



POLICY PAPER AFGHANISTAN

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DISCLAIMER

A country-specific policy paper provides the main points regarding the policy rules that are applied by the Commissioner General when assessing applications for international protection from a specific country.

A country-specific policy paper begins with a brief, simplified summary of the situation in the country of origin. This situation outline only covers the asylum-related aspects of the situation in that country. It is followed by a non-exhaustive overview of the at-risk groups in the country. The focus lies on the at-risk profiles that the CGRS encounters during its day-to-day work. In addition, a country-specific policy paper only covers the policy themes that are relevant to the country of origin or any special policy rules that apply to that particular country. Consequently, a country-specific policy paper does not contain a complete overview of all of the possible issues that may be faced by the citizens of that country.

The policy implemented by the Commissioner General is based on a thorough analysis of accurate and up-to-date information on the situation in the country of origin. This information is collated in a professional manner from various, objective sources, including the EUAA, the UNHCR, relevant international human rights organisations, non-governmental organisations, professional literature and coverage in the media. When determining policy, the Commissioner General does not solely examine the COI Focuses written by Cedoca and published on this website, as these are often limited to specific aspects of the general situation in the country of origin. The fact that a COI Focus could be out of date, does not necessarily mean that the policy that is being implemented by the Commissioner General is no longer up-to-date.

The policy paper does not reflect the complexity of the assessment process of an application for international protection. When assessing an application for international protection, the Commissioner General not only considers the actual situation in the country of origin at the moment of decision-making, he also takes into account the individual situation and personal circumstances of the applicant. Every application for international protection is examined individually. An applicant must comprehensively demonstrate that he has a well-founded fear of persecution or that he faces a clear personal risk of serious harm. He must present concrete, credible and personal facts and cannot simply refer to the general conditions in his country.

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For a better understanding of the policy themes that may be dealt with in a country-specific policy paper, see web page "About the CGRS/Policy".

1. THE MISSION OF THE CGRS

The CGRS assesses individually whether each applicant is in need of protection. This is done on the basis of the refugee and subsidiary protection definitions contained in law and international treaties.

In doing so, the CGRS takes into account the situation in Afghanistan. The CGRS is aware that the situation in this country is extremely problematic. It is clear that for many persons there is a need for protection. However, this is not necessarily the case for everyone. An individual assessment remains necessary.

2. SITUATION OUTLINE

The overall security situation in Afghanistan in recent decades has been largely determined by a long-running internal armed conflict, as a result of which many Afghans are internally displaced or have sought refuge abroad. The Taliban took power in August 2021, after many years of conflict between the former government, its security forces and foreign troops on the one hand, and rebel groups such as the Taliban and the ISKP on the other.

The end of the fighting between the former government and the Taliban resulted in a sharp decline in conflict-related violence and a significant drop in civilian casualties. In assessing the need for



international protection, the Commissioner General takes into account that the Taliban's control of the entire Afghan territory has a significant impact on the human rights situation in the country and on the risk faced by many Afghans in case of return.

Following the seizure of power by the Taliban, the Commissioner General announced a temporary, partial suspension of refugee status determination decisions. In the period between 15 August 2021 and 1 March 2022, no rejection decisions were taken for Afghan applicants. However, it was apparent that many persons clearly were in need of protection; positive decisions granting refugee status were taken for those cases during that period. This also applied to many persons evacuated from Kabul.

In early March 2022, the suspension was ended. Since then, the CGRS has been taking decisions again for all cases.

The CGRS has to assess whether a need for protection exists for each applicant for international protection. Every application is assessed individually. This is done on the basis of the refugee and subsidiary protection definitions contained in law and international treaties. The CGRS does not make "political" assessments of a regime and grant protection status on that basis.

3. PERSECUTION IN THE CONTEXT OF THE REFUGEE CONVENTION

The Commissioner General acknowledges that the situation in Afghanistan is problematic. However, the highly complex situation is not such that every Afghan should, by definition, be granted international protection status simply because of his origin.

