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# Country Guidance: Afghanistan

**AFGHANISTAN**



# Country Guidance: Afghanistan

## Common analysis and guidance note

April 2022



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# Country Guidance: Afghanistan

Common analysis and guidance note

The country guidance represents the common assessment of the situation in the country of origin by senior policy officials from EU Member States, in accordance with current EU legislation and jurisprudence of the Court of Justice of the European Union (CJEU).

This guidance does not release Member States from the obligation to individually, objectively and impartially examine each application for international protection. Each decision should be taken on the basis of the individual circumstances of the applicant and the situation in Afghanistan at the moment of the decision, according to precise and up-to-date country information, obtained from various relevant sources (Article 10 of the Asylum Procedures Directive).

The analysis and guidance provided within this document are not exhaustive.

**Update: April 2022**



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# Introduction

## Why is this country guidance developed?

The country guidance is intended as a tool for policy-makers and decision-makers in the context of the Common European Asylum System (CEAS). It aims to assist in the examination of applications for international protection by applicants from Afghanistan, and to foster convergence in decision practices across Member States.

On 21 April 2016, the Council of the European Union agreed on the creation of a senior-level policy network, involving all Member States and coordinated by the European Union Agency for Asylum (EUAA), with the task to carry out a joint assessment and interpretation of the situation in main countries of origin.<sup>1</sup> The network supports EU-level policy development based on common country of origin information (COI), by jointly interpreting such information in light of the relevant provisions of the asylum acquis and taking into account the content of the EUAA training material and practical guides where appropriate. The development of common analysis and guidance notes has been included as a key area in the new mandate of the EUAA and it is currently regulated under [Article 11 EUAA Regulation](#).<sup>2</sup>

## What is the scope of this update?



The current version of the guidance updates and replaces the 'Country Guidance: Afghanistan' (November 2021).

It represents a targeted update, focusing on the significant changes observed in the first months that followed the Taliban takeover. While information on certain topics remained limited and/or conflicting in the timeframe of this update, an effort has been made to provide common analysis and guidance to the extent this is currently found to be feasible. Please take into account that the COI referred to in this document is limited to events taking place until 8 December 2021. Additional information with regards to restrictions to women's freedom of movement introduced by the 'Ministry for the Promotion of Virtue and Prevention of Vice' on the 26 December 2021 have also been taken into account. The reader is reminded to always consider the available relevant and up-to-date COI at the time of taking the decision.

EUAA together with Member States will continue to monitor the evolving situation in the country and to regularly review and update this country guidance.

## Is this guidance binding?

The country guidance is not binding. However, in accordance with [Article 11 EUAA Regulation](#), Member States have the obligation to take into account the guidance notes and common

<sup>1</sup> Council of the European Union, Outcome of the 3461st Council meeting, 21 April 2016, 8065/16, available at <http://www.consilium.europa.eu/media/22682/st08065en16.pdf>.

<sup>2</sup> Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010.

analysis when examining applications for international protection, without prejudice to their competence for deciding on individual applications.

## Who was involved in the development of this country guidance?

This document is the result of the joint assessment by the Country Guidance Network. The work of the Network was supported by a Drafting Team of selected national experts and by EUAA. The European Commission and UNHCR provided valuable input in this process. The guidance note, accompanied by the common analysis, were finalised by the Country Guidance Network in March 2022, and endorsed by the EUAA Management Board in April 2022.

## What is the applicable legal framework?

In terms of applicable legal framework, the common analysis and guidance note are based on the provisions of the [1951 Geneva Convention](#),<sup>3</sup> and of the [Qualification Directive \(QD\)](#),<sup>4</sup>; as well as on jurisprudence of the Court of Justice of the European Union (CJEU); where appropriate, the jurisprudence of the European Court of Human Rights (ECtHR) is also taken into account.

## What guidance on qualification for international protection is taken into account?

The horizontal guidance framework applied in this analysis is based primarily on the following general guidance:



These and other relevant EUAA practical tools can be found at <https://euaa.europa.eu/practical-tools-and-guides>.

<sup>3</sup> United Nations General Assembly, 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

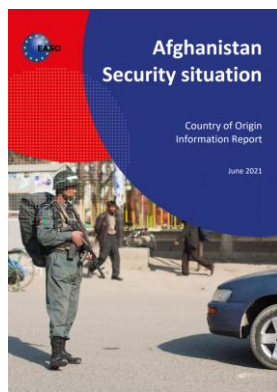
<sup>4</sup> Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

Relevant UNHCR guidelines available at the time of finalising this document, and in particular the [UNHCR Guidance Note on the International Protection Needs of People Fleeing Afghanistan](#)<sup>5</sup>, were also taken into account.<sup>6</sup>

## What country of origin information has been used?

The EUAA Country Guidance documents should not be considered and should not be used or referenced as sources of COI. The information contained herein is based on EUAA COI reports and, in some instances, on other sources as indicated. Unlike the Country Guidance, these represent COI sources and can be referenced accordingly.

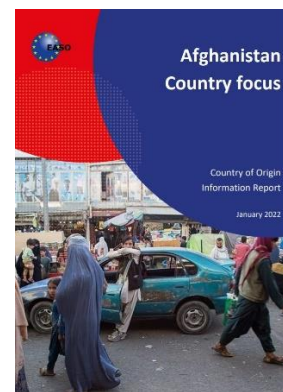
This update is mainly based on the following recent COI:



EUAA COI report:  
Afghanistan,  
Security situation (June  
2021)



EUAA COI report: Afghanistan,  
Security situation update  
(September 2021)



EUAA COI report:  
Afghanistan,  
Country focus (January  
2022)

[Annex II. Country of origin information references](#) provides further details and links to all COI reports used as a basis for the analysis within this document. References within this document are to the respective sections of these COI reports.

This guidance should be considered valid as long as current events and developments fall within the trends and patterns observed within the reference period of the respective COI reports. New developments that cause substantial changes and result in new trends may impact the assessment provided in the present guidance. All effort is made to update the EUAA COI reports and country guidance documents regularly and to reflect any such significant changes accordingly. Individual applications should always be assessed in light of the most up-to-date available COI.

<sup>5</sup> UNHCR, Guidance Note on the International Protection Needs of People Fleeing Afghanistan, February 2022, available at: <https://www.refworld.org/docid/61d851cd4.html>.

<sup>6</sup> UNHCR Handbook and guidelines on procedures and criteria for determining refugee status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, as well as other guidance, policy documents and UNHCR ExCom and Standing Committee conclusions are available at <https://www.refworld.org/rsd.html>.



To access EUAA COI reports, visit <https://euaa.europa.eu/country-reports>.

## How does country guidance assist in the individual assessment of applications for international protection?

The guidance note and common analysis follow the steps of the examination of an individual application for international protection. This document looks into the relevant elements according to the QD and provides a general assessment of the situation in the country of origin, along with guidance on relevant individual circumstances which should be taken into account.

## How is this document structured?

The country guidance is structured into guidance note and common analysis:



The **GUIDANCE NOTE** is the first part you will find in this document. It summarises the **conclusions** of the common analysis in a light user-friendly format, providing practical guidance for the analysis of the individual case.

The **COMMON ANALYSIS** is the second, more detailed, part. It defines the relevant elements in accordance with **legislation, jurisprudence and horizontal guidance**, summarises the relevant **factual basis** according to the available COI, and **analyses the situation** in the respective country of origin accordingly.



For additional information and to access other available country guidance, see <https://euaa.europa.eu/asylum-knowledge/country-guidance>



## Guidance note: Afghanistan

The guidance note summarises the conclusions of the common analysis and should be read in conjunction with it.





## General remarks

Last update: April 2022

At the time of writing, the situation in Afghanistan is still evolving, rendering particularly difficult in some cases conclusive assessment of international protection. The following elements can be highlighted:



Due to the transitional period that Afghanistan undergoes at the time of writing, a number of forward-looking questions related to the type of state and rule that may be established by the Taliban are difficult to answer with certainty at this stage.



While the future behaviour of the Taliban lacks certain predictability, profiles who were previously targeted by the Taliban may be at an increased risk, taking into account this actor's increased capabilities and territorial control.



The level of indiscriminate violence in the country is considered to be significantly lower than before (the Taliban takeover). However, the future risk of indiscriminate violence in any part of the country, should always be based on the most recent information concerning the dynamics in the particular area as well as the country as a whole.



Limitations with regard to reliable reporting should also be taken into account, as underreporting from Afghanistan or certain parts of the country is likely.



Taliban's perception and potential treatment of individuals leaving Afghanistan remains unclear.



Read more in the COMMON ANALYSIS



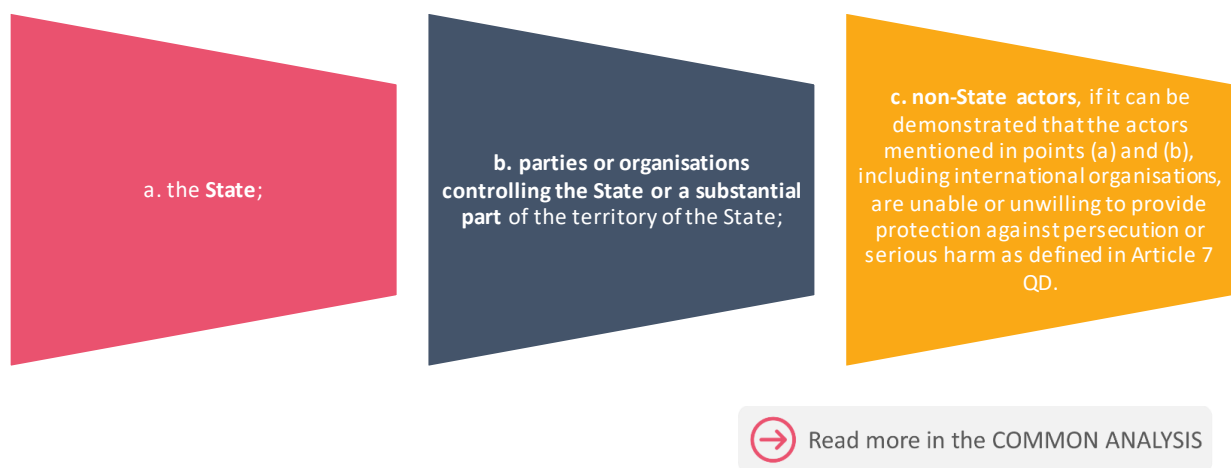
# Actors of persecution or serious harm

Last update: April 2022

Risks to which a population of a country or a section of the population is generally exposed do not normally create in themselves an individual threat, which would qualify as serious harm ([Recital 35 QD](#)). Generally, persecution or serious harm must take the form of conduct of an actor ([Article 6 QD](#)).

According to [Article 6 QD](#), actors of persecution or serious harm include:

**Figure 1. Actors of persecution or serious harm.**



This section includes guidance concerning some of the main actors of persecution or serious harm in Afghanistan. The list is non-exhaustive.

- Taliban:** After years of insurgency and in some areas positioning themselves as a shadow government, in summer 2021, the Taliban took control over the country. On 15 August, Taliban fighters entered the capital and took control of its checkpoints. Taliban leaders entered the presidential palace, addressed media the following day, and declared the war to be over. On 19 August, an official Taliban spokesperson declared the creation of the Islamic Emirate of Afghanistan, a name used in other public statements as well. The Taliban also announced the members of an interim government. All appointments to the interim government consisted of persons from within the Taliban movement, and many served in the government of the 1990s. The cabinet was compromised by several persons on the UN Security Council's sanction list. In October 2021, the Taliban stated that they controlled the entire territory of Afghanistan. Over the last two decades, the Taliban have been reported to target civilians deliberately as well as in indiscriminate attacks against civilian objects. Reports included targeted killings of individuals affiliated with the Afghan government and foreign forces, journalists, human rights activists, religious leaders and others. The parallel justice mechanism the Taliban have been operating was based on a strict interpretation of the *Sharia*, leading to executions and other punishments deemed to be cruel, inhuman and degrading, including corporal punishments. The Taliban have also been reported to use torture against detainees.

After the takeover, it was reported that Taliban fighters were subjecting civilians and journalists to violence, as well as conducting house-to-house searches and retaliation acts despite the general amnesty that was issued for all who served within the previous government. There have also been reports on Taliban fighters subjecting civilians to corporal punishments, inter alia whipping alleged thieves. It remained unclear whether such acts were sanctioned by the leadership or caused by a lack of discipline or control in the chain of command. There was reportedly room for Taliban fighters to act on their own initiative as they did not seem to face punishment or any consequences.

The Taliban have also been accused of committing human rights violations against captured resistance fighters and civilians during the weeks of fighting in Panjshir and after that, as well as against alleged ISKP affiliates in Nangarhar and other areas of the country.



Read more in the COMMON ANALYSIS

- **Former State actors and resistance to the Taliban:** The former Afghan State actors included members of the **Afghan National Security Forces (ANSF)** and other authorities from the three State branches (executive, legislative and judiciary).

Afghan State authorities and their associates were reported to have committed a wide range of human rights violations. Extrajudicial killings, forced disappearances, arbitrary detention, kidnapping, robbery, looting, torture, and ill-treatment have been reported. In addition, the Afghan National Police (ANP) have been involved in extortion and organised crime, in particular near key smuggling routes. Recruitment and sexual exploitation of boys (*bacha bazi*) committed by Afghan security forces, in particular by the Afghan Local Police (ALP) was also observed, as well as sexual exploitation of girls.

A number of **Pro-government militias (PGMs)** were fighting on the side of the government against Taliban and ISKP. Such militias included the National Uprising Movements, also referred to as public uprising forces, a community-based defence initiative; the Kandahar Strike Force, Paktika's Afghan Security Guards, the Khost Protection Force and Shaheen Forces in Paktya, Paktika and Ghazni provinces. Following the final Taliban offensive in the summer months, these militias could not resist the Taliban forces and soon dissolved or joined the Taliban.

After the Taliban takeover, a resistance force emerged in Panjshir, under the name **National Resistance Front (NRF)**. NRF consists of militia fighters and former government soldiers loyal to the previous administration and opposed to the Taliban rule. The group was controlling the Panjshir Valley, where armed confrontations took place between the opposition forces and the Taliban. Nevertheless, it is unclear whether fighting is ongoing. The Taliban announced the seizure of Panjshir on 6 September 2021, although Ahmed Massoud claimed the fighting was still ongoing.



Read more in the COMMON ANALYSIS

- **Haqqani network:** The Haqqani Network is a UN-designated terrorist organisation. In February 2021, UNAMA indicated that the Haqqani Network operated under the Taliban leadership and mostly followed Taliban policies and directions. The group was described as the 'lethal arm of the Taliban'.



The Haqqani Network is believed to have been responsible for complex attacks in heavily populated areas of Kabul during the insurgency. The Network reportedly collaborated and kept close contact with Al Qaeda, despite the US deal. Following the Taliban takeover, sources also referred to reported relations between Al Qaeda and the Network. According to reports, Haqqani and ISKP worked together as well, including in attacks on the Afghanistan presidential inauguration and an assault on a Sikh temple in Kabul in March 2020.

On 7 September, when the interim government was announced by the Taliban, the Network's leader Sirajuddin Haqqani was appointed interior minister.



Read more in the COMMON ANALYSIS

- **Islamic State Khorasan Province (ISKP):** The ISKP is a transnational Salafi-Jihadist organisation and a UN-designated terrorist organisation with operational ties with local groups. According to a November 2021 statement of Deborah Lyons, the Secretary-General's Special Representative and Head of the UNAMA, ISKP became increasingly active, stepping up attacks from 60 in 2020 to 334 in 2021, and gained ground across all provinces. Another source stated that ISKP had a strong presence in eastern Afghanistan (Nangarhar and Kunar provinces), as well as in Kabul and northern Afghanistan. However, ISKP was reported to have no territorial control in Afghanistan and the operational capacity of the group across the country remained unclear.

The number of ISKP militants in Afghanistan is estimated around 4 000. A relatively small but growing number of former members of Afghanistan's intelligence service and elite military units has reportedly joined ISKP to resist the Taliban. ISKP was also reportedly 'reaching out to tribes and other groups to recruit from their ranks while stamping out dissent among moderate Salafis'. There were also fears that ISKP could recruit Afghanistan-based foreign fighters from Central Asia and Pakistan, as well as disillusioned Taliban members. Taliban raids against ISKP, arrests of ISKP members, and prevention of attacks have also been reported and ISKP members reportedly surrendered to the Taliban in Nangarhar on several occasions in November 2021.

ISKP has reportedly carried out a campaign of targeted killings since around the summer of 2020 and has continued since the Taliban takeover on a roughly comparable scale. ISKP is said to have used 'the same hit-and-run tactics' practiced until recently by the Taliban against the previous Afghan government, including roadside explosions and targeted killings. The security incidents were particularly reported in northern and southern provinces. Attacks were particularly reported to take place in Nangarhar province, defined as a 'stronghold' of ISKP, and its capital, Jalalabad.

The group retained its ability to carry out terrorist attacks in Kabul and other major cities and claimed the attack at Kabul international airport of 26 August 2021, which killed more than 170 persons. ISKP also claimed responsibility for other incidents occurred in the same city such as a number of car bombs explosions and an attack on a military health facility in November 2021.

On several instances, ISKP continued to target the Shia (Hazara) community. Large scale attacks by ISKP took place on Shia (Hazara) mosques in Kunduz and Kandahar in October 2021, in which at least 119 people were killed and 220 wounded.



[Read more in the COMMON ANALYSIS](#)

- **Al Qaeda:** Al Qaeda is a transnational extremist Salafi jihadist organisation and UN-designated terrorist group. Sources indicate that it maintained a limited presence in Afghanistan, carrying out its activities mostly under the umbrella of other armed groups, particularly the Taliban. Sources reported in mid-2021 that the Taliban and Al Qaeda remained closely aligned and showed no indication of breaking ties, despite expectations created by the Doha agreement. Following the Taliban takeover, sources referred to reported relations between al-Qaeda and the Haqqani Network. It is also reported that a significant part of the leadership of Al Qaeda is based in the border region of Afghanistan and Pakistan.

Prior to the takeover, UNAMA had reported that Al Qaeda was mainly engaged in the provision of training, including weapons and explosives, and mentoring, and they have been cited as being engaged in internal Taliban discussions over the movement's relationship with other jihadist entities. The organisation also claimed responsibility for a number of attacks in Afghanistan, leading to ANSF casualties. According to some sources, al-Qaeda remained a threat in Afghanistan. However, it was also stated that the group did not have the organisational capability to capitalise on the Taliban's win. The human capacity of al-Qaeda in Afghanistan was estimated as ranging from several dozen to 500 people.

[Read more in the COMMON ANALYSIS](#)

- **A number of foreign terrorist groups and fighters** operate in Afghanistan. Main groups located in the eastern provinces of Kunar, Nangarhar and Nuristan included **Tehrik-e Taliban Pakistan** (including a number of loose splinter groups), **Jaish-e Momammed** and **Lashkar-e Tayyiba**, which operate under the umbrella of the Afghan Taliban and have been involved in targeted assassinations against (former) government officials and others. There are also several central Asian and Uighur foreign terrorist and militant groups with fighters of Uzbek, Tajik and Turkmen ethnicity which were reported to present a significant threat in northern areas of Afghanistan, such as **Eastern Turkistan Islamic Movement**, **Islamic Movement of Uzbekistan** (also known as Jundullah), **Jamaat Ansarullah Tajikistan**, **Lashkar-e Islam** and the **Salafist Group**.

[Read more in the COMMON ANALYSIS](#)

- In specific situations, **other non-State actors** of persecution or serious harm may include clans, tribes, (locally) powerful individuals, the family (e.g. in the case of LGBTIQ persons, 'honour' violence) or criminal gangs (e.g. kidnapping for ransom), etc.

[Read more in the COMMON ANALYSIS](#)

# Refugee status: guidance on particular profiles

## Preliminary remarks

Last update: April 2022

All elements of the definition of a refugee in accordance with the QD should be fulfilled for the qualification of the applicant as a refugee:



### Article 2(d) QD Definitions

‘refugee’ means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 [exclusion] does not apply;

[Article 9 QD](#) outlines how ‘persecution’ should be assessed.

[Article 10 QD](#) provides further clarification on the different reasons for persecution (race, religion, nationality, political opinion, or membership of a particular social group). A link (nexus) between those reasons and the persecution or the absence of protection should be established in order for the applicant to qualify for refugee status.

Guidance on specific profiles of applicants, based on their personal characteristics or affiliations with a certain group (e.g. political, ethnic, religious), is provided below.

An individual assessment is required for every application. It should take into account the individual circumstances of the applicant and the relevant country of origin information. Factors to take into account in this assessment may include, for example:

- home area of the applicant, presence of the potential actor of persecution and their capacity to target a person of interest;
- nature of the applicant’s actions (whether or not they are perceived negatively and/or whether or not individuals engaged in such actions are seen as a priority target by the actor of persecution);
- visibility of the applicant (i.e. to what extent it is likely that the applicant is known to or could be identified by the potential actor of persecution); noting, however, that the applicant does not need to be individually identified by the actor of persecution, as long as his or her fear of persecution is well-founded;
- resources available to the applicant to avoid persecution (e.g. relation to powerful individuals);
- etc.

The fact that an applicant has already been subject to persecution or to direct threats of such persecution, is a serious indication of the applicant's well-founded fear, unless there are good reasons to consider that such persecution will not be repeated ([Article 4\(4\) QD](#)).



Read more in the COMMON ANALYSIS

## Profiles

This section refers to some of the profiles of Afghan applicants, encountered in the caseload of EU Member States. It provides general conclusions on the profiles and guidance regarding additional circumstances to take into account in the individual assessment. Some profiles are further split in sub-profiles, with different conclusions with regard to the risk analysis and/or nexus to a reason for persecution. The corresponding number of the profile and a link to the respective section in the common analysis are always provided for ease of reference.

The conclusions regarding each profile should be viewed without prejudice to the credibility assessment of the applicant's claims.



When reading the table below, the following should be borne in mind:

- An individual applicant could fall under **more than one profile** included in this guidance note. The protection needs associated with all such circumstances should be fully examined.
- The **risk analysis** paragraphs focus on the level of risk and on some of the relevant risk-impacting circumstances. Further guidance with regard to the qualification of the acts as persecution is available within the respective sections of the common analysis.
- The table below summarises the conclusions with regard to different profiles and sub-profiles and aims at providing a practical tool to case officers. While examples are provided with regard to sub-profiles at differentiated risk and circumstances which may increase or decrease the risk, these **examples are non-exhaustive** and they have to be taken into account in light of all circumstances in the individual case.
- **Persons who belonged to a certain profile in the past** or **family members** of an individual falling under a certain profile may have protection needs similarly to those outlined for the respective profile. This is not explicitly mentioned in the table below, however, it should be taken into account in the individual assessment.
- The **potential nexus** paragraphs indicate a possible connection to the reasons for persecution according to [Article 10 QD](#). The common analysis sections provide further guidance whether a nexus to a reason for persecution is highly



likely or may be substantiated depending on the individual circumstances in the case.

- For some profiles, the connection may also be between the **absence of protection** against persecution and one or more of the reasons under [Article 10 QD \(Article 9\(3\) QD\)](#).

## 2.1 Persons affiliated with the former Afghan government

Last update: April 2022

**Risk analysis:** Conflicting and limited information concerning the Taliban policies and differences with regard to the implementation of orders from the central Taliban leadership by Taliban foot soldiers, as well as differences at a regional level, renders an assessment of the risk for individuals under this profile difficult.

Based on previous persecution and reports of continuing targeting, **individuals seen as priority target of the Taliban**, including those in central positions in former military, police and investigative units, as well as members of the judiciary, would in general have a well-founded fear of persecution.

**For other individuals under this profile**, the individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as:

- area of origin
- gender
- personal enmities
- involvement in (local) conflicts
- etc.

Family members of some individuals under this profile could also be at risk of treatment that would amount to persecution, e.g. in the context of the Taliban searching for the mentioned individual.

**Potential nexus:** (imputed) political opinion.

\* [Exclusion](#) considerations could be relevant to this profile.

 Read more in the COMMON ANALYSIS

## 2.2 Individuals who have worked for foreign military troops or perceived as supporting them

Last update: April 2022

**Risk analysis:** Based on information regarding past persecution and reports of continuing targeting by the Taliban, it is found that **interpreters** would in general have a well-founded fear of persecution.





There is limited information concerning the Taliban policies with regard to other individuals who have worked with foreign military troops. However, taking into account the negative perception of the Taliban against them and previous patterns of persecution, **other persons with suspected links with foreign forces** would be likely to have a well-founded fear of persecution.

Family members of some individuals under this profile could also be at risk of treatment that would amount to persecution.

**Potential nexus:** (imputed) political opinion.

\* [Exclusion](#) considerations could be relevant to this profile.

 Read more in the COMMON ANALYSIS

## 2.3 Religious leaders

Last update: November 2021

**Risk analysis:** Despite limited information concerning the period after the Taliban takeover, taking into account past persecution and the Taliban's continued determination to establish an Islamic Emirate of Afghanistan in accordance with their interpretation of the Sharia, **religious scholars perceived as delegitimising the Taliban ideology** are considered likely to have a well-founded fear of persecution.

**For other individuals under this profile**, additional risk-impacting circumstances would be needed to substantiate a well-founded fear of persecution.

**Potential nexus:** (imputed) political opinion and/or religion.

 Read more in the COMMON ANALYSIS

## 2.4 Persons fearing forced recruitment by armed groups

Last update: December 2020

**Risk analysis:** Not all individuals would face the level of risk required to establish a well-founded fear of persecution. Risk-impacting circumstances could include:

- age (belonging to the age group of young adults)
- military background
- area of origin and the presence/influence of armed groups
- increased intensity of the conflict
- position of the clan in the conflict
- poor socio-economic situation of the family
- etc.

**Potential nexus:** While the risk of forced recruitment as such may not generally imply a nexus to a reason for persecution, the consequences





of refusal, could, depending on individual circumstances, substantiate such a nexus, among other reasons, to (imputed) political opinion.

 Read more in the COMMON ANALYSIS

## 2.5 Educational personnel

Last update: April 2022

**Risk analysis:** Limited information on targeting of educational personnel following the Taliban takeover is available.

Not all individuals would face the level of risk required to establish a well-founded fear of persecution. Risk-impacting circumstances could include:

- gender (i.e. female teachers)
- origin from areas where ISKP has operational capacity
- the individual or the institution not following Taliban directives and/or curriculum
- speaking out against the Taliban
- etc.

**Potential nexus:** (imputed) political opinion and in some cases religion.

 Read more in the COMMON ANALYSIS

## 2.6 Healthcare professionals and humanitarian workers, including individuals working for national and international NGOs

Last update: April 2022

**Risk analysis:** Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances, could include:

- gender (i.e. women)
- nature of activities (e.g. activities for national/international NGO related to polio vaccination, demining, activities being perceived as non-neutral or in violation of cultural or religious norms, etc.)
- link with the former government or foreign donors
- speaking out or acting against the Taliban or another armed group
- origin from areas where ISKP has operational capacity
- etc.

