglect-afghan-refugees](http://www.rescue.org/eu/press-release/irc-new-research-reveals-eu-staggering-neglect-afghan-refugees).

43. [www.kabulluftbruecke.de/en/updates-en/update-on-suspension-of-german-federal-admission-programme/](http://www.kabulluftbruecke.de/en/updates-en/update-on-suspension-of-german-federal-admission-programme/).



### 3.3. Fear of Afghans in Europe: varying protection rates and pushbacks

45. The first instance recognition rate for Afghans is very different depending on the European country where they are present<sup>44</sup> from 16% in Switzerland to 100% in Portugal for the year 2022.<sup>45</sup> Overall, the protection rate for Afghans has decreased across EU countries since 2021 according to the EUAA (recognition rate refers here to EU-regulated forms of protection). This should remain an issue of concern and is, at the very least, illustrative of a lack of joint approach in the asylum decision cases in violation of EU standards. Afghans granted subsidiary protection have limited deriving rights including from the perspective of family reunification.

46. Equally if not more strikingly: some Afghans have their asylum claim rejected but cannot be returned due to the risks of indiscriminated violence. The situation is also particularly concerning for unaccompanied minors who may be registered as international protection holders and may become irregular once they have turned 18 if they do not lodge an asylum claim at this stage even after spending years in a European country. Keeping them unregistered can also exclude them from family reunification procedures accessible to refugees.

47. It is often the validity and the credibility of the protection claim, and in some marginal cases some underlying discrimination based on ethnic or religious-based prejudice, which seem to be at stake. Afghans, and especially Afghan males, are more associated with people escaping poverty and very dire socio-economic conditions rather than conflict and human rights violations, as opposed to Syrians or Ukrainians for example. This is also having consequences on the material support available to Afghans in exile. Speaking at a joint event convened by the Council of Europe Development Bank (CEB) and the Organisation for Economic Co-operation and Development (OECD) on the local integration of refugees, the IOM Head of mission in Poland highlighted that the earmarked funding in support to Ukrainian refugees made programmes and support inaccessible to other refugee and migrant communities despite the needs.<sup>46</sup> Same considerations may apply in Türkiye where the majority of the funding received, mostly deriving from EU funding, is benefitting Syrian refugees who are the largest refugee community in the country.<sup>47</sup>

48. Over the years, Afghans have counted as one of the top nationalities seeking protection in Europe, but pushbacks keep being reported across Europe: at the Turkish-Iranian border, at the Turkish-Greek border,<sup>48</sup> at the Belarusian-Polish border,<sup>49</sup> across the Western Balkan countries.<sup>50</sup> Data from the Danish Refugee Council suggest that 40% of the victims of pushbacks identified by them in 2021 were Afghans.<sup>51</sup>

49. Importantly, some countries have decided not to comply with UNHCR's non-return advisory: this is the case of Türkiye which, since early 2022, has resumed return flights to Kabul. The Turkish authorities assured me that such returns were not forced and concerned Afghan men arrested for being undocumented only. More than 57 000 Afghans were sent back in 2022 according to official statistics shared by the Presidency of Migration Management.<sup>52</sup> At the time of my visit in April 2023 to Ankara, there had been 22 return flights to Afghanistan since the start of the year. According to official figures, 773 Afghans were deported between 2 and 8 June 2023.<sup>53</sup> Returns processed at a heavier pace than in 2022 were a matter of concern according to UNHCR's representative whom I met in Türkiye.

50. Türkiye hosts the largest community of Afghans in Europe, mainly due to its geographical position. The estimated 142 000 registered Afghans according to the Presidency of Migration Management are massively outnumbered by estimates of between 400 000 and 600 000 Afghans living in the country most of whom unregistered and thus with no access to rights and no protection from deportation if apprehended.

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44. Exchange of views with Mr Reshad Jalali, Senior Policy Officer at the European Council on Refugees and Exile. meeting of the Committee on Migration, Refugees and Displaced Persons, 7 December 2022.