As a result of the seizure of power by the Taliban, the situation has clearly worsened for many Afghans. For several profiles, the fear of persecution is serious and well-founded. They can count on refugee status. Other situations are still clouded in uncertainty due to a lack of information or due to the attitude of the Taliban. In such situations, the CGRS will generally also grant refugee status, out of caution.

A large number of risk groups can be distinguished in Afghanistan. Depending on the situation in which he or she finds him- or herself, the applicant for international protection must be able to prove that he or she belongs to a certain risk group or must present additional concrete and individual facts of persecution.

In general, refugee status is granted because of specific or individual elements or facts. In many cases, refugee status is granted because the applicant belongs to a particular group. This includes many different profiles such as journalists, human rights activists, opponents and critics of the Taliban, persons holding certain positions under the previous government, certain staff members of the former foreign troops and organizations, certain minorities, LGBT persons and other persons who are opposed to conservative or religious norms and values, unaccompanied minors or women without a network, family members of certain risk profiles, etc.

Taking into account the control of the entire territory by the Taliban, the Commissioner General will generally not use the internal flight alternative for persons who have a well-founded fear of persecution.

4. SUBSIDIARY PROTECTION

The CGRS considers since March 2022 that sufficient information is available for the assessment of subsidiary protection status.

Until the seizure of power by the Taliban, subsidiary protection status was granted because of the war situation in Afghanistan. This was done taking into account the region of origin, as the risk of being a victim of indiscriminate violence varied greatly from region to region.



With the seizure of power by the Taliban, the security situation and its impact on the civilian population has changed considerably. Attacks and violent incidents continue to occur, mainly in the context of targeted violence. Targeted persons generally belong to profiles eligible for recognition of refugee status. They can therefore count on protection through refugee status.

The seizure of power by the Taliban resulted in a sharp drop in the level of indiscriminate violence and the number of civilians subjected to indiscriminate violence in the context of armed conflict. In general, there currently is no longer a significant risk of falling victim to indiscriminate violence in Afghanistan. In principle, subsidiary protection status is no longer granted because of the security situation.

It appears from case law that a socio-economic situation only falls within the scope of the definition of subsidiary protection if that situation is the result of an intentional act or omission by an actor. Those conditions are not met in Afghanistan. In general, subsidiary protection status will not be granted on the basis of the socio-economic circumstances in Afghanistan.

The CGRS constantly monitors the situation in Afghanistan. When assessing the need for subsidiary protection, the Commissioner General takes account of the actual situation in Afghanistan as is the case at the moment of decision-making.

Particular to Afghanistan is the **precarious humanitarian situation**. The CGRS has thoroughly examined that situation and considered whether subsidiary protection status should be granted for that reason.

The humanitarian situation is mainly caused by the drought over the past year and the drastic reduction in economic and humanitarian aid since the Taliban took power.

In assessing Art 3 ECHR, the European Court of Human Rights Court (ECHR) applies a very high threshold when assessing socio-economic or humanitarian circumstances: only in very exceptional circumstances are they considered to be contrary to Art 3 ECHR. The situation in Afghanistan does not meet those conditions.

The European Court of Justice also states that Article 15, b of the Qualification Directive is not entirely identical to Article 3 ECHR. It states that socio-economic and humanitarian conditions are only eligible for the granting of subsidiary protection status if they put persons in very extreme circumstances and if the situation results from deliberate acts or omissions by an actor.

Those conditions are not met in Afghanistan. In general, subsidiary protection status will not be granted on the basis of the socio-economic or humanitarian conditions in Afghanistan.

5. EXCLUSION

If there are serious reasons for assuming that the applicant was directly involved in war crimes and crimes against humanity, or it is clear that he or she had a commanding role in this type of act, he or she will be excluded from the Refugee Convention and the status of subsidiary protection.

6. DECISION

The situation in Afghanistan is particularly problematic.

Many applicants from Afghanistan are in need of protection. This will be granted by recognition of refugee status. The scope for recognizing refugee status is broader than before the Taliban's seizure of power. Many Afghans will therefore be able to count on refugee status.

In contrast, there are fewer reasons for granting subsidiary protection status today. This is due to the greatly changed security situation.