**Potential nexus:** (imputed) political opinion.

 Read more in the COMMON ANALYSIS



## 2.7 Journalists and media workers

Last update: April 2022

**Risk analysis:** Journalists and media workers seen by the Taliban as critical of them or as not complying with conditions set by the Taliban would in general have a well-founded fear of persecution.

For other journalists and media workers, additional risk-impacting circumstances would be needed to substantiate a well-founded fear of persecution.

The situation of female journalists and media workers should be assessed with particular care.

**Potential nexus:** (imputed) political opinion and/or religion.

 Read more in the COMMON ANALYSIS

## 2.8 Human rights defenders

Last update: April 2022

**Risk analysis:** Well-founded fear of persecution would in general be substantiated.

**Potential nexus:** (imputed) political opinion and/or religion.

 Read more in the COMMON ANALYSIS

## 2.9 Individuals perceived to have transgressed moral and/or societal norms

It is difficult to provide an exhaustive list of practices perceived as a transgression of moral and/or societal norms in Afghanistan. The latter depend on several factors such as local context, actors involved or stakeholders' norm interpretation. In some cases, the transgression of these norms may be interpreted as 'westernization' by the Taliban or the Afghan society. See more on the sub-section [Moral and societal norms in Afghanistan](#).

See also [2.10 Individuals considered to have committed blasphemy and/or apostasy](#).

### 2.9.1 Honour-based violence and moral offences

Last update: April 2022

**Risk analysis:** Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- gender (the risk is higher for women)
- area of origin (particularly affecting rural areas)
- conservative environment
- perception of traditional gender roles by the family



- power/influence of the actors involved
- the moral and/or societal norm transgressed
- etc.

**Potential nexus:** religion and/or (imputed) political opinion or membership of a particular social group.

 Read more in the COMMON ANALYSIS

### 2.9.2. Individuals perceived as ‘Westernized’

Last update: April 2022

**Risk analysis:** Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- behaviour adopted by the applicant,
- area of origin (e.g. particularly affecting rural areas, local divergence in applying Taliban norms)
- gender (the risk is higher for women)
- conservative environment
- perception of traditional gender roles by the family
- age (it may be difficult for children of certain age to (re-)adjust to Afghanistan’s social restrictions)
- duration of stay in a western country
- visibility of the applicant
- etc.

**Potential nexus:** The individual circumstances of the applicant need to be taken into account. In some cases, persecution may be for reasons of religion and/or (imputed) political opinion or membership of a particular social group.

See also profiles [2.12.3 Women in public roles](#) and [2.10 Individuals considered to have committed blasphemy and/or apostasy](#).

 Read more in the COMMON ANALYSIS

### 2.10 Individuals considered to have committed blasphemy and/or apostasy

Last update: April 2022

**Risk analysis:** Well-founded fear of persecution would in general be substantiated.

**Potential nexus:** religion.

 Read more in the COMMON ANALYSIS





### 2.11.1 Individuals of Hazara ethnicity

Last update: April 2022

**Risk analysis:** The situation of Hazara has to be assessed in light of the recent takeover by the Taliban. The risk of targeting by ISKP should also be assessed in light of the group's operational capacity. Risk-impacting circumstances could be related to other profiles, such as [2.11.2 Shia, including Ismaili](#), [2.1 Persons affiliated with the former Afghan government](#), [2.6 Healthcare professionals and humanitarian workers, including individuals working for national and international NGOs](#), or [2.9 Individuals perceived to have transgressed moral and/or societal norms](#).

**Potential nexus:** (imputed) religion (see profile [2.11.2 Shia, including Ismaili](#)), (imputed) political opinion (e.g. links to the former government, perceived support for Iran), and/or race (ethnicity).

 Read more in the COMMON ANALYSIS

### 2.11.2 Shia, including Ismaili

Last update: April 2022

**Risk analysis:** The situation of Shia has to be assessed in light of the recent takeover by the Taliban. The risk of targeting by ISKP should also be examined. Currently, it is assessed that not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- area of origin (areas where ISKP has operational capacity present higher risk)
- participation in religious practices
- etc.

**Potential nexus:** religion.

 Read more in the COMMON ANALYSIS

### 2.11.3 Hindus and Sikhs

Last update: November 2021

**Risk analysis:** The situation of Hindus and Sikh has to be assessed in light of the recent takeover by the Taliban, however, there is limited information concerning the policies the Taliban intend to pursue towards these minorities. The risk of targeting by ISKP should also be examined. Currently, it is assessed that not all individuals under these profiles would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, in particular their area of origin (e.g. areas where ISKP has operational capacity), etc.





**Potential nexus:** religion.

 Read more in the COMMON ANALYSIS

## 2.12 Women

The different forms of violence against women in Afghanistan are often significantly interlinked. Therefore, the following subsections should be read in conjunction.

With regard to an overview of the position of women after the Taliban takeover see also [Situation of women after the Taliban takeover](#).

### 2.12.1 Violence against women and girls: overview

Last update: December 2020

\*Minor updates added: April 2022

**Risk analysis:** The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as:

- seen as having committed acts contravening the *Sharia*
- type of work and work environment (for women working outside home)
- perception of traditional gender roles in the family
- poor socio-economic situation
- family status (the risk of sexual and gender-based violence against women and adolescent girls is higher for those without a male protector, female heads of households, etc.)
- being in an IDP situation
- etc.

**Potential nexus:** (imputed) political opinion and/or religion (e.g. when persecution is by Taliban), and/or membership of a particular social group (see examples below).

 Read more in the COMMON ANALYSIS

### 2.12.2 Harmful traditional marriage practices

Last update: December 2020

\*Minor updates added: April 2022

**Risk analysis:** The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as:

- young age (in particular, under 16)
- area of origin (particularly affecting rural areas)
- ethnicity (e.g. Pashtun)
- perception of traditional gender roles in the family



- poor socio-economic situation of the family
- local power/influence of the (potential) husband and his family or network
- etc.

**Potential nexus:** membership of a particular social group (e.g. in relation to refusal to enter into a forced or child marriage).

 Read more in the COMMON ANALYSIS

### 2.12.3 Women in public roles

Last update: April 2022

**Risk analysis:** **Women in public roles may fall under other profiles**, such as: [2.1 Persons affiliated with the former Afghan government](#), [2.5 Educational personnel](#), [2.6 Healthcare professionals and humanitarian workers, including individuals working for national and international NGOs](#), [2.7 Journalists and media workers](#), or [2.8 Human rights defenders](#). The risk analysis of those profiles should also be consulted for the assessment of the well-founded fear of persecution.

**For other women in public roles**, the individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as:

- being seen as not complying with conditions set by the Taliban
- visibility of the applicant (e.g. nature of the work)
- conservative environment
- perception of traditional gender roles by the family or network
- etc.

**Potential nexus:** (imputed) political opinion and/or religion.

 Read more in the COMMON ANALYSIS

### 2.12.4. Women perceived to have transgressed moral and/or societal norms

See the profile [2.9 Individuals perceived to have transgressed moral and/or societal norms](#).

 Read more in the COMMON ANALYSIS

### 2.12.5 Single women and female heads of households

Last update: December 2020

\*Minor updates added: April 2022



**Risk analysis:** Being a single woman or female head of household considerably enhances the risk for such women to be exposed to acts, which, due to their severity, repetitiveness or accumulation could amount to persecution. Similarly, it also increases their risk of being exposed to violence.

Based on negative perceptions against them, their increased vulnerability to be subjected to violence and the restrictions imposed on women following the Taliban takeover, single women and female heads of households would be likely to have a well-founded fear of persecution.

**Potential nexus:** membership of a particular social group (e.g. divorced women).

 Read more in the COMMON ANALYSIS

## 2.13 Children

The section on children addresses certain child-specific circumstances of increased vulnerability and risks that children in Afghanistan may be exposed to.

### 2.13.1 Violence against children: overview

Last update: December 2020

**Risk analysis:** Not all children would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- gender (boys and girls may face different risks)
- age and appearance (e.g. non-bearded boys could be targeted as *bacha bazi*)
- perception of traditional gender roles in the family
- poor socio-economic situation of the child and the family
- etc.

**Potential nexus:** The individual circumstances of the applicant need to be taken into account. For example, in the case of (former) *bacha bazi* children, persecution may be for reasons of membership of a particular social group.

 Read more in the COMMON ANALYSIS

### 2.13.2 Child marriage

See the section [2.12.2 Harmful traditional marriage practices](#) under the profile [2.12 Women](#).

 Read more in the COMMON ANALYSIS





### 2.13.3 Child recruitment

Last update: December 2020

**Risk analysis:** Not all children would face the level of risk required to establish well-founded fear of persecution in the form of child recruitment. Risk-impacting circumstances could include:

- poor socio-economic situation
- area of origin or residence
- etc.

**Potential nexus:** The individual circumstances of the child need to be taken into account.

See also [2.4 Persons fearing forced recruitment by armed groups](#) and [2.13.1 Violence against children: overview](#).



Read more in the COMMON ANALYSIS

### 2.13.4 Child labour and child trafficking

Last update: December 2020

**Risk analysis:** Not all children would face the level of risk required to establish well-founded fear of persecution in relation to child labour and/or child trafficking. Risk-impacting circumstances could include:

- age
- gender
- family status
- poor socio-economic status of the child and his or her family
- being in an IDP situation
- drug addiction
- etc.

**Potential nexus:** The individual circumstances of the child need to be taken into account to determine whether a nexus to a reason for persecution can be substantiated.



Read more in the COMMON ANALYSIS

### 2.13.5 Education of children and girls in particular

Last update: April 2022

**Risk analysis:** The general deficiencies in the educational system, and the limited opportunities for education cannot as such be considered persecution, as they are not the result of a third party's deliberate actions. However, in the case of deliberate restrictions on access to education, in particular for girls, this could amount to persecution. Developments related to the policies and practice of the Taliban concerning the education of girls should be carefully assessed on the basis of up-to-date COI in this regard.





**Potential nexus:** The individual circumstances of the child should be taken into account. Depending on policies pursued by the Taliban, religion and/or political opinion may be relevant.

 Read more in the COMMON ANALYSIS

### 2.13.6 Children without a support network in Afghanistan

Last update: December 2020

**Risk analysis:** The lack of a support network does not amount to persecution in itself. However, it considerably enhances the risk for such children to be exposed to acts, which, due to their severity, repetitiveness or accumulation could amount to persecution. See, for example, [2.13.4 Child labour and child trafficking](#).

**Potential nexus:** The individual circumstances of the child should be taken into account.

 Read more in the COMMON ANALYSIS

## 2.14 LGBTIQ persons

Last update: April 2022

**Risk analysis:** Well-founded fear of persecution would in general be substantiated.

**Potential nexus:** membership of a particular social group.

 Read more in the COMMON ANALYSIS

## 2.15 Persons living with disabilities and persons with severe medical issues

Last update: April 2022

**Risk analysis:** Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- nature and visibility of the mental or physical disability
- negative perception by the family
- etc.

**Potential nexus:** membership of a particular social group, in the case of persons living with noticeable mental or physical disabilities.

 Read more in the COMMON ANALYSIS





### 2.16.1 Individuals involved in blood feuds

Last update: December 2020

**Risk analysis for men directly involved in a blood feud:** Well-founded fear of persecution would in general be substantiated.

**Risk analysis for women, children and men who are farther removed from the feud:** Not all individuals would face the level of risk required to establish a well-founded fear of persecution. Risk-impacting circumstances could include:

- intensity of the blood feud
- origin from areas where the rule of law is weak
- etc.

**Potential nexus:** The individual circumstances of the applicant need to be taken into account to determine whether a nexus to a reason for persecution can be substantiated. For example, family members involved in a blood feud may have a well-founded fear of persecution for reasons of membership of a particular social group.

\* [Exclusion](#) considerations could be relevant to this profile.

 Read more in the COMMON ANALYSIS

### 2.16.2 Individuals involved in land disputes

Last update: April 2022

**Risk analysis:** Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- violent nature of the dispute
- power/influence of the actors involved in the land dispute
- area of origin
- etc.

**Potential nexus:** In general, no nexus to a Convention reason. This is without prejudice to individual cases where nexus could be established based on additional circumstances (e.g. ethnicity in relation to Taliban taking sides against certain ethnic groups who might be parties in the dispute, land dispute leading to a blood feud, etc.).

\* [Exclusion](#) considerations could be relevant to this profile.

 Read more in the COMMON ANALYSIS

### 2.17 Individuals accused of ordinary crimes

Last update: April 2022

**Risk analysis:** Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- nature of the crime for which the applicant may be prosecuted





- envisaged punishment
- etc.

**Potential nexus:** In the case of individuals accused of ordinary crimes, there would in general be no nexus to a Convention reason. However, where a well-founded fear of persecution is established in relation to the envisaged punishment under Sharia law, persecution may be for reasons of religion. In individual cases, the prosecution may (also) be motivated by another Convention ground or initiated or conducted on a discriminatory basis related to another Convention ground.

\* [Exclusion](#) considerations could be relevant to this profile.



Read more in the COMMON ANALYSIS

## 2.18 Individuals who were born in Iran or Pakistan and/or who lived there for a long period of time

Last update: December 2020

**Risk analysis:** In general, the treatment faced by individuals under this profile would not amount to persecution. In exceptional cases, the accumulation of measures could amount to persecution.

**Potential nexus:** In general, no nexus to a Convention ground. This is without prejudice to individual cases where nexus could be established based on additional circumstances.



Read more in the COMMON ANALYSIS



# Subsidiary protection



The contents of this chapter include:

- Article 15(a) QD: death penalty or execution
- Article 15(b) QD: torture or inhuman or degrading treatment or punishment
- Article 15(c) QD: serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict

## Article 15(a) QD

Death penalty or execution

Last update: April 2022

Death penalty is envisaged under Islamic law.

The former Penal Code was reported to significantly limit the number of crimes punishable by the death penalty and the death penalty was rarely carried out in practice.

Before the Taliban takeover, in the areas under their control, the Taliban imposed punishments through a parallel justice system, based on a strict interpretation of the *Sharia*. This included instances of executions, including public executions by stoning and shooting.

The justice system imposed following the Taliban takeover is believed to be a continuation of the established shadow courts during their insurgency. Sharia law is the basis for the judgements and actions of judges and police officers in Afghanistan under Taliban rule. Capital and corporal punishment are regarded as relevant punishments for certain crimes under Sharia law according to Taliban officials. There were no reports on capital punishments issued by a court as of early December 2021. Summary executions of alleged ISKP affiliates by the Taliban were also reported.

In cases where there is no nexus to a Convention ground (for example, in some cases of [2.17 Individuals accused of ordinary crimes](#)), the need for subsidiary protection under [Article 15\(a\) QD](#) should be examined. If there is a reasonable degree of likelihood of death penalty or execution, subsidiary protection under [Article 15\(a\) QD](#) shall be granted, unless the applicant is to be excluded in accordance with [Article 17 QD](#).

Please note that [exclusion](#) considerations could be relevant.



Read more in the COMMON ANALYSIS



## Article 15(b) QD

### Torture or inhuman or degrading treatment or punishment

Last update: April 2022

In the cases of applicants for whom torture or inhuman or degrading treatment or punishment may be a real risk, there would often be a nexus to a reason for persecution under the definition of a refugee, and such individuals would, therefore, qualify for refugee status. However, with reference to cases where there is no nexus to a Convention ground and the applicant would not qualify for refugee status, the need for subsidiary protection under [Article 15\(b\) QD](#) should be examined.

When examining the need for protection under [Article 15\(b\) QD](#), the following considerations should be taken into account:

- **Healthcare unavailability and socio-economic conditions:** It is important to note that serious harm must take the form of conduct of an actor ([Article 6 QD](#)). In themselves, the general unavailability of healthcare, education or other socio-economic elements (e.g. situation of IDPs, difficulties in finding livelihood opportunities, housing) are not considered to fall within the scope of inhuman or degrading treatment under [Article 15\(b\) QD](#), unless there is intentional conduct of an actor, such as the intentional deprivation of the applicant of appropriate healthcare.
- **Arbitrary arrests, illegal detention, and prison conditions:** Special attention should be paid to the phenomena of arbitrary arrests and illegal detention, as well as to prison conditions. Arbitrary arrests and illegal detention centres run by different actors (linked to the former government, to militias, to strongmen or to insurgent groups) have been widespread in Afghanistan. In general, human rights were not respected in these illegal detention facilities and persons who face a real risk of being illegally detained may be in need of protection. Soon after the takeover, the Taliban announced the release of 'all political detainees' throughout Afghanistan and released thousands of prisoners. On 31 October 2021, a Taliban official stated that there were around 4 000 prisoners in Afghanistan. Current prisoners were detained based on criminal charges including murder and killings. It was also reported that the Taliban incarcerate people with minor 'suspicion of illegal activity'. There were reports of Taliban fighters arresting people and using violence and torture in custody. Other incidents of reported torture by the Taliban refer to journalists, healthcare professionals, and civilians during the weeks of fighting in Panjshir. The Taliban have also been accused of committing human rights violations against alleged ISKP affiliates, including illegal detention and torture in Nangarhar and other areas. Furthermore, it can be assessed that in cases where the prosecution or punishment is grossly unfair or disproportionate, or where subjecting a person to prison conditions which are not compatible with respect for human dignity, a situation of serious harm under [Article 15\(b\) QD](#) can occur. It should also be stressed that in official and unofficial detention centres, torture often took place.
- **Corporal punishments:** Under the *Sharia*, corporal punishments are envisaged for different crimes, for example stoning for adultery, public flogging for drinking alcohol and hand amputation for some types of theft. Following the takeover, the Taliban have made clear statements regarding the required adherence to the *Sharia*. Physical punishments including executions are reportedly considered as necessary parts of Islamic law. It was suggested that Taliban judges avoided to issue harsh punishments to avoid losing support among the population. However, there were reports on Taliban fighters subjecting civilians



to punishments, inter alia whipping alleged thieves. Where there is no nexus to a reason for persecution under the refugee definition, the risk of being subjected to corporal punishments such as the above may qualify under [Article 15\(b\) QD](#).

- **Criminal violence:** Common criminality and organised crime have been reported throughout the country, with an increase in recent years, especially in major cities such as Kabul, Jalalabad, Herat, and Mazar-e Sharif. Reported crimes comprised kidnappings of adults and children, robberies and burglaries, murders and extortion. Criminal groups targeted businessmen, local officials and ordinary people, and foreigners and wealthy Afghans were indicated as the main targets. Only limited information on criminal activities after the Taliban takeover is available. Where there is no nexus to a reason for persecution under the refugee definition, the risk of crimes such as the above may qualify under [Article 15\(b\) QD](#).

Other cases for which a real risk of serious harm under [Article 15\(b\) QD](#) may exist are, inter alia, some situations under the profile of [2.13 Children](#), [2.16.2 Land disputes](#), etc.

Please note that [exclusion](#) considerations could be relevant.



Read more in the COMMON ANALYSIS

## Article 15(c) QD

Serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict

Last update: April 2022

The necessary elements in order to apply [Article 15\(c\) QD](#) are:

**Figure 2. Article 15(c) QD: elements of the assessment.**



In order to apply [Article 15\(c\) QD](#), the above elements should be established cumulatively.

 Read more in the COMMON ANALYSIS

The following is a summary of the relevant conclusions concerning the situation in Afghanistan:

- a. Armed conflict:** Over the summer months of 2021, the Taliban's offensive advanced rapidly and resulted in them taking over almost all of the country. ANSF personnel often withdrew from positions without engaging in confrontations. In their statements following the takeover of Kabul in August 2021, the Taliban declared the war to be over. However, in some areas resistance armed groups were organised and armed confrontations took place. ISKP also continues to be active in the country.

 Read more in the COMMON ANALYSIS

- b. Civilian:** [Article 15\(c\) QD](#) applies to a person who is not a member of any of the parties to the conflict and is not taking part in the hostilities, potentially including former combatants who have genuinely and permanently renounced armed activity. The applications by persons under the following profiles should be examined carefully. Based on an individual assessment, such applicants may be found not to qualify as civilians under [Article 15\(c\) QD](#). For example:

- **Taliban**
- **Armed groups opposing the Taliban:** several paramilitary groups continued to exist or were formed in the final days of the Taliban offensive and after their takeover
- **Other armed groups:** other armed groups active in Afghanistan include, for example, ISKP, IMU, the Haqqani Network, Al Qaeda, Jundullah.

It should be noted that actively taking part in hostilities is not limited to openly carrying arms but could also include substantial logistical and/or administrative support to combatants.

It is important to underline that the assessment of protection needs is forward-looking. Therefore, the main issue at hand is whether the applicant will be a civilian or not upon return. The fact that the person took part in hostilities in the past would not necessarily mean that [Article 15\(c\) QD](#) would not be applicable to him or her.

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- c. **Indiscriminate violence:** Indiscriminate violence and civilian casualties have dropped significantly following the takeover by the Taliban. Conflict-induced displacement has also decreased since August 2021. Following the withdrawal of international troops, one of the main actors of the previous conflict (former Afghan government) has ceased to exist, while the conflict between the Taliban and ISKP continues. The violence which takes place in the country is reportedly targeted, however, civilian casualties have also been observed in the course of such incidents. Security incidents were also taking place particularly in certain areas of the country. Therefore, at the time of writing, **the level of indiscriminate violence** is considered to be significantly lower than before (the Taliban takeover). Nevertheless, the future risk of indiscriminate violence in any part of the country, should always be based on the most recent information concerning the dynamics in the particular area as well as the country as a whole. Limitations with regard to reliable reporting from the country should also be taken into account.

As the security situation in Afghanistan evolves, in order to make a forward-looking assessment with regard to the **level of risk due to indiscriminate violence** in a situation of armed conflict, the following elements could be taken into account on the basis of relevant and up-to-date COI:

- **Actors in the conflict:** including the emergence and/or operational capacity of different actors the potential involvement of other states in the conflict, the duration and relative stability of control of a particular actor in the territory, etc.
- **Incidents and civilian casualties:** the methods and tactics being used, the frequency of incidents and their impact in terms of civilian casualties.
- **Geographical scope:** some conflict-related violence may be limited to a certain region based on the actors involved, for example in relation to local armed groups resisting the Taliban.
- **Displacement:** Conflict-related displacement may be an important indicator of the level of violence taking place and/or the perception of the risk by the civilian population.

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- d. **Serious and individual threat:**

In the context of the ‘sliding scale’, each case should be assessed individually, taking into account the nature and intensity of the violence in the area, along with the combination of personal circumstances present in the applicant’s case. Certain personal circumstances could contribute to an enhanced risk of indiscriminate violence, including its direct and indirect consequences. While it is not feasible to provide exhaustive guidance what the relevant personal circumstances could be and how those should be assessed, the following are highlighted as possible examples of circumstances which may impact the



ability of a person to assess and/or avoid risks related to indiscriminate violence in a situation of an armed conflict:

- age
- gender
- health condition and disability, including mental health issues
- economic situation
- knowledge of the area
- occupation of the applicant
- etc.



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- e. **Threat to life or person:** The risk of harm as per [Article 15\(c\) QD](#) is formulated as a 'threat to a civilian's life or person' rather than as a (threat of) a specific act of violence. Some of the commonly reported types of harm to civilians' life or person in Afghanistan include killings, injuries, abductions, disabilities caused by landmines, etc.



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- f. **Nexus:** The nexus 'by reason of' refers to the causal link between the indiscriminate violence and the harm (serious threat to a civilian's life or person) and includes:
- harm which is directly caused by the indiscriminate violence or by acts that emanate from the actors in the conflict, *and*
  - harm which is indirectly caused by the indiscriminate violence in a situation of armed conflict. Indirect effects are only considered to a certain extent and as long as there is a demonstrable link with the indiscriminate violence, for example: widespread criminal violence as a result of lawlessness, destruction of the necessary means to survive, destruction of infrastructure, denial of or limited access of humanitarian aid, limited access to healthcare facilities. Armed clashes and/or road blockages can also lead to food supply problems that cause famine or to limited or no access to healthcare facilities in certain regions in Afghanistan.



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# Actors of protection

Last update: April 2022

[Article 7 QD](#) stipulates that protection can only be provided by:

a. the State;

b. parties or organisations controlling the State or a substantial part of the territory of the State;

provided they are **willing and able** to offer protection, which must be:

**effective** and of a **non-temporary nature**.

Such protection is generally provided when the actors mentioned take reasonable steps to prevent the persecution or suffering of serious harm, inter alia, by **operating an effective legal system for the detection, prosecution and punishment** of acts constituting persecution or serious harm,

and when the applicant has **access to such protection**.

During the insurgency, the Taliban positioned themselves as the shadow government of Afghanistan, and their commission and governing bodies replicated the administrative offices and duties of a typical government. Policymaking and its application were considered to be influenced by local Taliban leaders' personalities, preferences, and relationships. In territories under their control, the group operated a parallel justice system based on a strict interpretation of the Sharia, leading to executions by shadow courts and punishments deemed by UNAMA to be cruel, inhuman, and degrading.

After the takeover of the capital Kabul, the Taliban announced the reestablishment of the Islamic Emirate of Afghanistan (IEA), which was in power in Afghanistan between 1996 and 2001. In October 2021, they reportedly controlled the entire territory of Afghanistan and provided service to the people.

The Taliban did not announce in detail how they intend to govern Afghanistan, nor which type of political system they envisaged to adopt or on what constitutional basis the government would function. In general, they referred to *Sharia* as the legal but also the political system to be imposed and emphasised the importance of Islam for their governance. Thus, most persons appointed to the interim government were of clerical background.

Appointments were made to central ministries and within the provincial administration, including the Ministry for Promotion of Virtue and Prevention of Vice. Under the previous Taliban rule, one of the main functions of the body was to enforce the Taliban's interpretation of Sharia and there are reports that the new Ministry already has issued guidelines on topics related to 'Islamic values'.

The Taliban have also started to build up security institutions. Sources reported a lack of control of the Taliban leadership over their fighters and observed Taliban fighters acting on their own initiative and subjecting civilians and journalists to violence, as well as conducting house-to-house searches and retaliation acts despite the general amnesty that was issued for all who served within the previous government.

As the Taliban administered shadow Sharia courts for years, it is expected that the coming justice system will be a continuation of the established shadow courts. The head of the former shadow court system, including its Supreme Court, Abdul Hakim Ishaqzai, was appointed Minister of Justice on 7 September 2021. In mid-October 2021 a new Supreme Court was reportedly established.

According to statements of Taliban officials, physical punishments including executions are considered as necessary parts of Islamic law, and some punishments used during the last Taliban rule would be revived. It was also stated that executions will be issued by court, but the punishments might not be carried out in public. However, according to an expert opinion, public display might not be necessary for all types of crimes but punishment for certain crimes must be carried out in public. In mid-October, the Taliban announced that punishments shall not be carried out in public unless the Supreme Court issues and orders for such actions.



The lack of due process and the nature of the punishments would not qualify the justice mechanism operated by the Taliban as a legitimate form of protection. Further taking into account their record of human rights violations, based on the information available at the time of drafting, it can be concluded that the Taliban do not qualify as an actor of protection who is able to provide effective, non-temporary and accessible protection.

No other actors are currently found to be in control of a significant part of the territory and able to provide protection within the meaning of Article 7 QD.