45. EUAA, "Annual Report on the Situation of Asylum in the European Union", July 2023.

46. "Insights on the joint CEB-OECD Conference on the Local Integration of Refugees", February 2023.

47. Shaddin Almasri, "Why is Syria a War but Not Afghanistan? Nationality-based Aid and Protection in Turkey's Syria Refugee Response", Refugee Survey Quarterly, Volume 42, Issue 1, March 2023, pages 29–54.

48. Greek Refugee Council, "At Europe's borders, between impunity and criminalization", March 2023.

49. Grupa Granica, "Periodic Report of Grupa Granica on the situation at the Polish-Belarusian border. December 2022-January 2023", February 2023.

50. Refugee Rights Turkey & ECRE, "AIDA country report on Türkiye – 2021 update", 2022, and Human Rights Watch, "Turkey Pushes Afghans Back at Iran Border – Surge in Deportations to Kabul", 18 November 2022.

51. Danish Refugee Council, "Beaten, punished and pushed back", January 2023.

52. "Türkiye deportes over 101,000 irregular migrants so far in 2022"; *Daily Sabah*, 13 November 2022.

53. Twitter account of the Presidency of Migration Management displaying deportation figures ("Düzensiz Göçle Mücadelemiz Devam Ediyor"), 10 June 2023.

51. In common with other asylum-seekers, I believe that Afghans should be given access to regular forms of work to fend for themselves instead of relying on their host communities and countries to sustain. During my visit to Türkiye in April 2023, officials, representatives of international organisations, and civil society actors I met stressed that Afghans are considered a valuable workforce in Türkiye, often filling out gaps in sectors where Turkish workers are hard to find (shepherds, mechanics).

## 4. Protect Afghans in Europe

### 4.1. Halt forced removals to Afghanistan

52. In the wake of the Taliban taking over power in Afghanistan, many organs of the Council of Europe have immediately expressed solidarity with the Afghan people and called for support as illustrated by the [Statement of the Council of Europe Commissioner for Human Rights, Ms Dunja Mijatović](#), and the Conference of INGOs' declaration "[About the situation in Afghanistan, the ensuing migration flows](#)." The Congress of Local and Regional Authorities has also reacted through its [Declaration 4 \(2015\)](#) entitled "The reception of refugees in Europe."

53. According to the EUAA, "the number of first-time Afghan applicants for international protection in EU+ countries doubled in 2021 compared to the previous year, and the number of subsequent applications submitted by Afghan nationals also increased". In 2022, Afghans ranked second after Syrians as the most represented nationality among asylum-seekers in EU countries; the EUAA further stressed that "in 2022, the number of applications by nationals of Syria and Afghanistan were the highest since 2016."<sup>54</sup>

54. The understanding of member States may vary as to whether Afghans seeking international protection are at risk of persecution in the sense of the Geneva Convention on the Status of Refugees. However, it is my belief that returning Afghans to Afghanistan is likely to expose them to a violation of their economic, social, and possibly civil and political rights. As a result, complying with UNHRC's non-return advisory is essential. Equally important is to monitor returns which occur nonetheless, to assess their durability and whether the rights of returnees are respected in practice.

### 4.2. Prevent and sanction pushbacks

55. Efforts aiming to prevent individuals, including Afghans, from seeking asylum on European territory must be urgently halted and prosecuted. In this respect, the European Court of Human Rights has recently declared some cases admissible with respect to alleged pushbacks of Afghans at the Polish-Belarusian border,<sup>55</sup> whilst interim measures had already been applied by the Court to oppose the pushbacks of Afghans stopped at the Belarus Poland border in August 2021.<sup>56</sup>

56. In 2022, the Assembly voted in favour of preventing and sanctioning pushbacks, pursuant [Resolution 2462 \(2022\)](#) "Pushbacks on land and sea: illegal measures of migration management". Members of parliament should follow-up on this resolution and ensure that "an individual assessment of protection needs and of the safety of return" is conducted to prevent violation of Article 3 of the European Convention on Human Rights (ETS No. 5) and of the prohibition of collective expulsions, as enshrined in Article 4 of Protocol No. 4 to the Convention (ETS No. 46).

