

Call for urgent action: guaranteeing the right to asylum to those fleeing Afghanistan

Proposals from the Asylum and Immigration Board

September 2021

After US and allied military forces pulled out from Afghanistan, the political situation in the country remains tense and constantly evolving. The terrible impact of the escalating violence on civilians was already clear in the first months of 2021, when over 1600 civilians were killed and more than 3500 injured – mostly women, girls and children (UNAMA data). The deteriorating situation over the past weeks has further worsened the setting, with tens of thousands of people forced to abandon their homes on top of the over 5 million internally displaced people already in the country (IOM). Moreover, while the tragic evacuation attempts from the Kabul airport allowed to save thousands of people, they have unfortunately left many more behind. Amid a disastrous economic setting, with nearly 11 million Afghan nationals already under emergency or crisis food insecurity conditions before the events of the past weeks, the civilian population will continue to be exposed to the risk of violence.

Within this context, the EU, its members and Italy bear significant responsibility for what is taking place and must put in place appropriate initiatives responding to the tragedy that is unfolding before our very eyes.

The evacuation process, which has involved several thousand people, will not be able to continue due to a halt to the operations and the progressively deteriorating situation. Besides, it certainly cannot be the only initiative put in place by the Governments of EU Member States.

Up until today nearly all refugees and people displaced by the war in Afghanistan have been hosted by neighbouring Countries (mainly Pakistan and Iran, which have taken in 90% of the 5 million Afghans forced to flee the Country). Meanwhile, asylum claims filed in the EU over the last ten years amount to less than 700.000. Against this backdrop, the conclusions of the EU Council meeting of Home Affairs ministers on 31st August are unacceptable, as they rule out Member States actions to take in fleeing Afghan nationals - thus burdening neighbouring countries and reaffirming the priority of protecting external borders from unauthorized entries.

What needs to be carried out instead is a vast transfer/relocation programme for Afghan nationals to be implemented by transit countries as well, through an initiative that guarantees a balanced effort among Member States – in compliance with art. 78 paragraph 3 of the TFEU and the principle of solidarity and fair sharing of responsibilities as set out in art. 80 of the TFEU. Turkey and non-EU Balkan countries, where many Europe-bound Afghan nationals are stuck, cannot be considered as safe Countries, as far as access to asylum and adequate protection are concerned. Any agreement aimed at repatriating Afghan nationals to those Countries or Countries in Afghanistan's neighbourhood - besides their Country of origin - must be ruled out.

An extraordinary intervention is needed that allows the minority of people who will choose not to stay in neighbouring Countries to travel safely and legally.

Particular attention must then be paid to the situation in Greece, an EU country where thousands of Afghan nationals are currently stuck in precarious conditions.

In order to allow for a shared European solution, all existing instruments need to be used, including issuing humanitarian visas and activating Directive 2001/55/EC, which can also be adopted by a qualified majority. Despite having never been implemented, the Directive - which is in force - contains elements and directions useful to the ongoing crisis, namely: the option of adopting a vast evacuation plan agreed upon at European level with reception allocations set by the States based

on fair criteria which take into account potential significant ties with a given EU country; access to resources and issue of a residence permit for temporary protection.

Moreover, we believe that every effort should be made to ensure that all Afghans - regardless of their gender, religion, ethnic origin or political orientation - have better security in Afghanistan and to guarantee adequate humanitarian assistance to the population.

In particular, we call

On Italy and the European Union to:

- urgently ensure protection and humanitarian assistance to the 39 million Afghans in the Country, through support and funding to projects protecting human rights, so as to contribute to the global humanitarian response in an effective and coordinated fashion;
- define a clear commitment of Member States to participating to the resettlement mechanism of Afghan nationals toward the European Union territory;
- implement Directive 2011/55/CE complementarily, in order to ensure immediate and temporary protection to the Afghan nationals compelled to leave their Country, including in the event that they already are in the territories of Third States, thus guaranteeing adequate distribution among Member States as well as family unity - as set out in art. 15 of the Directive above - and ensuring access to the international protection procedure in any case;
- allow safe access to the EU territory in any case to all those who, for various reasons, risk their lives while they stay in Afghanistan, or have fled the Country, by adopting uniform criteria across the EU prioritizing vulnerable categories and people at risk as well as issuing humanitarian visas, as per art. 25 of the Visa Code (Regulation EC No. 810/2009);
- always allow access to the European Union territory and the international protection procedure and halt pushbacks carried out by both national authorities and the European Border and Coast Guard Agency, particularly in the Aegean Sea and toward Turkey as well as toward non-EU Balkan Countries;
- suspend any form of negative decision (rejections, returns and pushbacks) towards Afghans in EU Countries or at borders, as requested by the United Nations High Commissioner for Refugees, considering all women as *prima facie* refugees, and carry out a swift re-examination of negative decisions that have denied Afghan nationals international protection as well as a re-examination of international protection claims currently being assessed, ensuring swift decisions;
- adopt a bi-annual (at least) relocation programme across the EU for people currently hosted in reception centres in Greece, particularly those on Greek islands, starting with unaccompanied minors, family units and vulnerable individuals, considering the extremely critical conditions of those centres and the concrete possibility that new spontaneous arrivals of migrants lead to excessive pressure on Greece and further deterioration of living conditions;
- include minor protection expertise in the so-called "Blueprint network", envisaged in the European Pact on asylum and migration, as well as in any other task force that might be created to tackle the ongoing developments at the European level;
- support the establishment of an independent mechanism to monitor any violation and abuse of human rights that might occur in the Country.

- On behalf of the Asylum and Immigration Board

A Buon Diritto, ACLI, ActionAid, Amnesty International Italia, ARCI, ASGI, Avvocato di Strada, Caritas Italiana, Centro Astalli, CGIL, CIES, CNCA, Comunità Papa Giovanni XXIII, CONNGI,

Emergency, Europasilo, Focus-Casa dei Diritti Sociali, Fondazione Migrantes, Intersos, Legambiente, Medici del Mondo Italia, Medici per i Diritti Umani, Movimento Italiani Senza Cittadinanza, Oxfam Italia, Refugees Welcome Italia, Save the Children, Senza Confine, SIMM

AND THEN

AOI, CINI, LINK2007, Rete Rivolti ai Balcani, Campagna Io Accolgo

AND

ADL Zavidovici Onlus, Amici padre Damarco di Sarzana, Associazione Nessun Luogo è Lontano, Associazione per la Pace di Padova, Babelia & C, GREI250, FNSI, Lungo la rotta balcanica, Ospiti in arrivo, Osservatorio Balcani e Caucaso Transeuropa, Progetto Melting pot Europa, SOS Diritti Venezia, Spazio condiviso ASD