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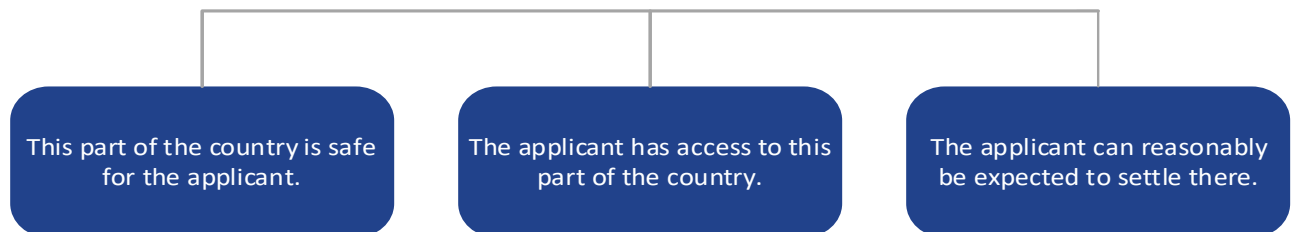
Where no actor of protection meeting the requirements of [Article 7 QD](#) can be identified in the home area of the applicant, the assessment may proceed with examination of the availability of internal protection alternative.

# Internal protection alternative

Last update: April 2022

The required elements in order to apply [Article 8 QD](#) are:

**Figure 3. IPA: elements of the assessment.**



For profiles who have a well-founded fear of persecution or real risk of serious harm by the Taliban, the **safety** criterion would not be met, taking into account the territorial control of the group.

For individuals with a well-founded fear of persecution or real risk of serious harm related to targeting by other actors, the uncertainty of the current situation and the lack of protection meeting the requirements of Article 7 QD would result in IPA not being safe. In exceptional cases a person may not have a well-founded fear or face a real risk of serious harm after relocating to a particular part of the country, depending on the reach of that actor. When assessing whether the requirement of safety would be substantiated, the uncertainty of the current situation should be taken into account.

There are currently no known restrictions on **travel and admittance** within Afghanistan for men. Women's ability to travel on their own in Afghanistan was already constrained by social and formal restrictions and often their freedom of movement was limited by the requirement of male consent or male chaperone. Following the takeover, the Taliban have announced further restrictions on travel for women which may affect women's ability to safely and legally travel within Afghanistan. In particular, the Ministry for the Promotion of Virtue and Prevention of Vice reportedly issued a guidance saying that women should not be offered transport of more than 45 miles (72 kilometres) if unaccompanied by a close male relative and calling on drivers to not offer rides to women that are not wearing hijab.

In those exceptional cases where both the safety and travel and admittance criteria under IPA could be met, particular attention should also be given to the current humanitarian situation in Afghanistan. The latter would affect the **reasonableness** criterion within the assessment under Article 8 QD and result in IPA generally not being reasonable. See also the sub-section on [Humanitarian situation](#) under [General Remarks](#).



Therefore, at the time of writing, it is considered that **IPA in general, would not be applicable to any part of Afghanistan.**



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# Exclusion

Last update: November 2021



Given the serious consequences that exclusion may have for the individual, the exclusion grounds should be interpreted restrictively and applied with caution.

The examples in this chapter are non-exhaustive and non-conclusive. Each case should be examined on its own merits.

Applying the exclusion clauses, where there are serious reasons to consider that the applicant has committed any of the relevant acts, is mandatory.

Exclusion should be applied in the following cases:

| Grounds for exclusion |   |                                                                                                                 |                              |
|-----------------------|---|-----------------------------------------------------------------------------------------------------------------|------------------------------|
| <b>Refugee status</b> | • | a crime against peace, a war crime, or a crime against humanity                                                 | <b>Subsidiary protection</b> |
|                       | • | a serious non-political crime outside the country of refuge prior to his or her admission as a refugee          |                              |
|                       | • | acts contrary to the principles and purposes of the United Nations                                              |                              |
|                       | • | a crime against peace, a war crime, or a crime against humanity                                                 |                              |
|                       | • | a serious crime                                                                                                 |                              |
|                       | • | acts contrary to the principles and purposes of the United Nations                                              |                              |
|                       | • | constituting a danger to the community or to the security of the Member State in which the applicant is present |                              |
|                       | • | other crime(s) (under certain circumstances)                                                                    |                              |

It should be underlined that the determining authority has the burden of proof to establish the elements of the respective exclusion grounds and the individual responsibility of the applicant, while the applicant remains under an obligation to cooperate in establishing all facts and circumstances relevant to their application.



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In the context of Afghanistan, numerous circumstances and different profiles may require consideration of the potential applicability of exclusion grounds. The QD does not set a time limit for the application of the grounds for exclusion. Applicants may be excluded in relation to events occurring in the current conflict as well as in past conflicts (e.g. the 'Saur' Revolution and Khalq Regime (1978-1979), the Soviet Afghan War (1979-1989), the conflict between the



Afghan Government and the Mujahideen Forces (1989-1992) and the Afghan Civil War (1992-1996), the Taliban Regime (1996-2001)). Afghan nationals have also been involved in conflicts outside Afghanistan, which may be of relevance for exclusion considerations.

COI indicates that excludable acts are committed by many actors, both in relation to the armed conflicts, as well as in the context of general criminality and human rights abuses.



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The following subsections provide guidance on the potential applicability of the exclusion grounds in the context of Afghanistan.

## Crime against peace, war crime, crime against humanity

It can be noted that the ground ‘crime against peace’ is not found to be of particular relevance in the cases of applicants from Afghanistan.

According to COI, insurgent groups, (former) ANSF and pro-government militias, as well as civilians in Afghanistan, can be implicated in acts that would qualify as war crimes or crimes against humanity. Reported violations of international humanitarian law by all parties in the current and in past conflicts in Afghanistan could amount to war crimes.<sup>7</sup>

In terms of qualifying the relevant acts as war crimes, armed conflicts<sup>8</sup> taking place in Afghanistan can be characterised as follows:

- armed conflict between PDPA government and armed opponents from the summer of 1979 until the Soviet invasion on 24 December 1979: non-international;
- Soviet-Afghan War from December 1979 until February 1989: international;
- armed conflict between ‘mujahideen’ forces and the government (1989-1996): non-international;
- armed conflict between the Taliban and the United Front (1996-2001): non-international;
- armed conflict of coalition led by the USA against the Taliban regime between October 2001 and June 2002: international;
- Taliban-led insurgency against the (former) Afghan government (since 2002), as well as conflict between different AGEs (2015 – ongoing): non-international.

The amnesty envisaged under the National Stability and Reconciliation Law of Afghanistan and the amnesty provisions in the agreement with Hezb-e Islami / Gulbuddin Hekmatyar (HIG) from September 2016 would likely not prevent the exclusion of the applicant where individual responsibility for relevant excludable acts is established, as they would fail to meet the necessary requirements, i.e. being the expression of the democratic will of the citizens of Afghanistan and the individual having been held accountable in other ways.

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<sup>7</sup> See also <https://www.icc-cpi.int/afghanistan>.

<sup>8</sup> Note that the assessment under Article 12(2)(a) QD and Article 17(1)(a) QD refers to the relevant international instruments defining the terms. Therefore, the assessment of whether or not an armed conflict takes place, as well as its nature, is based on international humanitarian law and may differ from the assessment in the context of Article 15(c) QD as defined in the *Diakité* judgment of the CJEU.





## Serious (non-political) crime

In the context of Afghanistan, widespread criminality and breakdown in law and order make the ground of 'serious (non-political) crime' particularly relevant. In addition to murder related to family and other private disputes, some examples of particularly relevant serious crimes may include drug trade and trafficking, trafficking in arms, human trafficking, corruption, embezzlement and other economic crimes, illegal taxation, illegal extraction, trade or smuggling of minerals, gemstones, archaeological artefacts, etc.

Violence against women and children (for example, in relation to *bacha bazi*, in the context of child marriage, honour killings, sexual violence or some forms of domestic violence, etc.), which is widespread in Afghanistan, could also potentially amount to a serious (non-political) crime.

Some serious (non-political) crimes could be linked to an armed conflict (e.g. if they are committed in order to finance the activities of armed groups) or could amount to fundamentally inhumane acts committed as a part of a systematic or widespread attack against a civilian population, in which case they should instead be examined under [Article 12\(2\)\(a\) / Article 17\(1\)\(a\) QD](#).

In relation to exclusion from refugee status, a crime could fall under this ground if committed in Afghanistan or any third country (for example, while the applicant resided in Pakistan or Iran, or in countries of transit, etc.). In relation to subsidiary protection, serious crimes committed by Afghan applicants in the host country, would also lead to exclusion.

## Acts contrary to the purposes and principles of the United Nations

In the context of Afghanistan, (former) membership in armed groups such as ISKP, the Taliban or Hezb-e Islami, could trigger relevant considerations, in addition to the considerations under [Article 12\(2\)\(a\) / Article 17\(1\)\(a\) QD](#) or [Article 12\(2\)\(b\) / Article 17\(1\)\(b\) QD](#).

The application of exclusion should be based on an individual assessment of the specific facts in the context of the applicant's activities within that organisation. The position of the applicant within the organisation would constitute a relevant consideration and a high-ranking position could justify a (rebuttable) presumption of individual responsibility. Nevertheless, it remains necessary to examine all relevant circumstances before an exclusion decision can be made.

Where the available information indicates possible involvement in crimes against peace, war crimes or crimes against humanity, the assessment would need to be made in light of the exclusion grounds under [Article 12\(2\)\(a\) / Article 17\(1\)\(a\) QD](#).

## Danger to the community or the security of the Member State

In the examination of the application for international protection, the exclusion ground under [Article 17\(1\)\(d\) QD](#) is only applicable to persons otherwise eligible for subsidiary protection.

Unlike the other exclusion grounds, the application of this provision is based on a forward-looking assessment of risk. Nevertheless, the examination takes into account the past and/or current activities of the applicant, such as association with certain groups considered to represent a danger to the security of the Member States or criminal activities of the applicant.



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## Common analysis: Afghanistan

The common analysis represents the joint assessment of EU Member States of the situation in the country. It is based on common country of origin information, published by EUAA, which is analysed in accordance with the 1951 Geneva Convention and the Qualification Directive (recast), further taking into account the jurisprudence of the CJEU and ECtHR and general EUAA guidance.





# General remarks

Last update: April 2022

[Main COI reference: [Security September 2021](#), 1.1; [Security June 2021](#), 1.1.3, 1.1.4; [Country Focus 2022](#), 1, 3.4]

This update is published in the context of significant recent changes in the situation in Afghanistan. The Taliban takeover in August 2021 is likely to result in important changes in the assessment of international protection needs. However, the extent of the impact of these changes cannot in some cases be conclusively assessed in the early stages following the takeover. The current situation presents a lack of clarity regarding the policies and behaviours the Taliban will pursue. It is also unclear to what extent the Taliban members in the different regions of the country would behave differently from what is communicated by their leadership in Kabul.

## Background

Since 2001, there have been ‘multiple and overlapping non-international armed conflicts’ between government forces and armed groups such as the Taliban and the Islamic State Khorasan Province (ISKP), among others. The Taliban have been active in Afghanistan for decades and their leadership ruled Afghanistan between 1996 and 2001 when it was removed from power by the US and international forces. The group continued to conduct an insurgency following its removal [[State structure](#), 1.1; [Security June 2021](#), 1.2.2; [Anti-government elements](#), 2.1].

On 29 February 2020, after more than 18 years of conflict, the US and the Taliban signed an ‘agreement for bringing peace’ to Afghanistan. The main points outlined in the Doha agreement included guarantees by the Taliban on not providing protection to groups such as Al Qaeda, that pose a threat to the US and its allies; and guarantees by the US and their NATO allies to withdraw from Afghanistan. During the intra-Afghan talks, the Taliban demanded the establishment of a strict Islamic government while the Afghan government’s highest priority was the implementation of a ceasefire. The Taliban demanded to implement the Hanafi school of Sunni jurisprudence as the main source of legislation in the country in the future [[Security June 2021](#), 1.1.3].

Since the Doha agreement of February 2020, the US military has been less involved in direct conflict in Afghanistan. In general, the Taliban stopped their offensives against the US troops and interests in Afghanistan while the group intensified its attacks against the ANSF. The Taliban initiated their final offensive on 1 May 2021, the same day the withdrawal of international forces was initiated [[Security June 2021](#), 1.3; [Security September 2021](#), 1.1.1].

## The Taliban takeover

During the summer months of 2021, the Taliban swept over Afghanistan and took control over several districts, notably in the northern provinces and districts encircling the provincial capitals.

In the first week of August 2021, the Taliban advanced, and in less than nine days they took control over most of Afghanistan’s provincial capitals. During the last days of this offensive, key cities fell as Afghan forces surrendered. On 15 August 2021, President Ashraf Ghani fled the country, the police and other government forces gave up their posts, and Taliban fighters





entered the city and overtook control of its checkpoints. Taliban leaders entered the presidential palace, addressed media the following day, and declared the war to be over [[Security September 2021](#), 1.1.1].

There were few reports of armed clashes since the last advance of the Taliban and the overtaking of Kabul in mid-August 2021. However, a resistance force emerged in Panjshir, under the name National Resistance Front (NRF). The group was controlling the Panjshir Valley, where armed confrontations took place between the opposition forces and the Taliban. The Taliban announced the seizure of Panjshir on 6 September 2021. Nevertheless, it is unclear whether fighting is ongoing and contrasting news were reported.

Since the Taliban took over Kabul, tens of thousands of people entered or assembled outside the airfield of Hamid Karzai International Airport in the city trying to leave the country. Turmoil resulted in several deaths. Emergency evacuations took place in the last weeks of August. Sources reported that more than 114 000 persons had been evacuated since 14 August and until the end of this month. Many states evacuated their citizens, persons with residence permits or similar links to their country, as well as persons that had assisted diplomatic missions or military forces, such as embassy staff and interpreters. Some countries also evacuated persons that they considered to be at risk under the new circumstances [[Security September 2021](#), 1.1.3].

On 26 August the airport was attacked in two bomb blasts, which killed more than 170 persons and injured 200 others. Both civilians and US military personnel were killed in the attack, claimed by ISKP. During the last days of August, US sources claimed to have repelled several other terrorist attacks against Kabul's international airport [[Security September 2021](#), 1.1.3, 1.4.1]. On 30 August, right before midnight, the last US forces left Afghanistan as the final evacuation flights departed from Kabul's international airport [[Security September 2021](#), 1.3.1].

### **Reinstating the 'Islamic Emirate of Afghanistan' and international recognition**

Following the sudden collapse of the former government of Afghanistan and the Taliban takeover of the capital Kabul, the Taliban announced the reestablishment of the Islamic Emirate of Afghanistan (IEA), which was previously in power in Afghanistan between 1996 and 2001. In October 2021, the Taliban called on Afghan media to refer to them as the IEA and not to use terms like the 'Taliban group' or 'Taliban faction'. They further stated that they controlled the entire territory of Afghanistan and provided service to the people. The Taliban searched for international recognition, as well as assistance to avoid a humanitarian and economic disaster in Afghanistan. However, no country officially recognised the IEA, and the UN referred to the Taliban as the 'de facto' authorities. Yet, some countries kept their embassies open in Kabul, for instance China, Pakistan, Russia, Iran and Qatar, and some engaged with the announced interim government. In late October 2021, the Taliban declared that they met the conditions for international recognition, as several stakeholders met with them, including the US, some EU Member States, Russia, China, Iran and Pakistan. The Express Tribune, however, reported that Pakistan, Russia, China and the US had agreed on a continuation of 'practical engagement' with the Taliban but had asked them to follow 'moderate policies', and to 'do more' before a formal recognition could be considered [[Country Focus 2022](#), 1.1.1].

### **Interim government composition**

The Taliban announced an interim government on 7 September 2021 and two additional rounds of appointments followed. As of 5 October 2021, the interim government was



composed of over 30 ministries, including the Ministry for Promotion of Virtue and Prevention of Vice. Under the previous Taliban rule, one of the main functions of the body was to enforce the Taliban's interpretation of Sharia and there are reports that the new Ministry already has issued guidelines on topics related to 'Islamic values'. All appointments to the interim government consisted of persons from within the Taliban movement. Many of them had served in the government of the 1990s. Furthermore, the cabinet comprised several persons registered on the UN Security Council's sanction list, and also included three out of five senior Taliban members that were held by the US in Guantanamo Bay for over a decade. Regarding the Taliban's affiliation with armed groups, the Haqqani network was included in the interim government by the appointment of Serajuddin Haqqani as Minister of Interior. The appointments to the interim government were all-male, and most were Pashtuns and clericals. Only few appointments included persons from other ethnicities than Pashtuns, such as members from the Tajik, Uzbek, and Hazara communities. There were some reports on ethnic representation on local level, for instance in Panjshir (which is predominantly populated by members of the Tajik community) and in Bamyán from the Hazara community [[Country Focus 2022](#), 1.1.2].

## Political system

The Taliban did not announce in detail how they intend to govern Afghanistan, nor which type of political system they envisaged to adopt. Instead, there was a tendency to refer to Sharia as the legal system they were going to impose. During the first press conference after the takeover, Taliban spokesmen said that the Taliban had changed during the past 20 years in terms of experience, maturity and vision, but that Afghanistan was still a Muslim nation and that there would be 'a strong Islamic government'. They announced that they intended to act on the basis of their principles, religion and culture, and emphasised the importance of Islam and that 'nothing should be against Islamic values'. After the announcement of the interim government, the Taliban did not give any time indications on how long it would hold office or on which constitutional basis it would function, and they did not indicate that they would hold elections. The interim government was considered to be 'modelled on the same system' as in the 1990s with both a spiritual leader and a prime minister heading the government. Looking at its decision-making structure, the announced emirate could be described as a religious theocracy ruled by the commander of believers and supreme leader Mullah Haibatullah Akhundzada [[Country Focus 2022](#), 1.1.3]. Sources pointed at ideological differences between factions within the Taliban and tensions between an 'older' and a 'younger' generation. Other reports speculated on internal competition and in-fighting [[Country Focus 2022](#), 1.3].

## State building and public service provision

As they had the complete state apparatus to manage after the takeover, as well as the need to provide basic public services, an initial approach seemed to be to incorporate elements of the existing civil service into the new administration. Appointments were made to central ministries and within the provincial administration and persons, working for the previous administration were asked to return to work. Women public servants were only invited back to resume work in some positions. However, many employees within the state administration evacuated in August, some did not resume their jobs despite the general amnesty that was issued after the takeover, and there were also reported issues in paying salaries [[Country Focus 2022](#), 1.2.1, 2.3.1].

The Taliban have also started to build up security institutions. In September 2021, it was announced that the Taliban were working to form a regular army. Taliban officials made public statements indicating plans to improve organization and marshal fighters and called on



members related to defence, interior and intelligence agencies to move to military bases. It was also stated that a training programme is underway, that professionals will be deployed on all levels and called on former police personnel to return to work [[Country Focus 2022](#), 1.2.2].

With regard to the justice system under the Taliban see section [4. Actors of protection](#).

UNDP warned in November 2021 of a possible collapse of the banking system within the coming months due to the inability to repay loans, cash liquidity crunch and lower deposits. Since the Taliban takeover, maintaining the electricity supply has been a major issue as power bills have not been paid, and WSJ reported on Kabul facing blackouts in October 2021. In September 2021, the WHO Director-General described the Afghan health system as ‘on the brink of collapse’ and pointed out the cuts in donor support leading to reduced operations and health facilities shutting down. Schools reopened after the takeover, except for secondary education for girls which remained closed in most parts of the country. Difficulties to pay salaries to teachers and other staff were also reported. On 6 October 2021, the passport distribution service reportedly begun in Kabul, although it later halted due to technical issues. There were reports that passports had been issued in some provinces and that the Taliban announced the service would be provided in additional provinces, although only passports of the previous government style were issued [[Country Focus 2022](#), 1.2.1].

## Humanitarian situation

Interruption of international aid and disruption of trade and the banking system followed immediately after the Taliban took over the country. Foreign grants, amounting to around 8.5 billion dollars a year, were frozen due to sanctions on insurgent movements and their leaders. Besides the largest part of the international aid, Afghanistan’s currency reserves were also frozen. These financial sanctions, which paralysed Afghanistan’s economy, were the primary cause for ‘the dire humanitarian situation’ in the country, according to UNAMA [[Country Focus 2022](#), 3.4].

The prices of food commodities in Afghanistan were reported to have increased significantly from June to September 2021, and most of the Afghanistan’s population reported a decrease in household incomes compared to 2020. According to Integrated Food Security Phase Classification (IPC) analysis for September 2021, nearly half of Afghanistan’s population was reported to experience ‘high levels of food insecurity,’ while the figures of ‘food insecure people’ were the highest since the first IPC analysis in 2013, which made the situation in Afghanistan ‘the world’s second-largest food crisis, in absolute terms. Based on World Food Programme (WFP) surveys, for the first time, urban residents were reported to have faced the same level of food insecurity as rural residents, with ‘virtually no family’ in urban and rural environments that would be able to ‘afford sufficient food’. The reasons behind the deterioration in food access were reported to comprise climate conditions (droughts), high food prices, international sanctions, increasing unemployment, and ‘possibly increased displacement’ [[Country Focus 2022](#), 3.4].

In September 2021, the WHO Director-General described the Afghan health system as ‘on the brink of collapse’ and pointed out the cuts in donor support leading to reduced operations and health facilities shutting down. According to the statement, cuts to the country’s largest health project, *Sehatmandi*, have left thousands of health facilities without funding for medical supplies and salaries for health staff, with only 17 % of *Sehatmandi* health facilities being fully functional. Since then, there have been additional reports on a deteriorating situation with, *inter alia*, unpaid salaries to medical personnel, shortages in medicines and equipment as well as a decreased access to healthcare among women, and a drop in rates of skilled birth attendance [[Country Focus 2022](#), 1.2.1].





## Taliban's perception on people leaving Afghanistan

Taliban's perception of people who decide to leave Afghanistan remains unclear. On one hand, it seems that Taliban understand the economic aspect of someone's decision to leave the country. For this reason, they have prioritised the issue of passports for Afghans labours working abroad as that would mean an income for the country. On the other hand, there were also negative perceptions of people leaving Afghanistan by the Taliban, including narratives describing them as lacking Islamic values, not being 'good Muslims' or being on the run for things they have done [[Country Focus 2022](#), 2.11].

At the time of writing, the situation in Afghanistan is still evolving, rendering particularly difficult in some cases conclusive assessment of international protection needs. The following elements can be highlighted:



Due to the transitional period that Afghanistan undergoes at the time of writing, a number of forward-looking questions related to the type of state and rule that may be established by the Taliban are difficult to answer with certainty at this stage.



While the future behaviour of the Taliban lacks certain predictability, profiles who were previously targeted by the Taliban may be at an increased risk, taking into account this actor's increased capabilities and territorial control.



The level of indiscriminate violence in the country is considered to be significantly lower than before (the Taliban takeover). However, the future risk of indiscriminate violence in any part of the country, should always be based on the most recent information concerning the dynamics in the particular area as well as the country as a whole.



Limitations with regard to reliable reporting should also be taken into account, as underreporting from Afghanistan or certain parts of the country is likely.



Taliban's perception and potential treatment of individuals leaving Afghanistan remains unclear.

# 1. Actors of persecution or serious harm

This chapter looks into the topic of ‘actors of persecution or serious harm’. It focuses on the main actors in Afghanistan, their areas of presence and control, the violations they have reportedly committed, and, where applicable, their structure and organisation.



The contents of this chapter include:

- Preliminary remarks
- 1.1 Taliban
- 1.2 Former State actors and resistance to the Taliban
- 1.3 Haqqani Network
- 1.4 Islamic State Khorasan Province (ISKP)
- 1.5 Al Qaeda
- 1.6 Foreign terrorist groups and fighters
- 1.7 Other non-State actors

## Preliminary remarks

[Article 6 QD](#) defines ‘actors of persecution or serious harm’ as follows.



### Article 6(d) QD Actors of persecution or serious harm

Actors of persecution or serious harm include:

- a) the State;
- b) parties or organisations controlling the State or a substantial part of the territory of the state;
- c) non-State actors, if it can be demonstrated that the actors mentioned in points (a) and (b), including international organisations, are unable or unwilling to provide protection against persecution or serious harm as defined in Article 7.

Risks to which a population of a country or a section of the population is generally exposed do not normally create in themselves an individual threat which would qualify as serious harm ([Recital 35 QD](#)). Generally, persecution or serious harm must always take the form of conduct of an actor ([Article 6 QD](#)). For example, it cannot simply be the result of general shortcomings in the healthcare system of the country of origin.<sup>9</sup>

The notion of **State** within the meaning of [Article 6\(a\) QD](#) should be broadly interpreted. It encompasses any organ exercising legislative, executive, judicial or any other functions and acting at any level, be it central, federal, regional, provincial, or local. It could, for example,

<sup>9</sup> CJEU, *Mohamed M'Bodj v État belge*, C-542/13, judgment of 18 December 2014 (*M'Bodj*), paras. 35-36.

include the civil service, armed forces, security, and police forces, etc. In some cases, a private entity may also be given State powers and therefore be considered a State actor of persecution or serious harm.

**Parties or organisations controlling the State or a substantial part of the territory of the State** can refer to two possible scenarios:

- ▶ Parties or organisations amounting to de facto State actors because they exercise elements of governmental authority; or
- ▶ Parties or organisations controlling a substantial part of the State's territory in the context of an armed conflict.

**Non-State actors** against whom protection is not effectively provided are also recognised as actors of persecution or serious harm in the meaning of [Article 6 QD](#). Non-State actors could, for example, include individuals and groups, such as clans and tribes, guerrillas and paramilitaries, warlords, extremist religious groups or terrorists, criminals, political parties and family members, including members of the extended family, etc.

In Afghanistan, a wide range of different groups and individuals can be considered as actors of persecution or serious harm, and a clear distinction between the different types of actors within the meaning of [Article 6 QD](#) might often be difficult to make.

The following subsections highlight the main actors of persecution or serious harm in Afghanistan in a non-exhaustive manner.

## 1.1 Taliban

Last update: April 2022

After years of insurgency and of positioning themselves in some areas as a shadow government, in summer 2021, the Taliban took control over the country. On 15 August, President Ashraf Ghani fled the country, police and other government forces gave up their posts, and Taliban fighters entered the capital and took control of its checkpoints. Taliban leaders entered the presidential palace, addressed the media the following day, and declared the war to be over [[Security September 2021](#), 1.1.1]. In October 2021, the Taliban stated that they controlled the entire territory of Afghanistan [[Country Focus 2022](#), 1.1.1].

On 19 August, an official Taliban spokesperson declared the creation of the Islamic Emirate of Afghanistan, a name used in other public statements as well [[Security September 2021](#), 1.1.2]. On 7 September, the Taliban announced the members of an interim government, proclaiming Mullah Haibatullah Akhundzada a supreme leader.

All appointments to the interim government consisted of persons from within the Taliban movement, and many served in the government of the 1990s. The cabinet was compromised by several persons on the UN Security Council's sanction list, including Serajuddin Haqqani who was appointed as Minister of Interior [[Country Focus 2022](#), 1.1.2].