57. All efforts should be made by State authorities to facilitate access to independent monitoring bodies in areas where people on the move are known for coming, including border areas, as recommended by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

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54. EUAA, "Factsheet N°10 based on the Asylum Report 2022 on developments related to Afghan nationals seeking asylum in EU+ countries", August 2022 and "Insights on the joint CEB-OECD Conference on the Local Integration of Refugees", February 2023.

55. European Court of Human Rights, [Application No. 2509/22, M.M. and Others against Poland](#) and applications 10271/22 and 10373/22, communicated on 5 April 2023.

56. European Court of Human Rights, [Court gives notice of "R.A. \[and others\] v. Poland" case and applies interim measures](#) (press release ECHR 283 (2021), 28 September 2021.



### **4.3. Increase protection pathways for Afghans into Europe**

58. Limited, if not restricted, resources to UNHCR or to refugee resettlement will inevitably result in a limited number of refugees being provided durable protection prospects. In the context of a growing number of refugee and internally displaced persons in urgent need of protection, this is not tenable and inevitably leads to some form of prioritisation of some communities over others which should be avoided by all means.

59. In the case of Afghans, I urge member States to co-ordinate on joint processing criteria and to allocate more resources to effectively increase access to resettlement and alternative pathways to protection particularly for women and girls. This involves greater human and financial resources dedicated to process resettlement cases in consulates but also in the capitals of member States so that quotas are increased, and cases can be dealt with in a timely fashion (asylum administrations and courts, interpretation, access to legal aid). At present, the processing time of visa requests for Afghans lucky enough to see their case considered by the consular services of a member State, can take months, if not years.

60. Procedures for resettlement and humanitarian visas should be facilitated for women and girls in accordance with Recommendation [CM/Rec\(2022\)17](#) on protecting the rights of migrant, refugee and asylum-seeking women and girls, especially its paragraph 64 encouraging member States “to fund specific assistance and humanitarian resettlement programmes for women and girls who are victims, or at risk, of violence against women or trafficking in human beings, including for the purpose of sexual exploitation.”

### **4.4. Protect Afghan children on the move**

61. Member States should co-ordinate their approach with the European Union to adopt a common approach on family reunification and relocation of Afghans. Moreover, efforts should be made to ensure that all Afghan children are registered as needing international protection so that they can be reunited with their family members in other countries through family reunification whenever possible.

62. The lack of a harmonised approach across European States is increasing the risk of unaccompanied children going missing. According to the EUAA, in 2021, the absolute number of asylum applications submitted by unaccompanied children from Afghanistan in EU countries was the highest since 2015-2016 (more than 12 600) and represented nearly half of all applications lodged by unaccompanied children across the EU+ in 2021.<sup>57</sup>

63. Joint efforts and co-ordinated policies should be explored by member States, in co-ordination especially with the Special Representative of the Secretary General of the Council of Europe on Migrants and Refugees, on promoting good practices to protect the rights of unaccompanied minors and children transiting to adulthood.

### **4.5. Alternative forms of registration for Afghans who cannot be returned**

64. Many Afghans are undocumented in Europe either because their host State argues that their case should be treated by another European State or because they turn 18 after spending time unregistered as a child in a European country. There may of course be also cases where Afghan individuals may want to oppose registration in one European country which they consider as a country of transit and not a country of destination. However, whenever possible, ensuring that Afghans are provided a form of registration in Europe should be considered a priority so that as few people as possible are left in administrative limbo because of a lack of documentation and given the impossibility of their return. The situation of Afghan unaccompanied children and young adults is particularly at stake.

65. For individuals whose protection requests have been rejected, exploring alternative forms of legal residence pending the feasibility of return under acceptable human rights standards may be worth considering. In Türkiye for example, most Afghans are unregistered although, as recognised by officials, their contribution to the workforce is very much needed and appreciated in the country.

66. In cases where temporary forms of protection are impossible to obtain based on a country's fair and effective assessment of individual cases, complying with a non-return advisory may take the form of granting a form of (temporary or seasonal) work permit for Afghans in sectors where their labour force might be needed.

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57. EUAA, “[Latest Asylum Trends – Annual Overview 2022](#)”, February 2022.

#### **4.6. Genuine solidarity towards the reception of Afghans across member States**

67. My visit to Türkiye was very revealing of the major challenges at stake for European countries, especially first countries of asylum. EU member States cannot expect Türkiye and front line countries to meet and manage alone the protection and reception challenges associated with forced displacement crises such as the one facing the Afghan people.

68. Concrete relocation and family reunification mechanisms must be enacted and processed rapidly. The resettlement plan adopted by the Slovenian Government in January 2023, facilitating the resettlement of 50 refugees from Afghanistan and Syria to Slovenia, supported by the EU's Asylum Migration and Integration Fund, is one of the few examples of such solidarity in action.<sup>58</sup> Such initiatives should be furthered and developed more widely across European States.

69. Sustained support to the CEB to enable it to further develop its action in reception countries and regions is absolutely needed. The various reception facilities, hospitals but also social cohesion programmes funded through the Bank's loans along the routes where migrants and refugees transit or where they seek refuge are concrete examples of the Council of Europe's tangible engagement, thanks as well to the European Union's major support, to ensuring that solidarity is maintained and effective access to rights is available. Such programmes are essential and are rooted in the core mission of the Bank.

### **5. Outside of Europe: a roadmap on Afghanistan for member States**

#### **5.1. Resume consular services in Kabul**

70. Diplomatic isolation is blocking access to visa procedures for Afghans at risk of persecution and/or who are eligible to family reunification. This is particularly the case for women as well as for people who are on a wanted list because of their professional occupation or their belonging to a particular ethnic, religious or social group. Modalities may be explored across member States for tackling this issue, for example by centralising the lodging of visa requests in one or some embassies / consulates and facilitating the processing of such requests according to common standards based on the common country of origin information and standards on Afghanistan. Co-ordination with the EUAA as well as with UNHCR may be envisaged to initiate discussions with State authorities favourable to such co-operation.

71. Some conditions imposed on Afghans to submit a (humanitarian, family reunification) visa request should be eased in light of the impossibility to meet certain criteria in practice (biometric data<sup>59</sup>), this should be accompanied by measures to alleviate some of the costs for highly vulnerable cases (perhaps by allocating specific budgetary means aiming to support highly vulnerable and destitute cases). The expertise of the Council of Europe may be useful, especially when the educational background needs to be assessed to facilitate the processing of student visas or access to scholarship provided by some educational entities: in 2021, in the framework of the European Qualifications Passport for Refugees initiative<sup>60</sup>, the Organisation has developed training tools aimed to help assess the formal and informal educational context in Afghanistan.<sup>61</sup> This programme may provide a canvas for tailor-made education assessment certificates to be issued by consulates as part of the visa processing from Kabul or, alternatively, from Islamabad and Tehran.

#### **5.2. Support local civil society and monitor human rights**

72. It is extremely important to emphasise that a humble but coping grassroots network of civil society actors has remained operational, sometimes underground in a heavily sensitive context, providing essential services to Afghans in rural and urban areas, even psycho-social support which is essential in the case of forcibly displaced and persecuted communities. Local actors have been severely impacted by the freezing of the assets of the Central Bank of Afghanistan. Contrary to INGOs, grassroots independent civil society actors face major challenges in accessing and sustaining funding. In line with the United Nations Security Council Resolution S/RES/2626 (2022) I believe that member States should consider supporting local Afghan civil society, especially those providing services to women and girls (education, shelters for women, psycho-social support). A particular emphasis should be laid on funding education programmes: access to education – especially for women and girls – has been a challenge in Afghanistan way before 2021, and there is simply

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58. "Slovenia to receive 50 Syrian, Afghan refugees from Turkey", EURACTIV, 2 December 2022.