On 8 November 2021, the Taliban appointed new provincial governors for several provinces as well as deputy governors for the majority of these provinces. In addition, provincial police chiefs were appointed for some provinces [[Country Focus 2022](#), 1.1.2]. As a networked insurgency during the last years, the Taliban operated with strong leadership at the top and decentralised local commanders who could mobilise resources at the district level [[Anti-](#)

[government elements](#), 2.1]. In the Taliban's current transition from an insurgency to a government the exact structure of the Taliban forces, and the movement's decision-making practices or chain of command were not fully clear. Policy implementation is described as differing depending on geographical contexts, such as local stakeholders and local dynamics. Moreover, sources pointed at ideological differences between factions within the Taliban and tensions between an 'older' and a 'younger' generation. Other reports speculated on internal competition and in-fighting [[Country Focus 2022](#), 1.3].

Over the last two decades, the Taliban have been reported to target civilians deliberately as well as in indiscriminate attacks against civilian objects. Reports included targeted killings of individuals affiliated with the Afghan government and foreign forces, journalists, human rights activists, religious leaders and others. The parallel justice mechanism the Taliban have been operating was based on a strict interpretation of the *Sharia*, leading to executions and other punishments deemed to be cruel, inhuman and degrading, including corporal punishments. The Taliban have also been reported to use torture against detainees [[Anti-government elements](#), 2.5; [Security June 2021](#), 1.2.2, 2.1.3; [Criminal law and customary justice](#), 1.8].

After the takeover, it was reported that Taliban fighters were subjecting civilians and journalists to violence, as well as conducting house-to-house searches and retaliation acts despite the general amnesty that was issued for all who served within the previous government. There have also been reports on Taliban fighters subjecting civilians to corporal punishments, inter alia whipping alleged thieves. It remained unclear whether such acts were sanctioned by the leadership or caused by a lack of discipline or control in the chain of command. There was reportedly room for Taliban fighters to act on their own initiative as they did not seem to face punishment or any consequences [[Country Focus 2022](#), 1.3, 1.5.1].

Other reports refer to extortion cases either directly or indirectly through Taliban fighters as well as to the use of 'the Taliban brand' to go into people's homes, steal vehicles and threaten people [[Country Focus 2022](#), 3.1.3].

The Taliban have also been accused of committing human rights violations against captured resistance fighters and civilians during the weeks of fighting in Panjshir and after that, as well as against alleged ISKP affiliates in Nangarhar and other areas of the country [[Country Focus 2022](#), 2.5, 3.2].

As information regarding the policies and behaviour they intend to pursue remains limited and/or conflicting, the situation of profiles previously targeted by the Taliban should be assessed with particular care and taking into account this actor's increased capabilities and territorial control.



For further information on human rights violations committed by the Taliban and their relevance as potential exclusion grounds, see [6. Exclusion](#).



## 1.2 Former State actors and resistance to the Taliban

Last update: November 2021

\*Minor updates added: April 2022

This section and the terminology used herein is without prejudice to the legal status of the former government or the current 'de facto' government by the Taliban.

(Former) Afghan State actors include, for example, members of the Afghan National Security Forces (ANSF) and other authorities from the three State branches (executive, legislative and judiciary). Pro-government militias (PGMs) were also considered State actors.

The **ANSF** or Afghan National Defence and Security Forces (ANDSF) were comprised of the Afghan National Army (ANA), including the Afghan Border Force, Afghan Air Force, Afghan National Civil Order Force and the recently established Afghan Territorial Army as local security force, the Afghan National Police (ANP), which included the Afghan Local Police (ALP) and the National Directorate of Security (NDS), which included the Afghan Special Forces [[State structure](#), 2.1; [Security June 2021](#), 1.2.1].

Afghan State authorities and their associates were reported to have committed a wide range of human rights violations. Sources reported on extrajudicial killings, forced disappearances, arbitrary detention, kidnapping, robbery, looting, torture, and ill-treatment. Moreover, family members of Taliban fighters were intentionally killed by ANSF in retaliation for Taliban attacks against them. A high level of civilian harm from the use of force during search operations ('night raids') by NDS Special Forces was also documented, including the intentional killing of civilians, some of which amounted to summary executions [[Security June 2021](#), 1.2.1; [State structure](#), 2.1, 2.1.1, 2.1.4].

In addition, the ANP have been involved in extortion and organised crime, in particular near key smuggling routes. Recruitment and sexual exploitation of boys (*bacha bazi*) committed by Afghan security forces, in particular by the ALP, were also observed, as well as sexual exploitation of girls [[State structure](#), 2.1.2, 2.1.4; [Security June 2021](#), 1.2.1; see also the section [2.13.1 Violence against children: overview](#)].

Different former State agents such as ministers, governors and ANSF personnel were reported to have acted beyond the scope of their legal authority. Moreover, police and judicial authorities were susceptible to the influence of powerful individuals [[Conflict targeting](#), 2; [Key socio-economic indicators 2017](#), 3.4.4.1, 3.5.3, 3.5.4].

A number of **PGMs** were fighting on the side of the government against Taliban and ISKP, although the former government had disbanded militia groups and stopped paying them. Such militias included the National Uprising Movements, also referred to as public uprising forces, a community-based defence initiative, the Kandahar Strike Force, Paktika's Afghan Security Guards, the Khost Protection Force and Shaheen Forces in Paktya, Paktika and Ghazni provinces. However, following the final Taliban offensive and their advancement throughout the country in the summer months, these militias could not resist the Taliban forces and soon dissolved or joined the Taliban [[Security September 2021](#), 1.3.4].

After the Taliban takeover, a resistance force emerged in Panjshir, under the name **National Resistance Front (NRF)**. NRF consists of militia fighters and former government soldiers loyal to the previous administration and opposed to the Taliban rule. The force is led by Ahmad Massoud, son of the late Tajik commander Ahmad Shah Massoud. Another prominent leader of the resistance movement is former vice president Amrullah Saleh who proclaimed himself





acting president of Afghanistan on 17 August 2021. The group was controlling the Panjshir Valley, where armed confrontations took place between the opposition forces and the Taliban. Nevertheless, it is unclear whether fighting is ongoing. The Taliban announced the seizure of Panjshir on 6 September 2021, although Ahmed Massoud claimed the fighting was still ongoing [[Security September 2021](#), 1.1.2; [Country Focus 2022](#), 3.1].



For further information on human rights violations committed by the (former) Afghan State and pro-government elements and their relevance as potential exclusion grounds, see [6. Exclusion](#).

### 1.3 Haqqani network

Last update: November 2021

\*Minor updates added: April 2022

The Haqqani Network is a UN-designated terrorist organisation. In February 2021, UNAMA indicated Haqqani Network operated under the Taliban leadership and mostly followed Taliban policies and directions. The group was described as the ‘lethal arm of the Taliban’ [[Security June 2021](#), 1.2.2].

The Haqqani Network increased its influence in areas outside of its normal operation regions in Paktika, Paktya and Khost provinces in eastern Afghanistan since Serajuddin Haqqani, the leader of the Haqqani network, became the Deputy Leader of the Taliban in 2015. In 2019, it was reported that Haqqani fighters were actively based in Paktya, Kandahar, Helmand and eastern provinces, and the Network carried out attacks in Kabul [[Anti-government elements](#), 4.1].

The Haqqani Network is believed to have been responsible for complex attacks in heavily populated areas of Kabul during the insurgency. The Network reportedly collaborated and kept close contact with Al Qaeda, despite the US deal. Following the Taliban takeover, sources also referred to reported relations between Al Qaeda and the Network. According to reports, Haqqani and ISKP worked together as well, including in attacks on the Afghanistan presidential inauguration and an assault on a Sikh temple in Kabul in March 2020 [[Anti-government elements](#), 4.1; [Security June 2021](#), 1.2.2; [Country Focus 2022](#), 3.1.2].

On 7 September, when the interim government was announced by the Taliban, Serajuddin Haqqani was appointed interior minister [[Country Focus 2022](#), 1.1.2].



For further information on human rights violations committed by the Haqqani Network and their relevance as potential exclusion grounds, see [6. Exclusion](#).





## 1.4 Islamic State Khorasan Province (ISKP)

Last update: April 2022

The ISKP is a transnational Salafi-Jihadist organisation and a UN-designated terrorist organisation with operational ties with local groups [[Anti-government elements](#), 3]. According to a November 2021 statement of Deborah Lyons, the Secretary-General's Special Representative and Head of the UNAMA, ISKP became increasingly active, stepping up attacks from 60 in 2020 to 334 in 2021, and gained ground across all provinces. Another source stated that ISKP had a strong presence in eastern Afghanistan (Nangarhar and Kunar provinces), as well as in Kabul and northern Afghanistan. However, ISKP was reported to have no territorial control in Afghanistan and the operational capacity of the group across the country remained unclear [[Country Focus 2022](#), 3.1.1].

The number of ISKP militants in Afghanistan is estimated around 4 000. A relatively small but growing number of former members of Afghanistan's intelligence service and elite military units has reportedly joined ISKP to resist the Taliban. ISKP was also reportedly 'reaching out to tribes and other groups to recruit from their ranks while stamping out dissent among moderate Salafis'. There were also fears that ISKP could recruit Afghanistan-based foreign fighters from Central Asia and Pakistan, as well as disillusioned Taliban members in case of future rival factions within the group. Taliban raids against ISKP, arrests of ISKP members, and prevention of attacks have also been reported between September and November 2021. ISKP members reportedly surrendered to the Taliban in Nangarhar on several occasions in November 2021 [[Country Focus 2022](#), 3.1.1].

ISKP has reportedly carried out a campaign of targeted killings since around the summer of 2020 and has continued since the Taliban takeover on a roughly comparable scale. ISKP is said to have used 'the same hit-and-run tactics' practiced until recently by the Taliban against the previous Afghan government, including roadside explosions and targeted killings. The security incidents were particularly reported in northern and southern provinces. Attacks were particularly reported to take place in Nangarhar province, defined as a 'stronghold' of ISKP, and its capital, Jalalabad [[Country Focus 2022](#), 3.1.1].

The group also retained its ability to carry out terrorist attacks in Kabul and other major cities. It claimed the attacks on the Kabul international airport in August 2021, which killed more than 170 and injured 200 others [[Security September 2021](#), 1.1.3]. Other recent examples include a number of roadside bomb attacks targeting the Taliban in September and October 2021, resulting in civilian casualties. ISKP also claimed responsibility for incidents occurred in November 2021, for example, a number of car bombs explosions in Kabul and an attack on a military health facility in the same city. Five attackers, three Taliban guards and at least seven other people were killed in the latter assault [[Country Focus 2022](#), 3.2].

On several instances, ISKP continued to target the Shia (Hazara) community. For example, on 8 October 2021, at least 72 people were reported to have been killed and 143 wounded after an ISKP suicide bomber carried out an attack on a mosque in Kunduz, used by Shia Muslim (Hazara) minority. On 15 October 2021, during Friday prayers, suicide bombers attacked a mosque in Kandahar, also used by the Hazara, killing 47 people and wounding at least 70. [[Country Focus 2022](#), 3.2].



For further information on human rights violations committed by the ISKP and their relevance as potential exclusion grounds, see [6. Exclusion](#).





## 1.5 Al Qaeda

Last update: November 2021

\*Minor updates added: April 2022

Al Qaeda is a transnational extremist Salafi jihadist organisation and UN-designated terrorist group. Sources indicate that it maintained a limited presence in Afghanistan, carrying out its activities mostly under the umbrella of other armed groups, particularly the Taliban [[Anti-government elements](#), 4.2]. Sources reported in mid-2021 that the Taliban and Al Qaeda remained closely aligned and showed no indication of breaking ties, despite expectations created by the Doha agreement. Following the Taliban takeover, sources referred to reported relations between al-Qaeda and the Haqqani Network. It is also reported that a significant part of the leadership of Al Qaeda is based in the border region of Afghanistan and Pakistan [[Security September 2021](#), 1.3.6; [Country Focus 2022](#), 3.1.2].

Prior to the takeover, UNAMA had reported that Al Qaeda was mainly engaged in the provision of training, including weapons and explosives, and mentoring, and they have been cited as being engaged in internal Taliban discussions over the movement's relationship with other jihadist entities. The organisation also claimed responsibility for a number of attacks in Afghanistan, leading to ANSF casualties [[Anti-government elements](#), 4.2]. According to some sources, al-Qaeda remained a threat in Afghanistan. However, it was also stated that al-Qaeda did not have the organisational capability to capitalise on the Taliban's win. The human capacity of al-Qaeda in Afghanistan was estimated as ranging from several dozen to 500 people [[Country Focus 2022](#), 1.1.2, 3.1.2].

It has been previously reported that Al Qaeda was present in at least 15 provinces of Afghanistan and covertly active in different parts of the country, including in the provinces of Badakhshan, Ghazni, Helmand, Khost, Kunar, Kunduz, Logar, Nangarhar, Nimroz, Nuristan, Paktya and Zabul [[Security September 2021](#), 1.3.6; [Anti-government elements](#), 4.2; [Security June 2021](#), 1.2.2, 2.24].



For further information on human rights violations committed by Al Qaeda and their relevance as potential exclusion grounds, see [6. Exclusion](#).

## 1.6 Foreign terrorist groups and fighters

Last update: November 2021

Besides the above listed groups, a number of foreign terrorist groups and fighters operate in Afghanistan. The main groups located in the eastern provinces of Kunar, Nangarhar and Nuristan included:

- **Tehrik-e Taliban Pakistan**, including a number of loose splinter groups, with activities reported in the border region between Afghanistan and Pakistan.
- **Jaish-e Momammed**, based in Pakistan, with activities reported in eastern provinces of Afghanistan.
- **Lashkar-e Tayyiba**, with activities reported in the border region between Afghanistan and Pakistan.



These groups operate under the umbrella of the Afghan Taliban and have been involved in targeted assassinations against (former) government officials and others.

There are also several central Asian and Uighur foreign terrorist and militant groups with fighters of Uzbek, Tajik and Turkmen ethnicity which were reported to present a significant threat in northern areas of Afghanistan, including in Badakhshan, such as:

- **The Eastern Turkistan Islamic Movement**
- **The Islamic Movement of Uzbekistan** (IMU, also known as Jundullah), with activities reported in particular in Faryab and as well as Zabul
- **Jamaat Ansarullah Tajikistan**
- **Lashkar-e Islam**
- **The Salafist Group**

[[Anti-government elements](#), 4.3; [Security September 2021](#), 1.3.6; [Security June 2021](#), 1.2.2].



For further information on human rights violations committed by armed groups and their relevance as potential exclusion grounds, see [6. Exclusion](#).

## 1.7 Other non-State actors

Last update: December 2020

\*Minor updates added: April 2022

Human rights violations, which could amount to persecution or serious harm, are also committed by other non-State actors, such as clans, tribes, (locally) powerful individuals, family members, criminal groups, etc.

Customs and customary law in the Afghan society can result in a number of harmful traditional practices, such as forced marriage and family violence against women, including the so-called 'honour killings' committed by family members [[Society-based targeting](#), 3.4 - 3.7; [Criminal law and customary justice](#), 3; see also the profiles [2.12 Women](#), [2.14 LGBTIQ persons](#), [2.9 Individuals perceived to have transgressed moral and/or societal norms](#), etc.].

Non-State traditional justice, which is dominant in large parts of Afghanistan, involves different actors such as *jirgas* and *shuras*, including religious scholars, jurists, community elders and local powerbrokers, etc. Certain human rights violations are associated with such traditional justice mechanisms, including in relation to the absence of due process and the nature of the imposed punishments [[Criminal law and customary justice](#), 1.7; [Society-based targeting](#), 1.5, 6.4; [Conflict targeting](#), 2.6].

Other human rights violations committed by non-State actors can be a consequence of land disputes between different actors, such as communities (including tribes and clans), ethnic groups or individuals, or can be a result of blood feuds or other forms of private disputes [[Criminal law and customary justice](#), 2, 3; [Society-based targeting](#), 1.5, 6.4, 7; see also the profile [2.16 Individuals involved in blood feuds and land disputes](#)].



Criminal groups and individuals committing crimes can also be non-State actors of persecution or serious harm in accordance with [Article 6\(c\) QD](#). It is reported, for example, that kidnapping for ransom and extortion have become an increasingly widespread form of criminality in major cities in Afghanistan in recent years [[Security 2020](#), 1.4.2; [Society-based targeting](#), 8.5]. Some sources referred to residents' statements that the crime rates had reduced significantly in Kabul since the Taliban took power. However, residents of Kabul have reportedly seen an emergence of robberies conducted by persons in the name of the Taliban, but there were also reports on the Taliban arresting individuals on charges of misusing the name of the 'Islamic emirate' and perpetrating crime against the people. In September 2021, UNOCHA reported on an increase in criminal activities in western and southern provinces, mainly in Uruzgan, Helmand and Kandahar, as well as in the northern province of Kunduz [[Country Focus 2022](#), 3.1.3].

The reach of a specific non-State actor depends on the individual case. The assessment may include aspects such as their family, tribal or other networks for tracing and targeting the applicant. The individual power positions of the applicant and the actor of persecution or serious harm should be assessed, taking into consideration their gender, social status, wealth, connections, etc.



## 2. Refugee status

This chapter provides a brief outline and general considerations with regard to the assessment of applications for international protection in relation to the elements of the refugee definition ([Article 2\(d\) QD](#)) and proceeds with the analysis of information concerning 18 particular profiles of applicants. For each profile, and in some cases the relevant sub-profiles, it provides: COI summary, risk analysis (including findings whether the treatment the profile risks would amount to persecution and assessment of the level of risk), and conclusions with regard to the potential nexus to a reason for persecution.



The contents of this chapter include:

- Preliminary remarks
- Analysis of particular profiles with regard to qualification for refugee status
- 2.1 Persons affiliated with the former Afghan government
- 2.2 Individuals who have worked for foreign military troops or perceived as supporting them
- 2.3 Religious leaders
- 2.4 Persons fearing forced recruitment by armed groups
- 2.5 Educational personnel
- 2.6 Healthcare professionals and humanitarian workers, including individuals working for national and international NGOs
- 2.7 Journalists and media workers
- 2.8 Human rights defenders
- 2.9 Individuals perceived to have transgressed moral and/or societal norms
- Moral and societal norms in Afghanistan
- 2.9.1 Honour-based violence and moral offences
- 2.9.2. Individuals perceived as ‘Westernised’
- 2.10 Individuals considered to have committed blasphemy and/or apostasy
- 2.11 Ethnic and religious minorities
- 2.11.1 Individuals of Hazara ethnicity
- 2.11.2 Shia, including Ismaili
- 2.11.3 Hindus and Sikhs
- 2.12 Women
- Situation of women after the Taliban takeover
- 2.12.1 Violence against women and girls: overview
- 2.12.2 Harmful traditional marriage practices
- 2.12.3 Women in public roles
- 2.12.4 Women perceived to have transgressed moral and/or societal norms
- 2.12.5 Single women and female heads of households
- 2.13 Children
- 2.13.1 Violence against children: overview
- 2.13.2 Child marriage
- 2.13.3 Child recruitment

- 2.13.4 Child labour and child trafficking
- 2.13.5 Education of children and girls in particular
- 2.13.6 Children without a support network in Afghanistan
- 2.14 LGBTIQ persons
- 2.15 Persons living with disabilities and persons with severe medical issues
- 2.16 Individuals involved in blood feuds and land disputes
  - 2.16.1 Blood feuds
  - 2.16.2 Land disputes
- 2.17 Individuals accused of ordinary crimes
- 2.18 Individuals who were born in Iran or Pakistan and/or who lived there for a long period of time

## Preliminary remarks

All elements of the definition of a refugee in accordance with the QD should be fulfilled for the qualification of the applicant as a refugee:



### Article 2(d) QD Definitions

‘refugee’ means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 [exclusion] does not apply;

According to [Article 9\(1\) QD](#):



### Article 9(1) QD Acts of persecution

In order to be regarded as an act of persecution within the meaning of Article 1(A) of the Geneva Convention, an act must:

- a) be sufficiently serious by its nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or
- b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in point (a).

In order for a person to qualify as a refugee, there must be a connection (nexus) between one or more of the specific reasons for persecution (race, religion, nationality, political opinion or membership of a particular social group), on the one hand, and the acts of persecution under [Article 9\(1\) QD](#) or the absence of protection against such acts ([Article 9\(3\) QD](#)), on the other.

The applicability of the respective reason(s) should be assessed in relation to [Article 10 QD](#).

Common analysis regarding specific profiles of applicants, based on their personal characteristics or affiliations with a certain group (e.g. political, ethnic, religious), is provided below.

An individual assessment is required for every application. It should take into account the individual circumstances of the applicant and the relevant country of origin information.

Factors to take into account in this assessment may include, for example:

- home area<sup>10</sup> of the applicant, presence of the potential actor of persecution and their capacity to target a person of interest;
- nature of the applicant's actions (whether or not they are perceived negatively and/or whether or not individuals engaged in such actions are seen as a priority target by the actor of persecution);
- visibility of the applicant (i.e. to what extent it is likely that the applicant is known to or could be identified by the potential actor of persecution); noting, however, that the applicant does not need to be individually identified by the actor of persecution, as long as his or her fear of persecution is well-founded;
- resources available to the applicant to avoid persecution (e.g. relation to powerful individuals);
- etc.

The fact that an applicant has already been subject to persecution or to direct threats of such persecution, is a serious indication of the applicant's well-founded fear, unless there are good reasons to consider that such persecution will not be repeated ([Article 4\(4\) QD](#)). On the other hand, it should be noted that in order to establish well-founded fear of persecution there is no requirement of past persecution or threats. The risk assessment should be forward-looking.

A well-founded fear of being persecuted may also be based on events which have taken place and/or on activities which the applicant has engaged in since he or she left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin ([Article 5 QD](#)).

When well-founded fear of persecution is established in relation to the home area of the applicant, the legal analysis should proceed with the examination of the existence of a nexus to a reason of persecution. In cases where the requirement of the nexus is not satisfied, the application should be examined under subsidiary protection (see the chapter [Subsidiary protection](#)).

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<sup>10</sup> Protection needs are firstly assessed with regard to the applicant's home area in the country of origin. The 'home area' in the country of origin is identified on the basis of the strength of the applicant's connections with a particular area in that country. The home area may be the area of birth or upbringing or a different area where the applicant settled and lived, therefore having close connections to it.



Once well-founded fear of persecution as well as nexus have been established, the availability of protection in accordance with [Article 7 QD](#) should be explored (see the chapter [4. Actors of protection](#)). Where such protection is not available, the examination may continue with consideration of the applicability of internal protection alternative under [Article 8 QD](#), if applicable according to national legislation and practice (see the chapter [5. Internal protection alternative](#)).

In some cases, where the applicant would otherwise qualify for refugee status, exclusion grounds would be applicable. In the context of Afghanistan, various actors have been reported to commit excludable acts (see the chapter [6. Exclusion](#)). The sections below make specific references to the relevance of exclusion considerations for certain profiles.



For further general guidance on qualification as a refugee, see [EUAA Practical Guide: Qualification for international protection](#).



## Analysis of particular profiles with regard to qualification for refugee status



This chapter refers to some of the profiles of applicants from Afghanistan, encountered in the caseload of EU Member States. **It represents a non-exhaustive list and the fact that a certain profile is included in it or not is without prejudice to the determination of their protection needs. Furthermore, the order of listed profiles does not reflect any assessment of the risk of persecution.**

While the conclusions under this common analysis could provide general guidance, the protection needs of each applicant should be **examined individually**. The non-exhaustive lists of examples with regard to sub-profiles at a differentiated risk and to circumstances, which would normally increase or decrease the risk, are to be taken into account in light of all circumstances in the individual case.

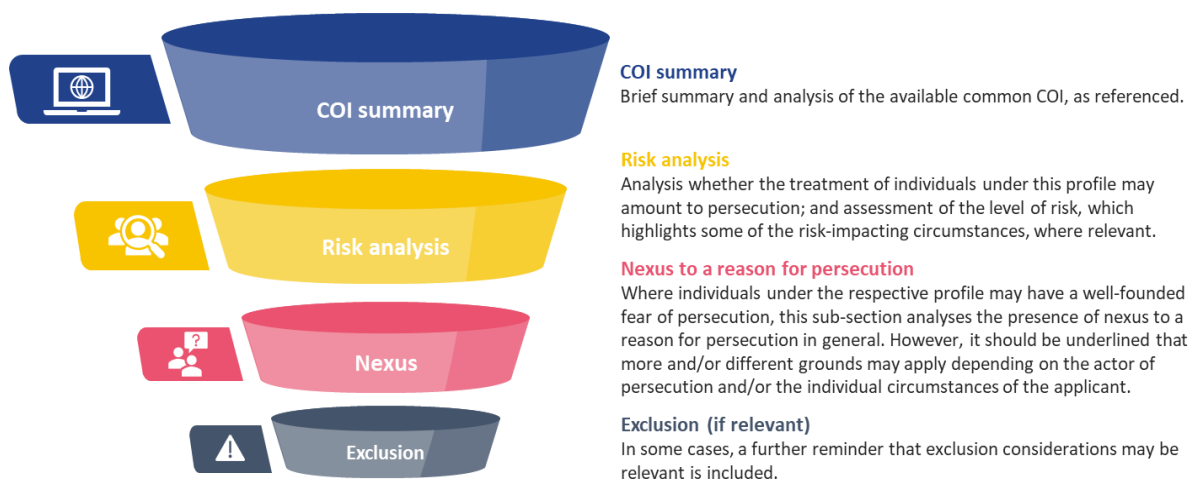
In some cases, even if the applicant no longer belongs to a certain profile, they may still be targeted and have a well-founded fear of persecution related to their **past belonging to such a profile**. However, in the individual assessment, it may be relevant to take into account the time that has passed and whether the applicant had remained in Afghanistan for a long period of time without encountering persecution.

**Family members**, merely due to their relation to the refugee, may be at risk of persecution in such a manner that could constitute the basis for refugee status. It should also be noted that individuals belonging to the family of a person qualifying for international protection could have their own protection needs.

The individual applicant could fall under **more than one profile** included in this common analysis. The protection needs associated with all such circumstances should be fully examined.

**The considerations under each profile should, furthermore, be viewed without prejudice to the credibility assessment of the applicant's claims. This common analysis deals solely with issues of risk analysis and qualification.**

For each profile, the sections below provide:





## 2.1 Persons affiliated with the former Afghan government

Last update: April 2022

This profile includes members of the ANSF as well as civilian profiles affiliated with the government, such as civil servants and members of the judiciary.

### COI summary

During the years of the conflict, ANSF personnel both on or off-duty have been a priority target for the Taliban. After the Doha Agreement in February 2020, the Taliban increased their attacks on government forces, mainly in rural areas. Attacks against government forces at army bases, police stations and checkpoints, deliberate killings, executions, abductions and torture against detainees, including ANSF personnel, were reported, and explicitly legitimised by the Taliban *Layeha* (code of conduct). According to the *Layeha*, the Taliban were instructed to make ANSF members surrender and/or join the group [[Anti-government elements](#), 1.2.1, 2.5, 2.6.1; [State structure](#), 2.1; [Security 2020](#), 1.1.1, 1.3, 1.5.2].