59. UK Parliament – House of Commons Library, "UK immigration routes for Afghan nationals", Research Briefing by Melanie Gower, 26 January 2023.

60. European Qualifications Passport for Refugees, [programme webpage](#).

61. "EQPR Training on Afghanistan recent situation and its impact on the education system", 10 December 2021.

not enough schools in the country, especially in rural areas. The diversity of the local authorities' leadership in different areas may provide leeway for supporting sectoral improvement including in the field of women's rights.

73. Engaging in support to the Afghan people in Afghanistan in the long run may be possible for the Council of Europe itself in its capacity as an organisation sharing an expertise in the global promotion of human rights instruments and tools. In the absence of a particular State authority to engage and co-operate with at present, one might consider a co-ordination between the Council of Europe and the UN in order to join forces on programmes on key aspects such as global education or the prevention against gender-based and domestic violence, developed through the external co-operation activities of member States.

74. Additionally, external representations of member States may facilitate the monitoring of returns to Afghanistan, and as to whether return is a safe option in particular in accordance with the obligations deriving from article 3 of the European Convention on Human Rights. Such efforts should ideally complement and be co-ordinated with the border monitoring conducted by UNHCR and IOM, as well as with the European External Action Service, and with the Council of Europe's committees competent on issues related to trafficking of human beings, violence against women and girls, and prevention against torture, inhuman and degrading treatment.

75. Such assessment may provide valuable information on resettlement needs and on member States' possible approach to external co-operation programmes. It could also provide a very valuable input to the Country of Origin Information reports on Afghanistan adopted by each member State as well as by the EUAA.

### **5.3. Engage with the *de facto* authorities in Afghanistan – Give diplomacy a chance**

76. Afghanistan is still a party to some UN Conventions, not least the Convention on the Elimination of all forms of Discrimination Against Women, the Convention on the Rights of the Child, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its optional Protocol. It is undeniable that a large part of the decisions made by the *de facto* authorities are in direct breach of these texts. Nonetheless, UN Convention monitoring is the only available tool to maintain an oversight over the *de facto* authorities. Consulates, as external representation of member States, can also contribute to monitoring the human rights situation in Afghanistan.

77. Maintaining Afghanistan as part of the international human rights system is a must for the Afghan people. Nevertheless, as rightly stressed in the report by our colleague Sir Tony Lloyd: "while dialogue with the Taliban is necessary, it should be limited to a cautious, pragmatic, and operational engagement. Any possibility for it be upgraded should be conditional upon several requirements."<sup>62</sup>

78. Based on my research and my engagement with many stakeholders in Kabul including the Women Advisory Group as well as UN senior officials, it is my firm belief that member States should find a way to engage with the *de facto* authorities. I myself had the occasion to meet with the Taliban during a visit organised in co-ordination with the UN in Kabul. Let us be clear: engaging does not mean recognising. However, maintaining a channel of communication is essential to prevent further suffering of the Afghan people.

79. International isolation will only hurt the people of Afghanistan. My suggestion would be to give diplomacy a chance, grounded in uncompromising human rights conditionality: member States should exert diplomatic pressure on the *de facto* authorities in order to influence policy change, especially towards the full respect of the rights of women and girls. Diplomacy can move mountains.

80. Such an approach could be discussed and agreed upon by the Committee of Ministers providing a framework and clear set of the terms according to which members States of the Council of Europe could engage in some form of dialogue with the interim administration in Afghanistan. This framework and terms should without any doubt include the unconditional respect of the human rights of women and girls including unfettered access to education and employment, and the respect of the rights of all ethnic, religious and minority groups.

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62. [Resolution 2403 \(2021\)](#) "The situation in Afghanistan: consequences for Europe and the region."

#### **5.4. Aid is vital: increase funding and resume development assistance**

81. Over the past two years, a lot has been undertaken, in very complex circumstances, to support the Afghan people: no less than 65 partners (international organisations; UN agencies; local, national and international NGOs) are part of the Regional Refugee Response Plan on Afghanistan covering Turkmenistan, Pakistan, Iran, Tajikistan and Afghanistan; aid is being channelled unilaterally (Turkish charity trains<sup>63</sup>) or regionally through the delivery of humanitarian aid (for example, European Union and its member States' combined support amounts to €1.6 billion since summer 2021) and through private initiatives.

82. External co-operation and aid agreed on by member States should continue to benefit INGOs, international organisations and their implementation partners whose deployment is making a crucial difference across Afghanistan as well as in Pakistan and Iran. However, funding is massively insufficient. In March 2023, UNHCR and humanitarian partners launched the Regional Refugee Response Plan for the Afghanistan Situation aiming to support 5.2 million Afghans and their host communities in Iran, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan. As of mid-May 2023, the plan was only funded up to 13%.

83. Alarming prospects of decrease in support are anticipated by the UNDP: "94% of 127 national organizations surveyed either fully or partially ceased operations immediately after the ban [for women to work in NGOs or international organisations] was imposed in December 2022, and 150 NGOs and aid agencies have suspended all or part of their work."<sup>64</sup> UNDP warns that "humanitarian aid to Afghanistan in 2023 will be lessened in response to the curtailment of women's rights as the Humanitarian Response Plan 2023 has received significantly less amount of funding compared to a similar period in 2022."

84. The Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator at the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), whom I met in New-York in March 2023, agreed on the need for political engagement with political forces in Afghanistan. He also stressed that UN Resolution S/RES/2626 (2022) mentioned the need for UN member States to "support efforts to facilitate access to assets belonging to Afghanistan's Central Bank for the benefit of the Afghan people" and to help "provide essential services to the Afghan population and contribute to creating economic and social conditions that can lead to self-reliance and stability". In line with this resolution, there should be gradual shift from a humanitarian approach to a development approach. Such an approach is the only durable way to support Afghans especially by fostering sustainable income generating activities notably in the agricultural sector.

## **6. Conclusions**

85. The gravity of the situation in Afghanistan and the strain on first countries of asylum are such that UNHCR has maintained its call on States to bar forcible returns both to Afghanistan and to countries in the region. Persecutions of religious and ethnic minorities, of LGBTIAQ+ community members and of women persist on the part of the *de facto* authorities and non-state actors, and the decisions taken by the self-proclaimed regime leave no doubt as to the Taliban's intention to wage a war on women.

86. This report aims to give a clear picture of the extreme vulnerability of the Afghan people inside and outside Afghanistan, be it in European member States or in first countries of asylum in the region. It also takes stock of the efforts made by member States to protect Afghan refugees, and the limits of such response, in a context where the recognition rate for Afghans remains highly volatile across Europe.

87. Afghans represent the third largest nationality forcibly displaced in the world. However, the protracted refugee crisis for Afghans remains largely unaddressed, if not forgotten. From the rejection of protection claims to pushbacks, the physical and administrative obstacles faced by Afghan refugees who have managed to find their way out of their homeland in search of safety and to rebuild their lives are at odds with the consensual view that there can be no durable and dignified return to Afghanistan at present.

88. Member States should urgently recognise that a structural approach to the Afghan refugee crisis must involve durable rather than temporary forms of protection in Europe, until conditions allowing sustainable and dignified return arise for those Afghans willing to return. The Council of Europe's tools and standards provide a framework to accompany the structuring of a human-rights based approach to the protection and integration of Afghans in Europe.

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63. "7th 'Kindness Train' carrying aid from Türkiye reaches Afghanistan", *Daily Sabah*, 24 January 2023.

64. UNDP, "Afghanistan Socio-Economic Outlook 2023", April 2023.

89. Some of these tools and standards, such as the EQPR, can also support the external engagement of member States and their co-ordination in the context of resettlement and visa processing which are among the main issues facing Afghan refugees in need of international protection from Iran, Pakistan and Afghanistan.

90. Giving diplomacy a chance, grounded in uncompromising human rights conditionality, is part of a pragmatic approach: using diplomatic channels, member States may bring pressure to bear on the *de facto* authorities to influence policy change, especially towards the full respect of the rights of women and girls.