Available sources indicated that officers of NDS, members of PGMs and police chiefs were most frequently targeted by the Taliban [[Security 2020](#), 1.2.1, 1.3.3, 1.3.4, 2; [Anti-government elements](#), 2.6; [Conflict targeting](#), 1.2.1]. It was also reported that the Taliban often threatened and targeted female security officers [[Anti-government elements](#), 2.6.1.1].

Family members of security forces have also been targeted by insurgents. Moreover, during the years of the conflict, family members were often pressured to convince their relative to give up his or her position in the security forces. There were also reports of former members of the ANSF who have been targeted after having left the ANSF [[Anti-government elements](#), 2.6.1; [Conflict targeting](#), 1.3.1, 1.4.1].

Employees of ministries which were at the forefront of the fight against insurgents, for example the Ministry of Defence, the Ministry of Interior Affairs, and the Ministry of Justice, have regularly been targeted by the Taliban. To a lesser degree, employees of other ministries not involved directly in the fight against insurgents have also been targeted; personal enmity or open statements against the Taliban could be seen as relevant circumstances in this regard [[Anti-government elements](#), 2.6.2; [Conflict targeting](#), 1.2.2; [Security 2020](#), 1.3.3, 1.3.4].

Judges, prosecutors, and other judicial staff have been important targets for the Taliban. Targeted killings, abductions and threats have been reported during the years of the conflict. Judges also frequently received threats from local leaders or armed groups [[State structure](#), 3.3; [Conflict targeting](#), 1.2.2; [Security 2020](#), 1.3.3, 1.3.4, 1.4.2].

There have been reports of civilians being threatened and/or killed for being employees or (perceived) supporters or spies for the government, such as tribal or community elders and heads of villages, as well as local or provincial council members or government officials [[Anti-government elements](#), 2.6.2; [Security 2020](#), 1.3.3, 1.3.4, 2; [Conflict targeting](#), 1.2.2, 1.5.1.1].

Threats, targeted killings and parallel justice punishment of individuals accused of criticising the Taliban or supporting the government were also documented [[Anti-government elements](#), 2.6.2; [Criminal law and customary justice](#), 1.8].





Individuals under this profile were also seen as a legitimate target by other insurgent groups, for example the ISKP and foreign armed groups [[Security 2020](#), 1.2.2, 1.5.2, [Anti-government elements](#), 3.5, 3.6, 4.3].

After the takeover of control in August 2021, in their first press conference the Taliban announced a general amnesty, saying that they had pardoned 'all of those who had fought against us' [[Security September 2021](#), 1.1.2]. Despite this amnesty, retaliatory acts by Taliban members against former ANSF-personnel and against officials of the former government and the judiciary were reported [[Country Focus 2022](#), 2.5].

Shortly after the takeover, a source reported that the Taliban rounded up Afghans on a blacklist and targeted people with suspected links to the previous administration or US-led forces, noting that those 'particularly at risk are individuals in central positions in military, police and investigative units'. House-to-house searches to find blacklisted individuals were also reported. The Taliban were also said to visit local mosques and police offices to receive information on certain individuals [[Security September 2021](#), 1.1.4]. Secret files on intelligence officers and informers were retrieved by an armed group which was able to enter the headquarters of the National Directorate of Security [[Country Focus 2022](#), 2.5].

The Taliban's acting Army Chief of Staff stated that soldiers and officers from the former government would be allowed to join the planned new Afghan army. However, the Taliban Intelligence Direction of Ghazni province reportedly instructed its members to identify in their ranks, among others, *ageers* (mercenaries) belonging to the former government, and report them to the intelligence direction [[Country Focus 2022](#), 2.5].

Incidents of summary executions, violent abuses and forced disappearances of former ANSF personnel have been reported [[Country Focus 2022](#), 2.5].

Moreover, cases were also reported where family members were interrogated or beaten by the Taliban looking for former officials. The Taliban reportedly also threatened relatives of Afghan pilots who had fled to Tajikistan after the Taliban takeover, in order to force the pilots to return to the country [[Country Focus 2022](#), 2.5].

Sources reported a lack of control of the Taliban leadership over their fighters and observed Taliban fighters acting on their own initiative and engaging in incidents because of personal enmities and desire for revenge. Furthermore, the Taliban did not hold their fighters accountable when they conducted atrocities such as killings, hangings, and subjecting people to violence. There were also patterns of local rivalry, and rivalry between tribes who have aligned themselves with either the Taliban or the former government which aggravated after the takeover [[Country Focus 2022](#), 1.3, 2.5].

After the takeover, Taliban called government employees to resume their work. It is reported that most male workers of government ministries have returned to work [[Country Focus 2022](#), 1.1.4, 1.2.1]. Targeted attacks against former government officials have however been reported [[Country Focus 2022](#), 2.5].

Judges and prosecutors were reportedly subjected to house searches, harassment and death threats. Female judges were claimed to be at added risk due to their gender as the Taliban do not accept that women have the right to judge men. Female judges and prosecutors are reportedly living in hiding and searched after by Taliban and released prisoners. Also, family, friends and neighbours were said to have been pressed to reveal judges' whereabouts [[Country Focus 2022](#), 2.5].





## Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. abduction, torture, execution).

Conflicting and limited information concerning the Taliban policies and differences with regard to the implementation of orders from the central Taliban leadership by Taliban foot soldiers, as well as differences at a regional level, render an assessment of the risk for individuals under this profile difficult.

Based on previous persecution and reports of continuing targeting, individuals seen as priority target of the Taliban, including those in central positions in former military, police and investigative units, as well as members of the judiciary, would in general have a well-founded fear of persecution.

For other individuals under this profile, the individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: area of origin, gender, personal enmities, involvement in (local) conflicts, etc.

Family members of some individuals under this profile could also be at risk of treatment that would amount to persecution, e.g. in the context of the Taliban searching for the mentioned individual.

## Nexus to a reason for persecution

Available information indicates that persecution of this profile is highly likely to be for reasons of (imputed) political opinion.



Exclusion considerations could be relevant to this profile (see the chapter [6. Exclusion](#)).

## 2.2 Individuals who have worked for foreign military troops or perceived as supporting them

Last update: April 2022

This profile refers to individuals who are associated with the foreign troops which were present in Afghanistan, such as interpreters, security guards, civilian contractors, administrators and logistics personnel.

### COI summary

Over the past years, personnel working for foreign military troops, in particular interpreters, were seen as a top priority target by the Taliban. Article 11 of Taliban's *Layeha* (code of conduct) orders the execution of individuals working for *Kofaar* (foreign infidels), including *Tarjoman* (interpreters). They have also publicly defined them as criminals who actively participate in the killing of Afghan population and have stated that they shall be excluded from the Afghan society. Members of forces collaborating with foreign troops, contractors and





'spies' were seen by anti-government groups as responsible for killing Afghan civilians and were considered targets. Individuals not on the payroll of the foreign forces but doing general maintenance jobs, have not been as systematically targeted, although attacks occurred [[Anti-government elements](#), 2.6.2.3; [Conflict targeting](#), 1.2.3].

Before the Taliban's takeover, there were reports on interpreters or former interpreters being subjected to death threats and violent attacks. There have also been few reports on such attacks in the last two weeks of August. Relatives of individuals who worked with foreign troops also faced threats, including a report of a 'death sentence' for a translator's brother who was accused of 'helping the Americans' and of providing security to his interpreting brother. Thousands of interpreters and former interpreters who worked for international and US forces have applied for special visa arrangements to leave the country [[Security September 2021](#), 1.1.4].

During their first press conference after the takeover, the Taliban announced a general amnesty, saying that they have pardoned 'all of those who had fought against us' [[Security September 2021](#), 1.1.2]. Despite this amnesty, retaliatory acts by Taliban members against persons under this profile were reported [[Country Focus 2022](#), 2.5].

A source has reported that the Taliban in the period following their takeover rounded up Afghans on a blacklist and targeted people with suspected links to the previous administration or US-led forces. House-to-house searches to find blacklisted individuals were also reported. The Taliban are also said to visit local mosques and police offices to receive information on certain individuals [[Security September 2021](#), 1.1.4]. It is reported that individuals who were working for foreign military troops, e.g. interpreters, are living in hiding and are being searched for. The Taliban also have reportedly summoned some interpreters to appear in court, with their families being informed that they might be held responsible if the interpreters failed to appear in court. Executions of persons under this profile have been reported [[Country Focus 2022](#), 2.5].

## **Risk analysis**

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing).

Based on information regarding past persecution and reports of continuing targeting by the Taliban, it is found that interpreters would in general have a well-founded fear of persecution.

There is limited information concerning the Taliban policies with regard to other individuals who have worked with foreign military troops. However, taking into account the negative perception of the Taliban against them and previous patterns of persecution, other persons with suspected links with foreign forces would be likely to have a well-founded fear of persecution.

Family members of some individuals under this profile could also be at risk of treatment that would amount to persecution.

## **Nexus to a reason for persecution**

Available information indicates that persecution of this profile is highly likely to be for reasons of (imputed) political opinion.





Exclusion considerations could be relevant to this profile (see the chapter [6. Exclusion](#)).

## 2.3 Religious leaders

Last update: November 2021

This profile refers to religious leaders, such as members of *Ulemas*, teachers in *madrassas*, imams and theologists of Islam. It focuses specifically on the targeting of Sunni religious leaders by the Taliban.

For guidance with regard to the targeting of religious minorities, see [2.11.2 Shia, including Ismaili](#), [2.11.3 Hindus and Sikhs](#).

Due to lack of recent information on the topic, the analysis concerning this profile has not been updated in the current version of the country guidance. While no specific new information has been added, it is considered likely that conclusions with regard to religious leaders remain largely valid.

### COI summary

[[Anti-government elements](#), 2.6.2.4; [Conflict targeting](#), 1.2.5, 1.5.1; [State structure](#), 2.1.4; [Security 2020](#), 2.16.3].

A high number of religious figures have been killed in recent years. Reportedly, targeting mostly happened in contested areas, but also in cities.

In the context of the conflict, the reasons for targeting religious leaders were diverse but must be seen in the context of *Ulemas* being considered capable to delegitimise the insurgents' religious ideology. Non-exhaustive examples of targeting include:

- ▶ religious figures who publicly expressed support for government views, including preaching in support of ANSF or conducting funeral ceremonies for killed members of the security forces;
- ▶ religious figures who publicly condemned civilian casualties caused by insurgents or expressed criticism of certain insurgent tactics on religious grounds;
- ▶ religious figures who publicly rejected the insurgents' ideology because they were following a more moderate or another form of Islam.

Attacks targeting religious leaders, including by non-suicide IEDs, were reported in the first half of 2021 [[Security September 2021](#), 1.4.2]. Since the start of the May offensive of the Taliban, assassinations of religious scholars were reported in several provinces, including Herat, Jawzjan, Kapisa, Kabul, Logar, and Parwan [[Security September 2021](#), 2.1, 2.13, 2.14, 2.15, 2.17, 2.22, 2.29].





## Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing).

Despite limited information concerning the period after the Taliban takeover, taking into account past persecution and the Taliban's continued determination to establish an Islamic Emirate of Afghanistan in accordance with their interpretation of the Sharia, religious scholars perceived as delegitimising the Taliban ideology are considered likely to have a well-founded fear of persecution. Additional risk-impacting circumstances would be needed to substantiate a well-founded fear of persecution for other individuals under this profile.

## Nexus to a reason for persecution

Available information indicates that the persecution of this profile is highly likely to be for reasons of (imputed) political opinion and/or religion.

## 2.4 Persons fearing forced recruitment by armed groups

Last update: December 2020

This profile refers to persons who claim to be targeted by armed groups in order to be recruited by force and against their will. Different armed groups resort to forced recruitment, including the Taliban, ISKP, as well as PGMs, etc.

For the topic of child recruitment, see the separate section [2.13.3 Child recruitment](#).

Due to lack of recent information on the topic, the analysis concerning this profile has not been updated in the current version of the country guidance. When examining the international protection needs of applicants claiming to fear forced recruitment, please consider the most up-to-date country of origin information available.

## COI summary

### Forced recruitment by the Taliban

The Taliban typically recruit unemployed Pashtun males from rural communities who are educated in madrassas. It is reported that they have no shortage of volunteers/recruits [[Anti-government elements](#), 2.2, 2.4].

The Taliban only make use of forced recruitment in exceptional cases. It is, for example, reported that the Taliban try to recruit persons with a military background, such as members of the ANSF. The Taliban also make use of forced recruitment in situations of acute pressure. Pressure and coercion to join the Taliban are not always violent and would often be exercised through the family, clan or religious network, depending on the local circumstances. It can be said that the consequences of not obeying are generally serious, including reports of threats against the family of the approached recruits, severe bodily harm, and killings [[Anti-government elements](#), 2.2, 2.4; [Recruitment by armed groups](#), 1.5, 5.2.1.3, 5.2.1.4].





Although the Taliban have an internal policy of not recruiting children, child recruitment, in particular of post-puberty boys, is documented [[Anti-government elements](#), 2.4; [Recruitment by armed groups](#), 5.2.1.2]. For more information on child recruitment by the Taliban, see [2.13.3 Child recruitment](#).

### **Forced recruitment by ISKP**

ISKP's urban cells are mainly composed of urban middle-class men and women who have joined the group for ideological reasons.

In rural areas with firm ISKP presence and/or where fighting is taking place, pressure is put on communities to fully support and help ISKP. As far as recruitment is concerned, the focus lies on recruiting (former) Taliban and Al Qaeda fighters, especially those who opposed the peace process with the US and the Afghan government. Active recruitment of children also takes place in areas where ISKP operates [[Anti-government elements](#), 3.4; [Recruitment by armed groups](#), 2.1.4, 5.2]. For more information on child recruitment by the ISKP, see [2.13.3 Child recruitment](#).

### **Forced recruitment by PGMs**

It is reported that PGMs in some areas made use of direct coercion to join them, including coercion of children. This depended on the local commander and the dynamics of the local conflict [[Recruitment by armed groups](#), 4.2].

### **Risk analysis**

Forced recruitment is of such severe nature that it would amount to persecution. The consequences of refusal of (forced) recruitment could also amount to persecution (e.g. severe bodily harm, killing).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: age (belonging to the age group young adults), military background, area of origin and the presence/influence of armed groups, increased intensity of the conflict, position of the clan in the conflict, poor socio-economic situation of the family, etc.

With regard to child recruitment, see the section [2.13.3 Child recruitment](#).

### **Nexus to a reason for persecution**

While the risk of forced recruitment as such may not generally imply a nexus to a reason for persecution, the consequences of refusal, could, depending on individual circumstances, substantiate such a nexus, among other reasons, to (imputed) political opinion.





## 2.5 Educational personnel

Last update: April 2022

This profile refers to people working in educational facilities, including schools and universities. Students could also be affected by association.

See also the section [2.13.5 Education of children and girls in particular](#).

### COI summary

In the context of the previous conflict with the former Afghan government, the objective of the insurgents was not to close schools, but rather to put pressure and gain control over them. Taliban leadership regularly issued statements proclaiming a ban on attacks on education. On a local level, depending on the local commander and the population, agreements between insurgents and educational facilities were often made. The Taliban reportedly closed government-sponsored madrassas claiming that they were not in accordance with the Taliban principles. Targeting of individuals due to the mere fact that they worked in educational facilities was not common in Afghanistan. Nevertheless, incidents took place. Attacks on schools and killing, injuring, or abduction of educational personnel and students by AGEs have been reported. Violent incidents targeting female teachers and female pupils, including sexual violence and harassment, were also reported [[COI query on education sector](#), 2; [Conflict targeting](#), 1.2.4, 1.5.1, 2.4; [Key socio-economic indicators 2020](#), 2.5].

In 2020, UNAMA documented 62 incidents that affected children's access to education, comprised of attacks on education facilities, targeting of educational personnel, and threats against education facilities and their staff [[Security June 2021](#), 2.1.3].

During the first half of 2021, UNAMA documented a continuation of attacks on health and education facilities and workers, including direct attacks and fighting causing damage to schools, hospitals, and their personnel [[Security September 2021](#), 1.4.4]. The deadliest attack against civilians in Afghanistan in the first half of 2021 was on 8 May 2021, when three non-suicide vehicle-borne IEDs detonated outside a school in a Kabul neighbourhood mainly inhabited by the Hazara community, in which at least 85 civilians were killed and at least 216 other civilians were injured, most of whom were schoolgirls. Reports attribute this attack to ISKP [[Security September 2021](#), 2.1]. Incidents of targeting educational personnel and facilities were also reported in several other provinces in spring and summer 2021, including Ghor, Helmand, Nangarhar, and Takhar [[Security September 2021](#), 2.11, 2.12, 2.23, 2.32].

After the Taliban take-over in August 2021, schools reopened, except for secondary education for girls which remained closed in most parts of the country. In September 2021, the Taliban-run Ministry of Education issued a document concerning the education of female university students, stipulating that female students, teachers, and educational staff must wear a black 'Islamic abaya robe and niqab that covers the hair, body, and most of the face' as well as gloves. The document ordered the classes to be gender segregated, at least by a curtain, and that teaching for girls and women had to be done by women or, in the absence of female teachers, by elderly men who are well-known for being trustworthy. These measures were also to be implemented in private universities. There were reports indicating local divergence in implementing Islamic rule and official policy. The Taliban have also reportedly closed music schools [[Country Focus 2022](#), 1.2, 1.4, 2.3.2, 2.9].





Economic hardship also affected the educational sector, with difficulties to pay salaries to teachers and other staff. It was reported that 50 % of private education centres closed since the Taliban takeover, due to a significant decrease in students as the economic situation of Afghan families deteriorated. Some private universities resumed their activities and held graduation ceremonies, while public universities reportedly remained closed [[Country Focus 2022](#), 1.2, 2.3.2].

### **Risk analysis**

Prior to the Taliban takeover, educational personnel could be exposed to acts that were of such severe nature that they would amount to persecution (e.g. kidnapping, killing). Limited information on targeting of educational personnel following the Taliban takeover is available.

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: gender (i.e. female teachers), areas where ISKP has operational capacity, the individual or the institution not following Taliban directives and/or curriculum, speaking out against the Taliban, etc.

### **Nexus to a reason for persecution**

Available information indicates that persecution of this profile is highly likely to be for reasons of (imputed) political opinion. In some cases, religion could also be seen as a relevant ground, such as in the case of individuals persecuted for using a curriculum perceived as contravening the actor's interpretation of Islam.

## **2.6 Healthcare professionals and humanitarian workers, including individuals working for national and international NGOs**

Last update: April 2022

### **COI summary**

Over the past years, the Taliban increasingly tried to present themselves as a government overseeing the delivery of services, and accordingly interacted with aid organisations. However, incidents of targeting healthcare workers were reported, including killings, threats, intimidation, harassment, and abduction of healthcare personnel. Clinics often bargained a deal with the insurgents in order to be able to operate in a certain area. The situation for healthcare workers differed from area to area, depending to the degree of control versus contestation by insurgent groups [[COI query on humanitarian workers and healthcare professionals](#); [Key socio-economic indicators 2020](#), 2.6.2].

In some cases, NGO workers were targeted by actors in the conflict as a result of their activities being perceived as non-neutral or in violation of cultural or religious norms. Other examples included targeting of people active in polio vaccination campaigns (sometimes considered as spies) or in de-mining programs (considered as an activity contrary to the military interests of the Taliban). It is also reported that healthcare workers were threatened in





order to provide better services for certain communities, more specifically with regard to COVID-19 measures [[COI query on humanitarian workers and healthcare professionals](#)].

Incidents with Taliban or (pro-)State actors often occurred in cases where hospitals and aid workers were accused of having treated (or of refusing to treat) wounded fighters or were accused of spying or covert support of the other side in the conflict [[Conflict targeting](#), 1.2.6, 2.4].

ISKP considers humanitarian workers as legitimate targets because of links with foreign organisations or donors [[COI query on humanitarian workers and healthcare professionals](#)].

Targeting of humanitarian workers was also reported by UNAMA for the first half of 2021. Such targeted killings included the attack on de-miners, polio vaccination workers, and NGO staff in June 2021 [[Security September 2021](#), 1.4.2, 2.23].

In the first six months of 2021, WHO recorded 30 incidents involving attacks on healthcare in Afghanistan, affecting eight provinces and 18 districts; 22 of these attacks occurred between March and end June 2021. This marked an increase compared to the same six-month period in 2020, when 19 incidents occurred [[Security September 2021](#), 1.4.3]. Incidents of killing and injuring healthcare practitioners were reported in a number of provinces. In some incidents, healthcare providers were also detained [[Security September 2021](#), 2.4, 2.5, 2.8, 2.11, 2.12, 2.15, 2.16, 2.23, 2.35].

Soon after the takeover, the Taliban reportedly asked women working within healthcare to return to their jobs. However, Taliban officials had reportedly provided a written agreement providing 'unconditional' permission to women aid workers in only three provinces, while in the rest of the country women aid workers were restricted to effectively engage to their job by the requirement of male guardianship. Many female health workers were too afraid to resume their duties despite the Taliban's request of their return to work. It was reported in September 2021, that the reality of health care workers differed across Afghanistan, and the lack of clear guidance on the rules in force and how the situation may evolve was stated to cause distress and self-restriction among healthcare workers, leaving many female health workers at home [[Country Focus 2022](#), 2.8].

It was reported that midwife services have been able to continue under Taliban rule to some extent. However, the Taliban's view on women's education and work remained unclear, and rules and norms were reportedly applied seemingly 'haphazardly from region to region'. For example, local Taliban leaders reportedly allowed some flexibility on gender segregation at a local clinic where men and women often worked side-by-side. On another occasion, a midwife in Paktika stated that the clinic where she works was intruded by a Taliban commander and two fighters who said that women 'have no right to go out or work', and that midwives are not necessary as death is in the hands of God [[Country Focus 2022](#), 2022, 2.8].

On 2 November 2021, the Kabul military hospital was reportedly attacked as two explosions detonated near its entrance and was followed by heavy gunfire which resulted in 19 dead and 43 people injured. ISKP later claimed responsibility for the bombing [[Country Focus 2022](#), 2.8].

## Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. abduction, killing).





Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: gender (i.e. women), nature of activities (e.g. activities for national/international NGO related to polio vaccination, demining, activities being perceived as non-neutral or in violation of cultural or religious norms, etc.), link with the former government or foreign donors, speaking out or acting against the Taliban or another armed group, origin from areas where ISKP has operational capacity, etc.

### **Nexus to a reason for persecution**

Available information indicates that persecution of this profile is highly likely to be for reasons of (imputed) political opinion.

## **2.7 Journalists and media workers**

Last update: April 2022

This profile refers to journalists and persons working in the media.

With regard to women journalists and media workers, see also [2.12.3 Women in public roles](#).

### **COI summary**

Already in past years, journalists, media workers, commentators and human rights defenders were targeted by anti-government armed groups as well as by former State actors, warlords, powerful local figures, and organised criminal groups. This was especially the case for those who reported on human rights issues (especially women's rights), critically covered activities of parties in the conflict, exposed corruption, criticised impunity or publicly expressed certain opinions. Journalists were often intimidated and threatened by parties in the conflict in order to cover their version of events. Women journalists were priority targets and were especially vulnerable in those regions where fundamentalist propaganda was adhered to. There were reports of killing, beating, intimidation, detention and mistreatment of journalists [[COI query on journalists, media workers and human rights defenders](#); [State structure](#), 1.8.1; [Conflict targeting](#), 1.2.9, 1.5.1, 2.3].

Analysts commented on the increase in targeted killings of journalists women's rights activists and other members of civil society in the winter of 2020-2021, noting that the insurgents were 'pre-emptively targeting independently-minded 'public intellectuals' [[Security September 2021](#), 1.4.3].

Since the Taliban takeover, Afghan journalism is reportedly facing challenges. Reporters Without Borders (RSF) claimed in August 2021 that around 100 media outlets had stopped operating, while hundreds of Afghan journalists had either gone into hiding or were trying to flee the country. Other sources also reported on journalists fleeing Afghanistan and on dozens of TV and radio outlets stopping their broadcasting or being seized by the Taliban. Media outlets that remained operational reportedly worked in accordance with new conditions set by the Taliban and private channels reduced content that posed a risk of provoking the Taliban, such as pop music shows or foreign soap operas, while increasingly airing appearances of the Taliban and praise for them. State television was reportedly airing Quranic recitations, Islamic shows, and Taliban announcements [[Security September 2021](#), 1.1.4].





In September 2021, the Taliban issued guidelines for journalists, including rules against addressing topics in conflict with Islam or ‘insulting national personalities’, and instructing media to produce reports in coordination with the Taliban government’s media office. Still operating media workers faced restrictions in carrying out their work. The Taliban’s regulations were vague, and thus difficult to follow in practice. In November 2021, the Ministry for the Promotion of Virtue and Prevention of Vice issued media guidelines banning films or shows ‘against Islamic or Afghan values’ and in which Afghan media were called to stop broadcasting ‘soap operas or dramas featuring women actors’ [[Country Focus 2022](#), 2.3.1, 2.6].

Reporters also faced difficulties in covering unauthorized events such as women’s protests. During September and October 2021, a number of journalists was detained and later released, while others were subjected to violence in custody, or assaulted by the Taliban while covering the protests. There were also reports on Taliban fighters subjecting journalists to violence during other types of protests, and subjecting media workers to violence and confiscating equipment for unclear reasons [[Country Focus 2022](#), 2.6].

Some journalists were also reportedly searched for by Taliban fighters, soon after the takeover. It was reported that the Taliban were tracking down people perceived as a threat to their rule, including journalists, using ‘any means at their disposal’. Also, they had raided the homes of at least three journalists, and a family member of one of the journalists was killed and another injured by Taliban fighters during a house-to-house search. In another instance close to the takeover, armed men reportedly broke into the home of a TV station director, stole vehicles and other equipment, and threatened him [[Country Focus 2022](#), 2.6].

In October 2021 the Afghanistan National Journalists Union (ANJU) claimed that it had recorded more than 30 separate incidents of ‘violence and threats of violence’ against journalists in the past two months, and in almost 90 % of the cases the Taliban were identified as perpetrators [[Country Focus 2022](#), 2.6].

The Taliban claimed to have formed a committee that would prevent and probe acts of violence against journalists however, reportedly no actual findings were presented. Furthermore, the Committee to Protect Journalists (CPJ) reported that they had experienced difficulties in establishing contacts with the Taliban to advocate for the rights of Afghan media workers [[Country Focus 2022](#), 2.6].

The situation for women working in the media was reportedly difficult. While many female journalists fled from Afghanistan soon after the takeover, many of those who stayed were reportedly sent home from their workplaces. There were reports on the Taliban preventing female journalists and media presenters from resuming work and by the end of August 2021, fewer than 100 of the estimated 700 women journalists in Kabul were still working. During the first days after the takeover, women quickly disappeared from broadcasting media, but some female news anchors and reporters soon resumed work and appeared on screen. However, women’s general appearance on broadcasting media reportedly dropped again soon thereafter. In October 2021, the Taliban had reportedly announced that women journalists were not allowed to appear on camera in Badakhshan province, and that women working with radio were only permitted to continue working if all staff members in a program were women. In November 2021, the Taliban’s Ministry for the Promotion of Virtue and Prevention of Vice issued new guidelines for the media industry, where it stated that female reporters should wear a hijab when appearing on screen [[Country Focus 2022](#), 2.6.1].





## Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing, detention, beatings).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Journalists and media workers seen by the Taliban as critical of them or as not complying with conditions set by the Taliban would in general have a well-founded fear of persecution. For other journalists and media workers, additional risk-impacting circumstances would be needed to substantiate a well-founded fear of persecution.

The situation of female journalists and media workers should be assessed with particular care.

## Nexus to a reason for persecution

Available information indicates that persecution of this profile is highly likely to be for reasons of (imputed) political opinion and/or religion.

## 2.8 Human rights defenders

Last update: April 2022

This profile refers to persons who individually and in association with others, act to promote or protect human rights and fundamental freedoms.<sup>11</sup>

### COI summary

Already in past years, journalists, media workers, commentators and human rights defenders were targeted by anti-government armed groups as well as by former State actors, warlords, powerful local figures, and organised criminal groups [[COI query on journalists, media workers and human rights defenders](#); [Conflict targeting](#), 1.2.9, 1.5.1, 2.3].

Human rights defenders' work can be considered dangerous throughout Afghanistan because human rights are often seen as an alien, Western or a non-Islamic concept. Intimidation, harassment, threats and violence against human rights defenders and activists by both the former authorities and by anti-government elements have been documented. In particular civil society representatives 'who express opinions and monitor and report on human rights violations and abuses' encountered an 'environment of threat and intimidation' attributable to both insurgents and state actors [[COI query on journalists, media workers and human rights defenders](#); [State structure](#), 1.8.1; [Conflict targeting](#), 1.2.9, 1.5.1, 2.3].

Analysts commented on the increase in targeted killings of journalists women's rights activists and other members of civil society in the winter of 2020-2021, noting that the insurgents were

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<sup>11</sup> See UN General Assembly Resolution A/RES/53/144 adopting the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (annex I), available at <https://undocs.org/A/RES/53/144>, as well as European Union Guidelines on Human Rights Defenders, available at [https://eeas.europa.eu/sites/default/files/eu\\_guidelines\\_hrd\\_en.pdf](https://eeas.europa.eu/sites/default/files/eu_guidelines_hrd_en.pdf).





‘pre-emptively targeting independently-minded ‘public intellectuals’ [[Security September 2021](#), 1.4.3].

After the takeover, Taliban reportedly conducted door-to-door targeted searches looking for activists, raids on offices of some NGOs and civil society groups. Raids on women-led NGOs were also reported and, in some cases, they confiscated their vehicles and sealed their offices. Also, the Taliban reportedly had lists of persons that have worked with foreigners or as social activists, and a list of 25 high-profile women from Herat, that included civil society activists. There were also reports about the assassination of a female women’s rights activist and a nurse by the Taliban, by shooting her in the forehead in her own house. A female women’s rights activist and lecturer was also found shot dead in the city of Mazar-e Sharif, after she went missing on 20 October. Beatings and detention of protesters, including activists and human rights defenders, by Taliban fighters, were reported during demonstrations that took place in September in Faizabad City in Badakhshan province and Kapisa [[CountryFocus 2022](#), 2.7].

### **Risk analysis**

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing, detention, beatings).

In the case of human rights defenders, a well-founded fear of persecution would in general be substantiated.

### **Nexus to a reason for persecution**

Available information indicates that persecution of this profile is highly likely to be for reasons of (imputed) political opinion and/or religion.

## **2.9 Individuals perceived to have transgressed moral and/or societal norms**

Last update: April 2022

This profile refers to individuals whose actions, behaviours, or practices are seen as transgressing moral codes, and/or societal norms. Persons considered by the Taliban as non-compliant with their moral and religious norms are also included under this profile. Individuals perceived as ‘westernised’ due to, for example, their having spent time in western countries, their professions, activities, behaviour, appearance and expressed opinions, which are seen as non-Afghan, non-Muslim, are also included under this profile.

It is difficult to provide an exhaustive list of practices perceived as a transgression of moral and/or societal norms in Afghanistan. The latter depend on several factors such as local context, actors involved or stakeholders’ norm interpretation. In some cases, the transgression of these norms may be interpreted as ‘westernisation’ by the Taliban or the Afghan society.

See also [2.10 Individuals considered to have committed blasphemy and/or apostasy](#).





## Moral and societal norms in Afghanistan

Last update: April 2022

### Afghan society

Afghanistan's highly diverse society includes urban, rural and tribal segments, each having norms and mechanisms to settle disputes. Islamic values, concepts and practices influence many social and behavioural norms throughout society. Customs and customary law also continue to play a valuable and important role in Afghan society; customs are adhered to by individuals within a family, while customary law encompasses normative principles adhered to by a community, and those traditions differ among groups. It is a widely held perception among Afghans that customary laws are in line with Islamic sharia; however, in practice the two contradict one another at times [[Society-based targeting](#), 1.1, 1.5].

### Taliban perspectives

Sharia law allows for different interpretations and varies between different schools of thought. The Taliban's view of Sharia law is based on the Sunni Hanafi school of jurisprudence, but it is also influenced by local traditions and tribal codes [[Country Focus 2022](#), 1.4].

The implementation of Sharia law differed in areas controlled by the Taliban during their time as an insurgency. There were also reports indicating a tendency to implement gradually stricter policies as they gained influence in an area [[Country Focus 2022](#), 1.4].

During the first press conference after the takeover, Taliban spokesmen emphasized that Afghanistan was a Muslim nation and that there would be 'a strong Islamic government'. They announced that they intended to act on the basis of their principles, religion and culture, and emphasised the importance of Islam and that 'nothing should be against Islamic values' [[Country Focus 2022](#), 1.1.3].

The Taliban have also made clear statements regarding the required adherence to the Sharia. Private channels have reportedly reduced content that pose a risk of provoking the Taliban, such as pop music shows or foreign soap operas [[Security September 2021](#), 1.1.4]. Furthermore, while the Taliban 'have not banned art outright', they have closed music schools, and radio and television networks were reported to have stopped airing songs, musicals and comedy shows. Some Taliban fighters are enforcing their own rules, and have harassed and attacked musicians and music venues [[Country Focus 2022](#), 2.9].

There were reports indicating local divergence in implementing Islamic rule and official policy. For example, in some areas of southern Afghanistan, more conservative social policies reflecting more conservative norms were reported, although conservative traditions impacted the public life even before the Taliban takeover. It was also reported that Taliban fighters seemingly acted on their own initiative in implementing Sharia law and their reactions to behaviour perceived as non-compliant with Taliban moral and religious norms seemed to differ. On one hand, there have been Taliban leadership's assurances that people could resume their daily lives. A Taliban handbook outlined a 'gentler approach' for dealing with persons who did not follow Taliban's interpretation of Sharia law. However, this handbook reportedly set different stages for responses to prohibited acts, stretching from education and guidance to the use of force. On the other hand, instances where men were stopped and harassed by Taliban fighters for wearing Western style clothes or cutting beards, and women for leaving their homes without a male relative or not wearing burqa were reported [[Country focus](#), 1.2, 1.4, 2.1].





With regard to an overview of the position of women after the Taliban takeover see [Situation of women after the Taliban takeover](#).

## 2.9.1 Honour-based violence and moral offences

Last update: April 2022

This profile refers to individuals whose actions, behaviours, or practices are perceived as transgressing moral codes and as shameful to family honour.

### COI summary

Honour-based violence, especially but not exclusively against women, is a common occurrence in Afghanistan. The accusation of dishonour against a woman alone can bring perceived shame to the family. The former Penal Code prescribed less severe punishments for killings done to defend honour. Offenders of attacks against women often enjoyed impunity [[State structure](#), 3.3.1; [Society-based targeting](#), 3.7, 7.2].

*Zina* is a moral crime perceived in Afghanistan as shameful and can be applied to women, as well as to men. This is a broad concept of all behaviour outside the norm: sex outside marriage, illicit sexual relations, adultery and pre-marital sex. *Zina* can also be imputed to a woman in case of rape or sexual assault. It can lead to death threats and honour violence, including honour killings. *Zina* is punishable under the *Sharia* and was also criminalised under the former Penal Code. Prosecution for *zina* affected women to a larger degree; punishment is also harsher for women [[Criminal law and customary justice](#), 1.2; [Society-based targeting](#), 3.5, 3.6].

Already, before the takeover, women seeking protection faced deficiencies in the implementation and awareness of relevant laws, as well as a gender-biased and discriminatory justice system. Women who fled home were often brought back to their family by the police or were imprisoned for 'moral crimes'. In detention, they faced further sexual abuse or harassment by officials [[Criminal law and customary justice](#), 1.6; [Society-based targeting](#), 3.6.4, 3.8.4; [State structure](#), 3.2. See also the section [2.12.1 Violence against women and girls: overview](#)].

### Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. imprisonment, corporal punishment, honour-based violence and killing).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: gender (the risk is higher for women), area of origin (particularly affecting rural areas), conservative environment, perception of traditional gender roles by the family, power/influence of the actors involved, the moral and/or societal norm transgressed etc.





## Nexus to a reason for persecution

Available information indicates that persecution of this profile may be for reasons of religion and/or (imputed) political opinion or membership of a particular social group. The latter could be based on common background which cannot be changed (perceived past behaviour) and a distinct identity in the context of Afghanistan, linked to their stigmatisation by the surrounding society.

### 2.9.2. Individuals perceived as ‘Westernised’

Last update: April 2022

This profile refers to persons who are perceived as ‘Westernised’ due, for example, to their professions, activities, behaviour, appearance and expressed opinions, which are seen as non-Afghan, non-Muslim. It may include those who return to Afghanistan after having spent time in countries.

#### COI summary

[[COI query on westernisation](#); [Society-based targeting](#), 8.2, 8.10; [Country Focus 2022](#), 2.1]

In relation to being perceived as ‘Westernised’, a distinction should be made in terms of attitudes towards men and women.

Afghan women and children who have become accustomed to the freedoms and independence in the West may have difficulties adjusting to Afghanistan’s social restrictions. Women can be seen as ‘Westernised’ when they work outside the home, take part in public life, or have higher education. Women perceived as ‘Westernised’ may be perceived as contravening cultural, social, and religious norms, and may be subjected to violence from their family, conservative elements in society and armed groups.

With regard to men, those with ‘Western’ values or who return from western countries can be regarded with suspicion and may face stigmatisation or rejection.

In a 2019 study on the whereabouts and experiences of deported Afghans, a source noted that, to be seen as ‘Westernised’ can result in threats to the returnees by their family members and neighbours. The same source also reported cases in which returnees were attacked in public because they were seen as ‘traitors’ or ‘unbelievers’.

There had been also reports that segments of society, mostly in cities (e.g. Kabul city), were open to Western views, whereas other segments, mostly in rural or conservative environments, were opposed.

Furthermore, Afghans identifying with Western values had also been targeted by armed groups, since they could be perceived as un-Islamic, or supporting the former government, or could be considered spies.

There are two narratives by the Taliban on persons leaving Afghanistan to live in Western countries. In one narrative the Taliban said that people flee due to poverty and that it has nothing to do with any fear of the Taliban, but life is better economically in the West. The other narrative was about the elites that left; they were not seen as ‘Afghans’ or ‘good Muslims’



[[Country Focus 2022](#), 2.11. See also [Taliban's perception on people leaving Afghanistan](#) under [General remarks](#)].

There is limited information concerning the situation of persons perceived as 'Westernised' following the Taliban takeover. However, the Taliban have made clear statements regarding the required adherence to the *Sharia* [[Security September 2021](#), 1.1.3].

See also profiles [2.12.3 Women in public roles](#), and [2.10 Individuals considered to have committed blasphemy and/or apostasy](#).

## Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. violence by family members, conservative elements in society, Taliban and armed groups). When the acts in question are (solely) discriminatory measures, including restrictions on the exercise of certain rights etc., the individual assessment of whether discrimination could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

Not all individuals under this profile would face the level of risk required to establish a well-founded fear of persecution. The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: the behaviour adopted by the applicant, area of origin (e.g. particularly affecting rural areas, local divergence in applying Taliban norms), gender (the risk is higher for women), conservative environment, perception of traditional gender roles by the family, age (it may be difficult for children of certain age to (re-)adjust to Afghanistan's social restrictions), duration of stay in a western country, visibility of the applicant, etc.

## Nexus to a reason for persecution

Available information indicates that in the case of Individuals perceived as 'Westernised', the individual circumstances of the applicant need to be taken into account to determine whether a nexus to a reason for persecution can be substantiated.

In some cases, persecution may be for reasons of religion and/or (imputed) political opinion or membership of a particular social group. For example, individuals under this profile may have a well-founded fear of persecution based on a shared characteristic or belief that is so fundamental to identity or conscience that they should not be forced to renounce it (opposition to cultural, social or religious norms and the unwillingness to comply with them). 'Westernised' persons, in particular women, could also be considered to have a distinct identity in the context of Afghanistan, because they can be perceived as being different and may face stigmatisation by the surrounding society.



A thorough individual assessment should take place to whether the particular characteristic or belief is fundamental to the identity or conscience of the applicant.



## 2.10 Individuals considered to have committed blasphemy and/or apostasy

Last update: April 2022

This profile covers persons who are considered to have abandoned or renounced the religious belief or principles of Islam (apostasy), as well as persons considered to have spoken sacrilegiously about God or sacred things (blasphemy). It includes individuals who have converted to a new faith, based on their genuine inner belief (e.g. converts to Christianity), as well as those who disbelieve or lack belief in the existence of God (atheists). It can be noted that, often, the latter grounds would be invoked *sur place* ([Article 5 QD](#)).

### COI summary

Blasphemy and apostasy are included in *Hudud* crimes, which are the most serious crimes under Islamic law and are considered as transgressions against God. *Hudud* punishments are specifically mentioned in the Quran and the Sunna. According to Islamic law apostasy is punishable by death, imprisonment or confiscation of property and blasphemy is punishable by death. Conversion from Islam to another faith is also considered as a serious offence under Islamic law. Individuals who have committed blasphemy or converted from Islam have three days to withdraw their behaviours or face punishment. Children of ‘apostates’ are still considered Muslims unless they reach adulthood without returning to Islam, in which case they may also be put to death [[Society-based targeting](#), 1.2].

The implementation of Sharia law differed in areas controlled by the **Taliban** during their time as an insurgency. There were also reports indicating a tendency to implement gradually stricter policies as they gained influence in an area. During the first press conference after the takeover of Kabul, Taliban spokesmen stated that the Taliban had changed since their last time in power, but emphasised that nothing should be against Islamic values [[Country Focus 2022](#), 1.4]. The coming Taliban justice system is believed to be a continuation of the established shadow courts during their insurgency – which already based its judgements on Islamic law [[Country Focus 2022](#), 1.5].

The Taliban see those individuals who preach against them or contravene their interpretations of Islam as ‘apostates’ [[Society-based targeting](#), 2.7; [Anti-government elements](#), 2; [Country Focus 2022](#), 1.4].

There is low **societal tolerance** in Afghanistan for criticism of Islam. The latter is seen contrary to the religion and can be prosecuted as blasphemy. Individuals who hold views that can be perceived as having fallen away from Islam, such as converts, atheists and secularists, cannot express their views or relationship to Islam openly, at the risk of sanctions or violence, including by their family. Such individuals must also appear outwardly Muslim and fulfil the behavioural religious and cultural expectations of their local environment, without this being a reflection of their inner conviction [[Society-based targeting](#), 2.3, 2.4].

According to the **ISKP**, Muslim allies of the West, but also those individuals who practice forms of ‘impure’ Islam, which includes non-Sunnis and Sunnis who practice Sufism or mystical schools of Islam, can be defined as ‘apostates’ [[Society-based targeting](#), 2.8; [Anti-government elements](#), 3].

There has been an increasing number of Afghan converts to Christianity, but there had only been a few converts visible in the past decade in Afghanistan [[Society-based targeting](#), 2.3].





Baha'i practitioners and converts to the faith have also been viewed as 'infidels' or 'apostates' [[Society-based targeting](#), 2.5].

### Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. death penalty, killing, violent attacks).

When considering such applications, the case officer should take into account that it cannot reasonably be expected that an applicant will abstain from his or her religious practices.<sup>12</sup> It should be noted that the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs ([Article 10\(1\)\(b\) QD](#)).

In the case of those considered apostates or blasphemers, in general, well-founded fear of persecution would be substantiated.

### Nexus to a reason for persecution

Available information indicates that persecution of this profile is highly likely to be for reasons of religion.

## 2.11 Ethnic and religious minorities

In the context of Afghanistan, ethnicity and religion are often interlinked. This section focuses on some ethnic and/or religious minorities.



The contents of this section include:

- 2.11.1 Individuals of Hazara ethnicity
- 2.11.2 Shia, including Ismaili
- 2.11.3 Hindus and Sikhs

### 2.11.1 Individuals of Hazara ethnicity

Last update: April 2022

This profile includes people who belong to the Hazara ethnicity. Mostly, persons of Hazara ethnicity are of [Shia](#) religion and the two profiles should be read in conjunction.

The majority of the Hazara population inhabits the Hazarajat. Hazaras are also well represented in most cities, including Kabul.

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<sup>12</sup> CJEU, *Y and Z*, para 80.





The Hazara ethnicity can usually be recognised by their physical appearance.

## COI summary

During the Taliban rule between 1996 and 2001, several massacres were perpetrated on the Hazaras. Since the fall of the Taliban regime in 2001, the Hazaras had improved their position in society. However, new security threats emerged for the Shia Muslim (Hazara) community from 2016 and onwards as the ISKP was established as a new conflict actor in Afghanistan carrying out attacks targeting, inter alia, Hazaras [[COI query on Hazaras, Shias](#), 1.1, 1.2; [Country Focus 2022](#), 2.4].

Attacks against Hazara individuals by **Taliban** were reported in 2021. With the withdrawal of international forces from Afghanistan, instances of violence against the Hazara were reported to have increased [[Security September 2021](#), 2.10, 2.1].

After the Taliban took over Afghanistan, there seemed to be no Taliban policies in place against the Hazara minority. Shia Muslims were allowed to perform their religious ceremonies, such as annual celebrations of the Ashura. Furthermore, the Taliban vowed to protect the Hazara community and Taliban fighters reportedly guarded Shia Mosques. Hazaras were appointed to posts in the new Taliban administration at central and provincial level, but it was debated whether these people are regarded as truly representatives of the Hazara minority since they had already been part of the Taliban insurgency. Furthermore, the Taliban were reported to have confirmed that its governance would be based solely on Sunni Hanafi jurisprudence [[Country Focus 2022](#), 2.4].

Forced evictions of Hazaras also reportedly took place. Several of these were reported to have taken place in September 2021 in Daykundi province and in October in Helmand and Balkh provinces. In some cases, these evictions have been ordered by Taliban local leaders while in other cases Hazara residents were reportedly evicted by Kuchi nomads or by 'the Taliban and associated militias'. On some instances, the Taliban at local level vowed to investigate and/or address the issue. However, on other occasions local Taliban leaders claimed that the evictions took place in accordance with relevant court decisions. Taliban officials in Kabul had also reportedly retracted some eviction orders in Daykundi [[Country Focus 2022](#), 2.4].

There is also prejudice and negative attitude against Hazaras on the part of the Taliban fighters, due the Hazara community's engagement in the former government and because they were perceived as more supportive of the West than other groups in Afghanistan. There is also the perception within conservative parts of the **Afghan society** that the Hazara minority has embraced a culture not in line with the Taliban's definition of Islam. There was an 'anti-Hazara' language among the general population even before the takeover [[Country Focus 2022](#), 2.4].

Over recent years attacks by insurgent groups have mainly been attributed to **ISKP**, who consider Hazara/Shia legitimate targets. These attacks have significantly affected the Hazara population. Attacks by ISKP targeted places where Hazara/Shia gathered, such as religious commemorations, weddings, and sites (e.g. hospitals) in Hazara-dominated neighbourhoods in large cities, including Kabul and Herat. Such attacks could be related to their religion (see the profile [2.11.2 Shia, including Ismaili](#)). Among other reasons, the ISKP also reportedly targets the Hazara due to their perceived closeness and support for Iran and the fight against the Islamic State in Syria [[COI query on Hazaras, Shias](#), 1.3, 1.4; [Anti-government elements](#), 3.3, 3.6.1].





For the first half of 2021, UNAMA reported a resurgence of 'deliberate sectarian motivated attacks against the Shia Muslim religious minority', mostly the Hazara ethnic minority. Nearly all 20 incidents during this period were claimed by ISKP and included shootings and non-suicide IED attacks, some involving buses and other vehicles transporting members of the Hazara community, resulting in 500 civilian casualties (143 killed and 357 injured) [[Security September 2021](#), 1.4.2].

After the Taliban take-over in August 2021, the Shia community continued to be targeted by ISKP. Large scale attacks by ISKP took place on Shia (Hazara) mosques in Kunduz and Kandahar in October 2021, in which at least 119 people were killed and 220 wounded. Incidents causing civilian casualties, were also reported in the Dasht-e Barkhi area of western Kabul, dominated by Shia Hazaras, during the fall of 2021 [[Country Focus 2022](#), 2.4].

## Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. killing, abduction, sectarian attacks).

The situation of Hazara has to be assessed in light of the recent takeover by the Taliban. The risk of targeting by ISKP should also be assessed in light of the group's operational capacity. Risk-impacting circumstances could be related to other profiles, such as [2.11.2 Shia, including Ismaili](#), [2.1 Persons affiliated with the former Afghan government](#), [2.6 Healthcare professionals and humanitarian workers, including individuals working for national and international NGOs](#), or [2.9 Individuals perceived to have transgressed moral and/or societal norms](#).

## Nexus to a reason for persecution

Available information indicates that persecution of this profile may be for reasons of (imputed) religion (see profile [2.11.2 Shia, including Ismaili](#)), (imputed) political opinion (e.g. links to the former government, perceived support for Iran), and/or race (ethnicity).

## 2.11.2 Shia, including Ismaili

Last update: April 2022

This profile includes people who belong to the Shia religion. In Afghanistan, 10 to 15 % of the population are Shia Muslim. The majority of the Shia are ethnic Hazara, and the two profiles should be read in conjunction (see [2.11.1 Individuals of Hazara ethnicity](#)).

## COI summary

Over the past years, the Shia community has been disproportionately represented among civilian casualties in Kabul and Herat. There are reports of attacks against the Shia, especially on places where Shia gather, such as mosques, and during religious commemorations or weddings [[COI query on Hazaras, Shias](#); [Security 2020](#), 1.2, 1.5.2, 2.1].

The ISKP reportedly sees Shias as a legitimate target for killing as they are seen as heretical. The group continued to target Shias in 2019 and in 2020 [[COI query on Hazaras, Shias](#); [Anti-government elements](#), 3.6.1].





UNAMA reported a resurgence of ‘deliberate sectarian motivated attacks against the Shia Muslim religious minority’, mostly the Hazara ethnic minority, for the first half of 2021 [[Security September 2021](#), 1.4.2]. On 27 July 2021, a Taliban attack on the convoy of Sayed Dawood Naderi, head of the Ismaili Council, killed five and wounded two others in Baghlan province [[Security September 2021](#), 2.4. See also the profile [2.11.1 Individuals of Hazara ethnicity](#)].

After the Taliban take-over in August 2021 the Shia community was allowed to perform their religious ceremonies, such as annual celebrations of the Ashura, however it continued to be targeted by ISKP. Large scale attacks by ISKP took place on Shia mosques in Kunduz and Kandahar in October 2021, in which 119 people were killed and 220 wounded. ISKP reportedly claimed that they ‘would target Shia in their home and centres’. Following the blast in Kandahar, it was reported that the Taliban took the responsibility over providing security in the Fatimiya mosque, guarded previously by the Shia community. Incidents causing civilian casualties, were also reported in the Dasht-e Barkhi area of western Kabul, dominated by Shia Hazaras [[Country Focus 2022](#), 2.4].

Instances of discrimination against the Shia community were also reported [[COI query on Hazaras, Shias](#), 1.1, 1.2; [Conflict targeting](#), 1.2.10, 1.5.1.1, 2.5; [Country Focus 2022](#), 2.4].

### **Risk analysis**

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. sectarian attacks). When the acts in question are (solely) discriminatory measures, the individual assessment of whether discrimination could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

The situation of Shia has to be assessed in light of the recent takeover by the Taliban. The risk of targeting by ISKP should also be examined. Currently, it is assessed that not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: area of origin (areas where ISKP has operational capacity present higher risk), participation in religious practices, etc.

### **Nexus to a reason for persecution**

Available information indicates that persecution of this profile is highly likely to be for reasons of religion.

## **2.11.3 Hindus and Sikhs**

Last update: November 2021

This profile includes people who belong to the Hindu or Sikh religions.

This section has not been updated in the current document. While there is no specific new information, it is considered likely that conclusions with regard to the Hindus and Sikhs remain valid.





## COI summary

[[COI query on Hindus and Sikhs](#), 1.1, 1.2, 1.3, 1.4; [Security 2020](#), 2.1; [Security June 2021](#), 2.1; [Society-based targeting](#), 2.6; [Anti-government elements](#), 3.6.2]

There are no exact numbers available of Hindus and Sikhs currently living in Afghanistan. The numbers have steadily decreased over the past years. It is estimated that there were around 700 000 Hindus and Sikhs in Afghanistan in the 70s, around 220 000 in 1992 and a few hundreds or thousands today. Hindus and Sikhs currently mostly live in Nangarhar, Ghazni and in Kabul.

Under the Constitution and laws, Hindus and Sikhs were recognised and protected as equal citizens with Muslims. No incidents of mistreatment by the former State actors or by the Taliban were reported during 2018 to 2020. Members of these minority communities sometimes served in the former government.

Attacks on Hindus and Sikhs, including killings, by ISKP in places of worship have been reported. Furthermore, Hindus and Sikhs have encountered crime incidents because of their perceived wealth, land-grabbing, societal discrimination, harassment, and some reported instances of societal violence in Afghanistan.

Sources indicate that Hindus and Sikhs celebrated discreetly in order not to provoke attention of Muslims and have inconspicuous places of worship. A survey released in February 2019 showed that almost all Hindus and Sikhs in Afghanistan feared for their personal safety (96.8 %), mostly to encounter ISKP (90.6 %). UNAMA expressed its concern that more than 80 % of civilian casualties in 2020 attributed to ISKP were caused by attacks deliberately targeting civilians, such as civilians at educational facilities and civilians belonging to religious minority populations such as Shia Muslims and Sikhs, with several examples of such attacks recorded in Kabul City. On March 2020, an ISKP-claimed gunmen attack on a Sikh temple and housing complex in the Shorbazaar area was reported, taking 80 people hostage, killing 26 civilians and injuring 11 more in an hours' long siege [[Security June 2021](#), 2.1].

There are also reports of instances of societal discrimination against Hindus and Sikhs, including in the fields of employment, education, and performance of religious rituals.

## Risk analysis

The acts to which individuals under this profile could be exposed are of such severe nature that they would amount to persecution (e.g. sectarian attacks). When the acts in question are (solely) discriminatory measures, the individual assessment of whether discrimination could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

The situation of Hindus and Sikh has to be assessed in light of the recent takeover by the Taliban. However, information concerning the policies the Taliban intend to pursue towards these minorities is limited. The risk of targeting by ISKP should also be examined. Currently, it is assessed that not all individuals under these profiles would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, in particular their area of origin (e.g. areas where ISKP has operational capacity), etc.



## Nexus to a reason for persecution

Available information indicates that persecution of Hindus and Sikhs in Afghanistan is highly likely to be for reasons of religion.

## 2.12 Women



The contents of this section include:

- Situation of women after the Taliban takeover
- 2.12.1 Violence against women and girls: overview
- 2.12.2 Harmful traditional marriage practices
- 2.12.3 Women in public roles
- 2.12.4 Women perceived to have transgressed moral and/or societal norms
- 2.12.5 Single women and female heads of households



It should be noted that the different forms of violence against women in Afghanistan are often significantly interlinked. Therefore, the following subsections should be read in conjunction.

## Situation of women after the Taliban takeover

Last update: April 2022

The position of women and girls in Afghanistan is characterised by deeply engrained attitudes, strong cultural beliefs and societal structures that reinforce discrimination. Gender-based human rights violations are common. In their first press conference after the takeover, the Taliban announced that ‘women are a key part of society and we are guaranteeing all their rights within the limits of Islam’.<sup>13</sup> However, it was not clarified or elaborated what the Taliban considered those limits to be [[Security September 2021](#), 1.1.2; [Country Focus 2022](#), 1.4, 2.3].

There were reports indicating local divergence in implementing Islamic rule and official policy. For example, in some areas of southern Afghanistan, more conservative social policies reflecting more conservative norms were reported, although conservative traditions impacted the public life even before the Taliban takeover. It was also reported that Taliban fighters seemingly acted on their own initiative in implementing Sharia law and their reactions to behaviour perceived as non-compliant with Taliban moral and religious norms seemed to differ. On one hand, there have been Taliban leadership’s assurances that people could resume their daily lives. A Taliban handbook outlined a ‘gentler approach’ for dealing with persons who did not follow Taliban’s interpretation of Sharia law, for example with regard to dress codes for women. On the other hand, women were reportedly stopped and harassed by

<sup>13</sup> Al Jazeera, Transcript of Taliban’s first news conference in Kabul, 17 August 2021, [url](#).



Taliban fighters for leaving their homes without a male relative or not wearing a *burqa* [[Country Focus 2022](#), 1.4, 2.1].

Women were not represented in the announced interim government, and no appointments were made to the Ministry of Women's affairs whose offices were used by the reinstated Ministry for Promotion of Virtue and Prevention of Vice. Furthermore, women reportedly faced difficulties in accessing work and education [[Country Focus 2022](#), 2.3. See also [2.13.5. Education of children and girls in particular](#)].

On 3 December, the Taliban released a decree on women's rights, setting out rules governing marriage and women's ownership. The decree stated that women should not be considered as 'property' or be forced into marriage, but the decree did not address women's access to work or education [[Country Focus 2022](#), 2.3].

The Ministry for the Promotion of Virtue and Prevention of Vice reportedly also issued on 26 December 2021 a guidance saying that women should not be offered transport of more than 45 miles (72 kilometres) if unaccompanied by a close male relative and calling on drivers to not offer rides to women that are not wearing hijab [[Country Focus 2022](#), Introduction].

## 2.12.1 Violence against women and girls: overview

Last update: December 2020

\*Minor updates added: April 2022

Due to limited recent information on the topic the analysis within this section has not been fully updated in the current version of the country guidance. When examining the international protection needs of women, please consider the most up-to-date country of origin information concerning the Taliban's policy towards women. Particular attention should also be given to constraints in reporting violence against women following the Taliban takeover.

### COI summary

Women and girls continue to suffer from gender-based violence across Afghanistan. In general, violence against women and girls is a pervasive problem, regardless of the ethnic group. Even before the Taliban takeover, the implementation and awareness of the Elimination of Violence Against Women law (EVAW) was described as limited. Perpetrators of attacks against women continued to enjoy impunity [[Criminal law and customary justice](#), 1.4].

During the previous conflict, the Taliban exacted punishments such as lashings and executions against women based on their justice system [[Criminal law and customary justice](#), 1.8; [State structure](#), 3.3.1]. In an incident on 4 August 2021 in the village of Samar Qandian, Balkh, the Taliban reportedly killed a young woman for wearing tight clothing and not being accompanied by a male relative [[Security September 2021](#), 2.5]. According to a report, there was some degree of geographic variability in the functioning of the Taliban's shadow courts, especially for women and in processing more sensitive issues [[Country Focus 2022](#), 1.5].

Large segments of the Afghan society deem domestic violence, such as wife battery, acceptable; and while rape is punishable under law, marital rape is not addressed. Women





who fled their husband and sought help from the former government have been known to be returned by the police to their families or to be imprisoned for ‘moral crimes’ [[Society-based targeting](#), 3.4, 3.5, 3.6.4, 3.8.4; [State Structure](#), 3.3.1]. After the Taliban takeover, most shelters for victims of domestic violence have reportedly been closed. Therefore, many women were forced to return to live with their abusers, while other women reportedly chose to move to women’s prison. Only a small number of shelters remained open but did not accept new cases. It was also reported that the Taliban were still figuring out what to do about women refugees and it was suggested that women would leave the shelters and would enter prostitution [[Country Focus 2022](#), 1.5.2, 2.3].

Sexual harassment in the workplace and public harassment, including in urban areas, are common problems in Afghanistan. Acid attacks on women have also been reported, including in Kabul and Herat. Reported reasons for violent assaults against women in public included, for example, rejecting marriage proposals, seeking divorce, or going to school [[Society-based targeting](#), 3.2, 3.4, 3.5; [Key socio-economic indicators 2020](#), 2.2.4].

Already before the Taliban takeover, women’s access to justice, courts, and legal assistance for gender-based violence was generally limited. Women who pressed charges were stigmatised and distrusted. Female victims of domestic violence and sexual abuse did not seek legal assistance either due to lack of awareness about their rights or due to the fear of being returned to their families or the perpetrators. The few reported cases on violent incidents against women were not investigated, or women had to withdraw their complaints due to pressure. Often mediation was used instead of a legal recourse to resolve the complaints. If the perpetrator was not the husband, women victims of sexual violence, abuse or rape could also be at risk of punishment for *zina* [[Society-based targeting](#), 3.5, 3.8.1, 3.8.4; [State Structure](#), 3.3.1; [Criminal law and, customary justice](#), 1.2; [Key socio-economic indicators 2017](#), 3.8].

Many cases of gender-based violence and discrimination against women and girls were referred to *jirgas* and *shuras* for advice or resolution, especially in rural and remote areas. Decisions made by the informal justice mechanisms were reported to frequently discriminate against women [[Criminal law and customary justice](#), 2.3.2].

## Risk analysis

Sexual assault and rape amount to persecution. In case of other forms of violence, the assessment should take into account the severity and repetitiveness of the violence.

The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: being seen as having committed acts contravening the *Sharia*, type of work and work environment (for women working outside home), perception of traditional gender roles in the family, poor socio-economic situation, family status (the risk of sexual and gender-based violence against women and adolescent girls is higher for those without a male protector, female heads of households, etc.), being in an IDP situation, etc.

## Nexus to a reason for persecution

Available information indicates that violence against women may be for reasons of (imputed) political opinion and/or religion (e.g. when persecution is by Taliban), and/or membership of a particular social group (see examples below).





The connection may also be between the absence of protection against persecution and one or more of the reasons under [Article 10 QD](#) ([Article 9\(3\) QD](#)).

## 2.12.2 Harmful traditional marriage practices

Last update: December 2020

\*Minor updates added: April 2022

Due to lack of recent information on the topic, the analysis concerning this topic includes only minor updates in the current version of the country guidance. When examining the international protection needs of women, please consider the most up-to-date country of origin information concerning the Taliban's policy towards women. Particular attention should also be given to constraints in reporting violence against women following the Taliban takeover.

### COI summary

Marriage in Afghanistan operates on a spectrum from choice to force. Coerced marriage, especially of girls and women, is a frequent occurrence in Afghanistan [[Key socio-economic indicators 2017](#), 4.1; [Society-based targeting](#), 3.4].

Traditional marriage practices are common and can often create or lead to situations of forced marriage and violence against women. Such common practices include:

- betrothal as a child, especially under the *Pashtunwali*
  - polygamy
  - exchanging of unmarried daughters between families
  - *baad*, whereby girls are bartered to settle family debts or disputes, particularly among Pashtuns and in rural areas.
  - etc.
- [[Society-based targeting](#), 3.4; [Criminal law and customary justice](#), 3.2].

The current humanitarian situation in Afghanistan, following the Taliban takeover, reportedly also forces families to negative coping strategies, such as marrying off young girls [[Country Focus 2022](#), 2.3].

According to previous Afghan civil law, as well as Islamic law, consent was required in order to enter into marriage. Afghan civil law further stipulated that the minimum age was 16. However, this law was not effectively implemented in practice. The Taliban's decree on women's rights of 3 December 2021 stated that women should not be forced into marriage. In general, people in Afghanistan have little opportunity to make their own choices with regard to marriage. Child marriage is a widespread practice, mainly occurring in rural areas. According to a survey conducted in 2015, 45 % of Afghan women are married by the age of 18 [[Society-based targeting](#), 3.4; [Country Focus 2022](#), 2.3].

*Baad* was prohibited by Article 25 of the 2009 EVAW, but this law was rarely implemented or enforced. No cases of arrest and/or prosecution of jirga elders or family members were reported in Afghanistan in connection with the *baad* practice as of August 2019 [[Criminal law and customary justice](#), 3.3].

Refusal of marriage arrangements or proposals can lead to violence for the women and girls concerned and/or for their families and to blood feuds [[Society-based targeting](#), 3.4, 3.7.; [Criminal law and customary justice](#), 3.3]. According to a Taliban official, most women in Kabul's women prison were detained for elopement charges [[Country Focus 2022](#), 1.5.2].

Traditional marriage practices can also be linked to other forms of violence, such as battery and sexual abuse [[Society-based targeting](#), 3.4, 3.5].

Already, before the takeover, women seeking protection faced a gender-biased and discriminatory justice system [[Key-socio-economic indicators 2017](#), 3.8; see also the section [2.12.1 Violence against women and girls: overview](#)].

## Risk analysis

Forced marriage and child marriage amount to persecution. Other traditional marriage practices in Afghanistan could also amount to persecution, depending on the specific practice and the individual circumstances of the applicant. They could, furthermore, be linked to other forms of violence, such as gender-based and honour-based violence.

The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: young age (in particular, under 16), area of origin (particularly affecting rural areas), ethnicity (e.g. Pashtun), perception of traditional gender roles in the family, poor socio-economic situation of the family, local power/influence of the (potential) husband and his family or network, etc.

## Nexus to a reason for persecution

Available information indicates that persecution of this profile may be for reasons of membership of a particular social group. For example, refusal to enter into forced or child marriage may result in honour-based violence for reasons of membership of a particular social group in relation to a common background which cannot be changed (refusal to marry) and/or a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it (the right to choose whom to marry) and the distinct identity of such women and girls in Afghanistan (as they would be considered as violating the honour of the family).



The connection may also be between the absence of protection against persecution and one or more of the reasons under [Article 10 QD](#) ([Article 9\(3\) QD](#)).



## 2.12.3 Women in public roles

Last update: April 2022

This subsection refers to women who are considered to have a public role in Afghanistan, such as a position in the former government, law enforcement, education, healthcare, NGOs, media or sports.

### COI summary

For women, there are many societal and family restrictions. Already before the takeover, most women in public roles faced intimidation, threats, violence, or killings. Women who worked outside the home, in general, encountered frequent sexual harassment and abuse at the workplace and could be considered by society as transgressing moral codes, as bringing dishonour to the family (e.g. women in law enforcement), and as being non-Afghan or Western (e.g. women in journalism).

After the Taliban takeover there were reports of professional women staying indoors. Female human rights defenders and women's rights activists have been considered to be in a particularly difficult situation because they were not only targeted for their work, but also for challenging social and religious patriarchal norms [[Anti-government elements](#), 2.6.1.1; [State structure](#), 2.1.2, 3.6; [Conflict targeting](#), 1.1.5.3, 1.2.1.1, 1.2.4.4, 1.2.9.1, 1.2.9.2; [Society-based targeting](#), 3.1, 3.3.2, 3.3.3; [Security September 2021](#), 1.1.4; [Country Focus 2022](#), 2.1].

Female judges reportedly fear about their safety in the country, particularly after a release of prisoners by the Taliban. Moreover, female judges were claimed to be at added risk due to their gender as the Taliban do not accept that women have the right to judge men. Judges reportedly had been subjected to house searches, threatening messages and physical harassment [[Country Focus 2022](#), 2.3.1].

Hundreds of female athletes reportedly went into hiding or were evacuated from Afghanistan after the Taliban takeover, inter alia, female soccer and basketball players. According to a statement of a Taliban official in September 2021, women would be banned from sports where they expose too much of their bodies. In October 2021, it was stated that there is no official ban on women's sport and that the Taliban have no problem with women taking part in sport [[Country Focus 2022](#), 2.3.4].

In November 2021, the Taliban's Ministry for the Promotion of Virtue and Prevention of Vice issued new guidelines for the media industry, banning films or shows 'against Islamic or Afghan values' and in which Afghan media were called to stop broadcasting 'soap operas or dramas featuring women actors' [[Country Focus 2022](#), 2.3.1].

Women in public roles could be subjected to mistreatment by the Taliban and other armed groups, by the woman's family or clan, as well as by society in general [[Anti-Government Elements](#), 2.6.1.1; [Society-based targeting](#), 3.3].

With regard to women judges, see also [2.1 Persons affiliated with the former Afghan government](#). With regard to women in media, see [2.7 Journalists and media workers](#). With regard to women human rights defenders see [2.8 Human rights defenders](#). With regard to women in education, see [2.5 Educational personnel](#). With regard to female humanitarian workers and healthcare practitioners, see [2.6 Healthcare professionals and humanitarian workers, including individuals working for national and international NGOs](#).





## Risk analysis

The acts to which women in public roles could be exposed are of such severe nature that they would amount to persecution (e.g. violence and killings).

Women in public roles may fall under other profiles, such as: [2.1 Persons affiliated with the former Afghan government](#), [2.5 Educational personnel](#), [2.6 Healthcare professionals and humanitarian workers, including individuals working for national and international NGOs](#), [2.7 Journalists and media workers](#), or [2.8 Human rights defenders](#). The risk analysis of those profiles should also be consulted for the assessment of the well-founded fear of persecution.

For other women in public roles, the individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: being seen as not complying with conditions set by the Taliban, visibility of the applicant (e.g. nature of the work), conservative environment, perception of traditional gender roles by the family or network, etc.

## Nexus to a reason for persecution

Available information indicates that persecution of this profile is highly likely to be for reasons of (imputed) political opinion and/or religion.



The connection may also be between the absence of protection against persecution and one or more of the reasons under [Article 10 QD](#) ([Article 9\(3\) QD](#)).

### 2.12.4. Women perceived to have transgressed moral and/or societal norms

See the profile [2.9 Individuals perceived to have transgressed moral and/or societal norms](#).

### 2.12.5 Single women and female heads of households

Last update: April 2022

## COI summary

The Afghan society is male-dominated. However, traditional family units were disrupted because of the high number of men killed on the battlefield or in the course of violence, as a result of which women, the elderly, and sometimes children had to take the role of their households' breadwinner. It was noted that female-headed households were significantly more food insecure than those headed by men. In particular, female-headed displaced households were more vulnerable with regard to having stable income sources and employment and were often blocked from accessing certain services and legal protection [[Key socio-economic indicators 2020](#), 2.3.3].

According to social customs, women's freedom of movement is limited by the requirement of male consent or male protection. Women who went outside alone or went to work were





frequently subjected to sexual harassment in the streets. Following the Taliban takeover, women were reportedly stopped and harassed by Taliban fighters for leaving their homes without a male relative or not wearing a burqa. On 26 December 2021 the Ministry for the Promotion of Virtue and Prevention of Vice reportedly issued a guidance saying that women should not be offered transport of more than 45 miles (72 kilometres) if unaccompanied by a close male relative and calling on drivers to not offer rides to women that are not wearing hijab.’ [[Key socio-economic indicators 2020](#), 3.3, [Key socio-economic indicators 2017](#), 5.5.; [Society-based targeting](#), 3.8.6, [Country Focus 2022](#), Introduction].

Unmarried women face the most restrictions, particularly in rural areas, among middle and lower classes, and among Pashtuns. Living alone is, furthermore, associated with inappropriate behaviour and could potentially lead to accusations of ‘moral crimes’ [[Key socio-economic indicators 2020](#), 3.3, [Key socio-economic indicators 2017](#), 5.5.; [Society-based targeting](#), 3.8.6].

There are no recent statistics on divorce in Afghanistan, but it can be said that divorce is considered a taboo in most of Afghan society, particularly in rural communities. It is not frequently pursued and is more easily granted to men than to women. Divorced women are in a precarious situation where they may not be able to return to their father’s family home or may be seen as a burden to them. Divorced women and widows were reported to face difficulties in claiming their rights over land and properties. They also face negative societal attitudes and harassment [[Key socio-economic indicators 2020](#), 3.8; [Society-based targeting](#), 3.8.3, 3.8.6]. Although it was reported that the Taliban released a decree on 3 December 2021, stating that widows have a share in their husband’s property, no information is available on the practical implementation of this rule [[Country Focus 2022](#), 2.3].

Already, before the takeover, women seeking protection faced a gender-biased and discriminatory justice system [[Key-socio-economic indicators 2017](#), 3.8; see also the section [2.12.1 Violence against women and girls: overview](#)].

## Risk analysis

Being a single woman or female head of household considerably enhances the risk for such women to be exposed to acts, which, due to their severity, repetitiveness or accumulation could amount to persecution. Similarly, it also increases their risk of being exposed to violence. For example, women were reportedly stopped and harassed by Taliban for leaving their homes without a male relative.

Based on negative perceptions against them, their increased vulnerability to be subjected to violence and the restrictions imposed on women following the Taliban takeover, single women and female heads of households would be likely to have a well-founded fear of persecution.

## Nexus to a reason for persecution

Available information indicates that, where well-founded fear of persecution could be substantiated, it may be for reasons of membership of a particular social group (e.g. divorced women, due to their common background which cannot be changed and distinct identity in Afghanistan, in relation to divorce being a societal taboo).





The connection may also be between the absence of protection against persecution and one or more of the reasons under [Article 10 QD](#) ([Article 9\(3\) QD](#)).

## 2.13 Children

This profile refers to Afghan nationals under the age of 18.

Most sections under the profile on children have not been reviewed in the current update. While there is limited specific new information, it is considered likely that previous conclusions with regard to children remain largely valid.

An element to take into account is the current unclarity with regard to children's rights, based on previous national law and international treaties that Afghanistan had previously entered into.

In the following subsections, the focus is on certain child-specific circumstances of increased vulnerability and risks that children in Afghanistan may be exposed to.



The contents of this section include:

- 2.13.1 Violence against children: overview
- 2.13.2 Child marriage
- 2.13.3 Child recruitment
- 2.13.4 Child labour and child trafficking
- 2.13.5 Education of children and girls in particular
- 2.13.6 Children without a support network in Afghanistan

### 2.13.1 Violence against children: overview

Last update: December 2020

This section has not been reviewed in the current update. While there is no specific new information, it is considered likely that conclusions with regard to violence against children remain largely valid.

An element to take into account is the current unclarity with regard to children's rights, based on previous national law and international treaties that Afghanistan had previously entered into.



## COI summary

Child abuse is endemic in Afghan society. Children in Afghan families are often subjected to corporal punishment, including slapping, verbal abuse, punching, kicking, and hitting with thin sticks, electrical cables, and shoes. Sexual abuse of children also remains a pervasive problem, with girls being most frequently abused in their families or communities [[Society-based targeting](#), 5; [Key socio-economic indicators 2017](#), 4.1].

The practice of *bacha bazi* has resurfaced since the end of the Taliban regime of 1996-2001. Sources reported that young boys, with 14 as an average age, were abducted and disappeared into the practice or were traded in by their families in exchange for money. Boys involved in the practice may be subjected to violence and threats, be raped, and kept in sexual slavery. *Bacha bazi* is not perceived as homosexuality. Despite the criminalisation of the practice in the revised Penal Code, Afghan security forces, in particular the ALP, reportedly recruited boys specifically to use them for *bacha bazi* in every province of the country. *Bacha bazi* boys had little to no support from the State and the perpetrators were seldom prosecuted in the context of a weak rule of law, corruption, and official complicity with law enforcement perpetrators. Under the provisions of the Penal Code, prosecution of victims of *bacha bazi* was outlawed; however, instances of jailing boys that were dancing were reported [[Key socio-economic indicators 2017](#), 4.3.3; [Society-based targeting](#), 5.1; [State Structure](#), 2.1, 2.1.4].

For violence against girls, see also [2.12.1 Violence against women and girls: overview](#).

## Risk analysis

Sexual assault and rape amount to persecution. In case of other forms of violence, the assessment should take into account the severity and repetitiveness of the violence.

Not all children would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: gender (boys and girls may face different risks), age and appearance (e.g. non-bearded boys could be targeted as *bacha bazi*), perception of traditional gender roles in the family, poor socio-economic situation of the child and the family, etc.

## Nexus to a reason for persecution

Available information indicates that in the case of violence against children, the individual circumstances of the applicant need to be taken into account to determine whether a nexus to a reason for persecution can be substantiated.

In individual cases, a link could be established to membership of a particular social group. For example, (former) *bacha bazi* could have a well-founded fear of persecution for reasons of membership of a particular social group, based on common background that cannot be changed and having a distinct identity linked to their stigmatisation by the surrounding society.





## 2.13.2 Child marriage

See the section [2.12.2. Harmful traditional marriage practices](#).

## 2.13.3 Child recruitment

Last update: December 2020

Due to lack of recent information on the topic, the analysis concerning this topic has not been updated in the current version of the country guidance. When examining the international protection needs related to child recruitment, please consider the most up-to-date country of origin information available.

An element to take into account is the current unclarity with regard to children's rights, based on previous national law and international treaties that Afghanistan had previously entered into.

### COI summary

Article 3 of the Afghan Law on the prohibition of child recruitment in the military institutions prohibited child recruitment in the military units. Article 4 of the same law envisaged a punishment for the perpetrators from six months to one-year imprisonment. However, despite past progress made by the ANSF in preventing child recruitment, the use of children by ANSF remained a concern in 2019. Even though to a lesser extent than the ALP, the ANP continued to use children in combat and in support roles at checkpoints. Moreover, it was observed that Afghan security forces, in particular the ALP, recruited boys specifically to use them for *bacha bazi* (sexual exploitation of children) in every province of the country [[State structure](#), 2.1, 2.1.1, 2.1.3; [Security 2020](#), 1.4.5].

Noting that the number of recruited children must be higher than reported, UNAMA documented the recruitment and use of 64 boys in 2019: 58 by the Taliban, 3 by the ANSF, and 3 by pro-government armed groups (ALP and PGMs). As for 2020, an increase in the number of reports in connection to the recruitment and use of children by the ANSF across the country was reported. However reports had not been verified yet [[Security 2020](#), 1.4.5; [Key socio-economic indicators 2020](#), 2.2.5].

Boys recruited by the Taliban were used to plant IEDs, carry explosives, collect intelligence, conduct suicide attacks, and engage in hostilities. It was also indicated that the Taliban used children as suicide bombers by manipulating them with money or false religious justifications or by forcing them. In southern provinces, the Taliban used children not only as suicide bombers but also as human shields, or to plant IEDs. In exchange, the Taliban paid money to some families and provided protection to others who sent their children to the Taliban's schools (*madrasas*). Most of the children who were exposed to such risks came from poor families or rural areas. Some children were also reportedly taken to Pakistan for military training [[Anti-government elements](#), 2.4.1; [Security 2020](#), 1.4.5; [Recruitment by armed groups](#), 5.2.1.2].

Recruitment of teenagers and youth is also part of ISKP's recruitment strategies [[Anti-government elements](#), 3.4].





See also [2.4. Persons fearing forced recruitment by armed groups](#) and [2.13.1. Violence against children: overview](#).

## Risk analysis

Child recruitment is of such severe nature that it would amount to persecution.

Not all children would face the level of risk required to establish well-founded fear of persecution in the form of child recruitment. The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: gender, poor socio-economic situation, area of origin or residence, etc.

## Nexus to a reason for persecution

The individual circumstances of the applicant need to be taken into account to determine whether a nexus to a reason for persecution can be substantiated.

## 2.13.4 Child labour and child trafficking

Last update: December 2020

This section has not been reviewed in the current update. While there is no specific new information, it is considered likely that conclusions with regard to child labour and child trafficking remain largely valid.

An element to take into account is the current unclarity with regard to children's rights, based on previous national law and international treaties that Afghanistan had previously entered into.

## COI summary

Afghanistan has ratified all key international conventions concerning child labour and trafficking, and has established its own laws and regulations, adopting its first Child Rights Protection law in 2019. However, the law has been blocked due to a disagreement over 'the definition of a child as under-18', which has been seen as a contravention to the *Sharia* [[Key socio-economic indicators 2020](#), 2.2.5; [Security 2020](#), 1.4.5].

The Afghan labour law sets the minimum age for employment at 15 years to work up to 35 hours per week in non-hazardous work, allows 14-year-olds to work as apprentices, and prohibits children younger than 14 years from working under any circumstances. The law bans the employment of children in hazardous work in general. However, it was reported that the Afghan government has failed to enforce the law [[Key socio-economic indicators 2020](#), 2.2.5].

There are no official overall numbers regarding the percentage of working children, but reportedly 30 % of children in Afghanistan were engaged in child labour as of 2019, with some regional variances. Boys are predominantly (but not exclusively) engaged in child labour, and the percentage of children working increases with age. Many IDP families also reportedly





relied on child labour to meet their basic needs [[Key socio-economic indicators 2020](#), 2.2.5; [Key socio-economic indicators 2017](#), 4.3.2].

Children were employed in the carpet industry, brick kilns, coalmines, and poppy fields, besides working as domestic servants, street vendors, peddlers, and shopkeepers. In some instances, children were exploited in bonded labour, extending to multiple generations. Children also often worked to pay off their parents' debt [[Key socio-economic indicators 2020](#), 2.2.5, [Key socio-economic indicators 2017](#), 4.3.2].

The most at-risk populations vulnerable to trafficking were found to be unaccompanied minors, boys in juvenile detention facilities, working children, drug-addicted children, and children in orphanages. Some children were also reportedly sold into sex trafficking by their families. In previous years, the government took some steps to investigate and combat human trafficking. However, in recent times prior to the Taliban takeover, the USDOS had found that the State's response did not fully meet the minimum standards for the elimination of trafficking and that it was not making significant efforts to do so [[Key socio-economic indicators 2020](#), 2.2.5; [State structure](#) 3.3; [Key socio-economic indicators 2017](#), 4.3.2].

## Risk analysis

Child trafficking would amount to persecution. Not all forms of child labour would amount to persecution. An assessment should be made in light of the nature of the work and the age of the child. Work that is likely to harm the health, safety or morals of children could be considered to reach the severity of persecution.<sup>14</sup> The impact of child labour on access to education should also be taken into account (see the subsection [2.13.5 Education of children and girls in particular](#)). Other risks, such as involvement in criminal activities and trafficking should also be considered.

Not all children would face the level of risk required to establish well-founded fear of persecution in relation to child labour and/or child trafficking. The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: age, gender, family status, socio-economic status of the child and his or her family, being in an IDP situation, drug addiction, etc.

## Nexus to a reason for persecution

Available information indicates that in the case of child labour and child trafficking, the individual circumstances of the child need to be taken into account to determine whether a nexus to a reason for persecution can be substantiated.

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<sup>14</sup> International Labour Organization (ILO), *Minimum Age Convention*, C138, 26 June 1973, available at [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C138](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138); *Worst Forms of Child Labour Convention*, C182, 17 June 1999, available at [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182).





## 2.13.5 Education of children and girls in particular

Last update: April 2022

### COI summary

Attending formal education, either in public schools, private schools, or *madrasas*, has been compulsory in Afghanistan until the 9<sup>th</sup> grade. However, reportedly around 3.7 million children were out of school across Afghanistan in 2018 and 60 % of them were girls. Most of the out-of-school children lived in rural areas, while the attendance rates, particularly for girls, were considerably higher in urban areas. Generally, there were more schools for boys than for girls in Afghanistan, with access of girls to a school notably higher in regions controlled by the former government than in regions under the control of the Taliban [[Key socio-economic indicators 2020](#), 2.5, 2.5.1].

Groups of marginalised children who were disproportionately excluded from and deprived of access to school comprised children with disabilities (including psychosocial issues), children from ethnic, linguistic, and religious minority groups, children living in urban slums and on the street, children whose families migrate seasonally for work, and refugee and IDP children. Engagement in child labour was an additional factor for a considerable drop in school attendance [[Key socio-economic indicators 2020](#), 2.5].

Other challenges faced by the Afghan educational system included insecurity, shortages and damages of school buildings, shortage of textbooks and teaching materials and resources, shortage of teachers (especially female teachers), the alleged appointment of teachers on the basis of cronyism and bribery, lack of inclusive facilities at schools, cultural norms which deprioritise education for girls, as well as poverty, rural access issues, and long travel distances to schools for many children [[Key socio-economic indicators 2020](#), 2.5.1; [COI query on education sector](#); [Security 2020](#), 1.4.5].

In general, in the cities of Kabul, Herat and Mazar-e Sharif, educational facilities were present and access to schools was assessed to be better. In the cities, lack of financial resources or lack of documentation (for IDPs and returnees), seemed to be the major impediments to a child's education [[Key socio-economic indicators 2020](#), 2.5.1; [COI query on education sector](#)].

In the context of the previous conflict, deliberate attacks on schools and education personnel and students by AGEs were also reported. Attacks against girls' schools carried out by both ISKP and the Taliban have been documented. The Taliban regularly issued statements claiming to be in support of education and proclaiming an absolute ban on attacks on schools. It was observed that such attacks were no longer systematic but continued to take place. The objective of armed groups appeared not to be school closures, but rather gaining control over them through the choice of curriculum, the recruitment of teachers, and regular inspections [[COI query on education sector](#); [Conflict targeting](#), 1.2.4.3; see also the profile [2.5 Educational personnel](#)].

UNAMA documented a continuation of attacks on health and education facilities and workers during the first half of 2021, including direct attacks and fighting causing damage to schools, hospitals, and their personnel. The deadliest attack against civilians in Afghanistan in the first half of 2021 was on 8 May 2021, with three non-suicide vehicle-borne IEDs which detonated outside a school in a Kabul neighbourhood mainly inhabited by the Hazara community. In this attack at least 85 civilians were killed and at least 216 other civilians were injured, most of whom were schoolgirls. Reports attributed this attack to ISKP [[Security September 2021](#), 1.4.2, 1.4.4, 2.1, [Security June 2021](#), 2.1.3].





Prior to their takeover, it was indicated that the Taliban's position had changed from a complete opposition towards government schools to an oversight of education services in some provinces, mainly due to local pressure. Generally, what happened with schools was considered to vary depending on the local commander and the population. The behaviour of the Taliban towards girls' education also appeared contradictory. Although the Taliban officially indicated that they would not oppose girls' education anymore, deliberate restriction on the access of women and girls to education and closure of girls' schools continued to occur, especially concerning girls beyond sixth grade (12 years) in areas under their control. Very few Taliban actually allowed girls to attend schools after their puberty, and others did not allow girls' schools at all [[COI query on education sector](#)].

Following the Taliban takeover, girls of primary age were told to return to schools. However, girls were excluded from secondary education, which initially only reopened for boys. Secondary education for girls stayed closed awaiting arrangements in line with Islamic law ensuring 'a safe learning environment' according to Taliban spokespersons. During October 2021, secondary schools reportedly resumed for girls in several provinces, including Kunduz, Balkh, Sar-e Pul and Herat. On the other hand, secondary education remained closed for girls in most parts of the country, including Kabul. Girls were reportedly taking secret online lessons in Herat, and hundreds of girls and women continued to learn online or in hidden makeshift classrooms. It was reported that the rules on gender segregated classes created a shortage of teachers which limited girls' opportunities to receive high school education. On 2 November 2021, the Taliban's Director of External Programmes and Aid at the Ministry of Education claimed that the Taliban would soon announce 'good news' on high school education for girls. Furthermore, he noted that the Taliban were not striving to 'deleting' women and girls from schools or universities [[Country Focus 2022](#), 2.3.2].

## Risk analysis

The general deficiencies in the educational system, and the limited opportunities for education cannot as such be considered persecution, as they are not the result of an actor's deliberate actions.<sup>15</sup> However, in the case of deliberate restrictions on access to education, in particular for girls, this could amount to persecution. In this regard, developments related to the policies and practice of the Taliban concerning the education of girls should be carefully assessed on the basis of up-to-date COI.

## Nexus to a reason for persecution

Where well-founded fear of persecution is substantiated, the individual circumstances of the child should be taken into account to determine whether a nexus to a reason for persecution can be substantiated. Depending on policies pursued by the Taliban, religion and/or political opinion may be relevant.

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<sup>15</sup> CJEU, *M'Bodj*, paras. 35-36.





## 2.13.6 Children without a support network in Afghanistan

Last update: December 2020

This subsection concerns children who do not have a parent or other adult family member who can take care of them in Afghanistan.

This section has not been reviewed in the current update. While there is no specific new information, it is considered likely that conclusions with regard to children without a support network in Afghanistan remain largely valid.

An element to take into account is the current unclarity with regard to children's rights, based on previous national law and international treaties that Afghanistan had previously entered into.

### COI summary

In general, it can be said that the Afghan orphanage system is insufficient, accommodating approximately 10 % of the orphans in Afghanistan. There are 84 children's protection action network centres and 78 residential orphanages. The living conditions in the facilities are also poor, lacking running water, heating, education, and recreational facilities. The Afghan State lacked money and means to support all orphans [[Key socio-economic indicators 2017](#), 4.3.1].

Children in orphanages reported mental, physical and sexual abuse, and were sometimes victims of human trafficking [[Key socio-economic indicators 2017](#), 4.3.1]. The shelters, furthermore, often lack the capacity to support traumatised minors [[Key socio-economic indicators 2017](#), 4.4.4].

Children without a support network who fell outside the orphanage system would most likely have to fend for themselves. Street children often resort to negative coping mechanisms, such as street vending, garbage collecting, crime or drug abuse, and are vulnerable to trafficking and exploitation, including sexual exploitation [[Key socio-economic indicators 2017](#), 4.3.2, 4.3.3, 4.4].

### Risk analysis

The lack of a support network does not amount to persecution in itself. However, it considerably enhances the risk for such children to be exposed to acts which due to their severity, repetitiveness or accumulation could amount to persecution. See, for example, [2.13.4 Child labour and child trafficking](#).

### Nexus to a reason for persecution

Available information indicates that in the case of children without a support network in Afghanistan, the individual circumstances of the applicant need to be taken into account to determine whether a nexus to a reason for persecution can be substantiated.





## 2.14 LGBTIQ persons

Last update: April 2022

This profile refers to persons who are perceived as not conforming to social norms because of their sexual orientation and/or gender identity, including the treatment of lesbian, gay, bisexual, trans, non-binary, intersex and queer (LGBTIQ) individuals. However, it should be noted that specific information on some of those communities was not available in the COI reports used for the purpose of this guidance.

### COI summary

In Afghan society, sexuality is not a concept that is discussed. Therefore, little information can be obtained about LGBTIQ individuals and their position in society [[Society-based targeting](#), 4].

For issues related to the practice of *bacha bazi*, which is not considered homosexuality in Afghan society, please see the subsection [2.13.1 Violence against children: overview](#). Same-sex activity is punishable with death under the Sharia. Incidents of physical violence against LGBTIQ individuals had been reported under the former Afghan government [[Society-based targeting](#), 4.1].

Targeting and extrajudicial punishment by insurgent groups have also taken place in the past and after the recent takeover of Taliban. Following the takeover, members of the LGBTIQ community reportedly lived in fear for their lives, many went into hiding, and hundreds of them wanted to flee out of fear for their lives. Some transwomen reportedly felt forced to grow beards to hide their gender identity, and lesbian women were under pressure to act ‘more feminine’. There were also allegations of street attacks and threats over the phone on LGBTIQ persons. Although killings involving LGBTIQ Afghans could not be ‘independently verified’, sources reported on allegations of the beheading of a gay man and noted that a gay man had allegedly been killed by the Taliban after gay material was found on his mobile phone during a checkpoint search. There were also claims that the Taliban have a ‘kill list’ for members of the LGBTIQ community and that they seemed to complement these lists through data leaks and entrapment. For example, individuals had reportedly received emails asking for personal data and claiming to be connected with a LGBTIQ organisation. It was also said that Taliban were attempting to trick gay men by contacting them on social media and offering ways to escape from Afghanistan [[Country Focus 2022](#), 2.10; [Society-based targeting](#), 4.1].

While the Taliban did not address the rights of LGBTIQ people during the first days after the takeover, on 29 October 2021, a ministry spokesman stated that human rights will be respected within the framework of Islamic law, but this does not include LGBTIQ rights as that is against Sharia law [[Country Focus 2022](#), 2.10].

LGBTIQ individuals also face a threat by their family and society. Same-sex practices remain hidden and are highly stigmatised if mentioned publicly. Identifying as having a sexual orientation or identity outside the expected norms of heterosexuality is a societal taboo and is seen as un-Islamic. Sources report discrimination, including in health services and employment, assaults, threats, rape, blackmail, and arrest [[Society-based targeting](#), 4.2].

Although Afghanistan has traditions of a ‘third gender’, where individuals identify outside categories of male and female, these people are not legally recognised and function only at the margins of society [[Society-based targeting](#), 4.2.1].





## Risk analysis

The acts to which LGBTIQ individuals could be exposed are of such severe nature that they would amount to persecution (e.g. rape, execution, killings).

Persecution could be by the Taliban or other armed groups, as well as by the family and/or the society in general, as there is a low societal tolerance in Afghanistan for individuals with sexual or gender identities deviating from the 'norm'.

It has to be noted that an applicant cannot be expected to conceal their sexual orientation or gender identity.<sup>16</sup>

In the case of LGBTIQ applicants, in general, well-founded fear of persecution would be substantiated.

## Nexus to a reason for persecution

Available information indicates that the persecution of this profile is highly likely to be for reasons of membership of a particular social group, based on a shared characteristic or belief that is so fundamental to the identity of the applicant, that he or she should not be forced to renounce it; and based on their distinct identity in Afghanistan, because they are perceived as being different by the surrounding society.

## 2.15 Persons living with disabilities and persons with severe medical issues

Last update: April 2022

This profile refers to people with disabilities, including mental disabilities, as well as those who have severe medical issues, including mental health issues.

### COI summary

Under the former Afghan government, most healthcare was provided by NGOs due to lack of government funds. A very expensive healthcare private sector was also in place. Destructures and closures of healthcare facilities in several provinces as well as incidents of violence against medical personnel had been reported. Mental healthcare facilities were also often under-equipped and qualitative mental healthcare was scarce [[Key socio-economic indicators 2020](#), 2.6, 2.6.2, 2.6.3].

After the Taliban takeover there have been additional reports on a deteriorating situation with, inter alia, unpaid salaries to medical personnel, shortages in medicines and equipment as well as decreased access to healthcare among women. Furthermore, the lack of clear guidance on the rules in force has left many female health workers at home. An attack claimed by ISKP at a Kabul military hospital was recorded in November 2021. The Director-General of World Health Organisation (WHO) described the Afghan health system as "on the brink of collapse" and pointed out the cuts in donor support leading to reduced operations and health facilities

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<sup>16</sup> CJEU, X, Y and Z, paras. 70-76.





shutting down. According to the statement, cuts to the country's largest health project, *Sehatmandi*, have left thousands of health facilities without funding for medical supplies and salaries for health staff, with only 17 % of *Sehatmandi* health facilities being fully functional [[Country Focus 2022](#), 1.2.1., 2.8. See also [2.6 Healthcare professionals and humanitarian workers, including individuals working for national and international NGOs](#)].

In Afghanistan, people with mental and physical disabilities are often stigmatised. Their condition is at times considered to have been 'related to God's will'. Mistreatment of those people by society and/or by their families has occurred. Women, displaced persons and returned migrants with mental health issues are particularly vulnerable. There is also lack of appropriate infrastructure and specialist care that covers the needs of people with disabilities. The existing structures were largely concentrated in a few urban centres [[Key socio-economic indicators 2020](#), 2.6].

## Risk analysis

The lack of personnel and adequate infrastructure to appropriately address the needs of individuals with (severe) medical issues fails to meet the requirement of Article 6 QD regarding the existence of an actor that inflicts persecution or serious harm, unless the individual is intentionally deprived of healthcare.<sup>17</sup>

In the case of persons living with mental and physical disabilities, the individual assessment whether discrimination and mistreatment by society and/or by the family could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures.

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: nature and visibility of the mental or physical disability, negative perception by the family, etc.

## Nexus to a reason for persecution

Available information indicates that the persecution of persons living with noticeable mental or physical disabilities may be for reasons of membership of a particular social group, defined by an innate characteristic and distinct identity linked to their stigmatisation by the surrounding society.

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<sup>17</sup> CJEU, *M'Bodj*, paras. 35-36. See also CJEU, *MP v Secretary of State for the Home Department*, C-353/16, judgment of 24 April 2018 (*MP*), paras. 57, 59.





## 2.16 Individuals involved in blood feuds and land disputes

### 2.16.1 Blood feuds

Last update: December 2020

Blood feuds for revenge-taking can be the result of personal violence or wrong-doing that is seen as being against honour, disputes involving land, or in the context of family conflicts and relationships.

This section has not been updated in the current document. While no specific new information has been reviewed, it is considered likely that conclusions with regard to blood feuds remain largely valid.

#### COI summary

Usually, blood feuds occur between non-State actors, for example within certain ethnic subgroups, and mostly in areas where the government and the rule of law is weak or non-present. Blood feuds arise mostly among Pashtuns, but it is also a practice among other ethnic groups in Afghanistan. The influence of the tribal context of blood feuds is less strong in large cities, but this does not automatically mean that a person would escape a blood feud entirely by moving away [[Criminal law and customary justice](#), 1.3, 3; [Society-based targeting](#), 7.1, 7.7.4].

Such feuds can become extremely violent, may involve killings, and can go on for generations. The societal and family obligations to carry out revenge are strong, and it is difficult for someone to resist or escape a blood feud [[Criminal law and customary justice](#), 3; [Society-based targeting](#), 7.1, 7.3, 7.7.4].

Adult men are the most frequent target of blood feuds. Usually, revenge is carried out against the brothers or other immediate male relatives of the perpetrator.

Women and children are usually excluded from being direct targets of revenge killings in blood feuds. However, there have been examples in the media of children and women reportedly killed in relation to a blood feud or retribution. Negative consequences of blood feuds for women and children can occur through the practice of 'baad' [[Criminal law and customary justice](#), 3; [Society-based targeting](#), 7.6; see also [2.13.1. Violence against children: overview](#) and [2.12.2. Harmful traditional marriage practices](#)].

In some instances, blood feuds could be avoided through seeking the forgiveness (*nanawatai*) of the injured party and requesting that they forego retribution (*badal*). This could be done by the individual offender approaching the offended party to ask forgiveness, or through a *jirga* with local tribal elders and *ulemas*; however, women are excluded from taking part in such fora [[Criminal law and customary justice](#), 3; [Society-based targeting](#), 7.7.1].

#### Risk analysis

Family members involved in a blood feud could be exposed to acts which are of such severe nature that they would amount to persecution (e.g. killing).





For men directly involved in a blood feud, in general, well-founded fear of persecution would be substantiated. For women, for children and for men who are farther removed from the feud, the individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: intensity of the blood feud, origin from areas where the rule of law is weak, etc.

### Nexus to a reason for persecution

The individual circumstances of the applicant need to be taken into account to determine whether or not a nexus to a reason for persecution can be substantiated. For example, family members involved in a blood feud may have a well-founded fear of persecution for reasons of membership of a particular social group, based on their innate characteristic (i.e. being a member of the family) and due to the fact that families are known and may have a distinct identity in the surrounding society.



Exclusion considerations could be relevant to this profile (see the chapter [6. Exclusion](#)).

## 2.16.2 Land disputes

Last update: April 2022

Land disputes are common in Afghanistan due to the fragmented regularisation/registration of land, large population movements and rapid urbanisation, the protracted conflict situation, and a weak rule of law.

### COI summary

Land disputes occur among individuals and families and can sometimes involve powerful elites or insurgent groups. They occur in a context of growing urbanisation, population growth and high numbers of returnees all over the country, and among all ethnic groups, including nomadic tribes. In rural areas, land conflicts can expand to include whole families, communities, ethnicities, tribes, or clans within one tribe [[Criminal law and customary justice](#), 2.1; [Society-based targeting](#), 6].

Land conflicts can quickly escalate and become violent, sometimes degenerating into small armed conflicts, as well as blood feuds (see also [2.16.1. Blood feuds](#)). Approximately 70 % of serious violent crimes such as murder are caused by disputes over land ownership. Cases of conflicts over land and property in different regions of Afghanistan that resulted in killings and casualties were reported [[Criminal law and customary justice](#), 2.1; [Society-based targeting](#), 6.1].

A weak rule of law leads to a possibility for powerful individuals to influence the administration in order to produce forged documents, and the judiciary to allow them to operate with impunity. In dispute resolution, both formal and informal mechanisms display a bias towards the powerful, wealthy, men, elites and dominant ethnicities [[Criminal law and customary justice](#), 2.3; [State structure](#), 3; [Society-based targeting](#), 6.4.1, 6.4.4, 7.7.4].

Land disputes were reported to be the most common cases heard by the Taliban courts, during their time as insurgency [[Criminal law and customary justice](#), 2.3.3].



Following the takeover, the Taliban's strive to gain support from people who do not have a positive perception of Hazaras could be at the expense of the minority group, for example taking sides in favour of non-Hazaras in land disputes. In the past, the Taliban usually took the side of Pashtun nomads in land disputes [[Country Focus 2022](#), 2.4. See also [2.11.1 Individuals of Hazara ethnicity](#)].

### Risk analysis

The loss of land itself would normally not amount to persecution. However, the violence that entails from land disputes, together with the lack of an effective legal system to prevent it, may result in severe violations of basic human rights which would amount to persecution (e.g. killing).

Not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: violent nature of the dispute, power/influence of the actors involved in the land dispute, area of origin, etc.

### Nexus to a reason for persecution

Available information indicates that in the case of violence related to land disputes, there is in general no nexus to a Convention reason for persecution. This is without prejudice to individual cases where nexus could be established based on additional circumstances (e.g. ethnicity in relation to Taliban [taking sides against certain ethnic groups who might be parties in the dispute](#), land dispute leading to a [blood feud](#), etc.).



Exclusion considerations could be relevant to this profile (see the chapter [6. Exclusion](#)).

## 2.17 Individuals accused of ordinary crimes

Last update: April 2022

This profile refers to people who are accused of ordinary crimes in Afghanistan, such as crimes against property, life, physical integrity, etc. The section does not intend to cover acts, which are not criminalised according to international standards (see for example, [2.9 Individuals perceived to have transgressed moral and/or societal norms](#), [2.14 LGBTIQ persons](#), [2.10 Individuals considered to have committed blasphemy and/or apostasy](#))

### COI summary

Corruption and lack of independence of the judiciary were reported under the former Afghan government. Although corporal punishment was prohibited by law, it was used regularly in rural areas. Capital punishment was rarely carried out by the former government, although instances of capital punishment for ordinary crimes have been reported [[State structure](#), 1.8; [Criminal law and customary justice](#), 1.6; [Society-based targeting](#), 1].

Before the Taliban takeover, in areas under their control and even in areas far beyond their control, the Taliban operated parallel justice mechanisms where an increasing part of the Afghan population sought justice. These courts imposed harsh extrajudicial punishments, including beatings, lashing, public executions by shooting and stoning [[State structure](#), 3; [Society-based targeting](#), 1.6].

Following the Taliban takeover, they have made clear statements regarding the required adherence to the Sharia [[Security September 2021](#), 1.1.2]. The justice system imposed is also believed to be a continuation of the established shadow courts during their insurgency. Capital and corporal punishment are regarded as relevant punishments for certain crimes under Sharia law according to Taliban officials (e.g public shaming for petty crime and public execution of a kidnapper. However, it was not always clear whether punishments were issued by a court or on the spot by Taliban fighters [[Country Focus 2022](#), 1.5.1].

There were no reports on capital or corporal punishments issued by a court as of early December 2021. In the end of October 2021, it was indicated by a local judge in Ghazni that such punishments could return in practice, although this would require a lengthy decision-making process. It was suggested that Taliban judges avoided to issue harsh punishments to avoid losing support among the population. However, there were reports on Taliban fighters subjecting civilians to violent treatment, inter alia whipping alleged thieves. It was also reported that the Taliban incarcerated people with minor ‘suspicion of illegal activity’ [[Country Focus 2022](#), 1.5].

## Risk analysis

Capital and corporal punishments, irrespective of the nature of the crime, are considered to amount to persecution. Violations of the due process of law and/or disproportionate or discriminatory punishments could also amount to such severe violations of basic human rights.

The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account individual circumstances, such as the nature of the crime for which they may be prosecuted and the envisaged punishment.

## Nexus to a reason for persecution

In the case of individuals accused of ordinary crimes, there would in general be no nexus to a Convention reason. However, where a well-founded fear of persecution is established in relation to the envisaged punishment under Sharia law, persecution may be for reasons of religion. In individual cases, the prosecution may (also) be motivated by another Convention ground or initiated or conducted on a discriminatory basis related to another Convention ground.

Where no nexus is substantiated, see the sections [Article 15\(a\) QD](#) or [Article 15\(b\) QD](#), respectively.



Exclusion considerations could be relevant to this profile (see the chapter [6. Exclusion](#)).



## 2.18 Individuals who were born in Iran or Pakistan and/or who lived there for a long period of time

Last update: December 2020

This profile refers to Afghans who were born in or have spent a very long period as a refugee or a migrant in Iran or Pakistan.

This section has not been updated in the current document. While no specific new information has been reviewed, it is considered likely that conclusions with regard to this profile remain largely valid.

### COI summary

[Main COI references: [Society-based targeting](#), 8.7; [Key socio-economic indicators 2020](#), 1.2, 2.2.3, 2.3.4, 2.4.2, 2.5.2, 2.6.5, 2.7.4]

Over 8 million Afghans have returned to the country since 2002, mainly from neighbouring Iran and Pakistan. Returnees from Iran were reported to be comprised mostly of young men, whereas returnees from Pakistan were mostly families. Many of them settled in Kabul regardless of their place of origin in Afghanistan, and established themselves according to their capacity without any government support. A third of all Afghan returnees have settled in Kabul and Nangarhar. This fact, combined with high numbers of IDPs, resulted in high pressure on housing, employment, healthcare, and community services, especially in the cities. In the context of Afghanistan's limited absorption capacity returnees often lived in precarious situations.

Not being accustomed to Afghan norms and expectations and having no support network in Afghanistan may add to the difficulties in finding job or shelter. Afghans who lived outside Afghanistan for a long period of time may also have a strong accent, which would be a further obstacle in finding a job.

Afghans who grew up in Iran and are perceived as 'Iranised' or 'not Afghan enough' may sometimes receive offensive comments.

### Risk analysis

In general, the treatment faced by individuals under this profile would not amount to persecution. In exceptional cases and based on additional individual circumstances, the accumulation of measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner, could amount to persecution.

### Nexus to a reason for persecution

Available information indicates that in the case of individuals who were born in Iran or Pakistan and/or who lived there for a long period of time, there is in general no nexus to a Convention reason for persecution. This is without prejudice to individual cases where nexus could be established based on additional circumstances.



### 3. Subsidiary protection

This chapter addresses the EU-regulated status of subsidiary protection and the situations in which, where the applicant has not been found to qualify as a refugee, they may be eligible for subsidiary protection in accordance with [Article 15 QD](#) (see also [Article 10\(2\) APD](#)).



The contents of this chapter include:

- Under the section [Article 15\(a\) QD](#), the analysis focuses on the applicable EU legal framework and the factual circumstances surrounding the ‘death penalty or execution’ in Afghanistan.
- The section on [Article 15\(b\) QD](#) looks into the risk of ‘torture or inhuman or degrading treatment or punishment’ in relation to particular circumstances in Afghanistan.
- Under the section [Article 15\(c\) QD](#), the analysis covers the different elements of the provision, looking into: ‘armed conflict’, ‘qualification of a person as a ‘civilian’, ‘indiscriminate violence’, ‘serious and individual threat’ (where further individualisation elements are discussed), ‘qualification of the harm as ‘threat to life or person’, and the interpretation of the nexus ‘by reasons of’.

#### 3.1 Article 15(a) QD

Last update: April 2022

As noted in the chapter [Refugee status](#), some profiles of applicants from Afghanistan may be at risk of death penalty or execution. In such cases, there would often be a nexus to a reason for persecution falling under the definition of a refugee (for example, [2.14 LGBTIQ persons](#), [2.10 Individuals considered to have committed blasphemy and/or apostasy](#), etc.), and those individuals would qualify for refugee status. In cases where there is no nexus to a Convention ground (for example, in some cases of [2.17 Individuals accused of ordinary crimes](#)), the need for subsidiary protection under [Article 15\(a\) QD](#) should be examined.



Under [Article 15\(a\) QD](#), serious harm consists of the death penalty or execution.

- The **death penalty** is as such, and under any circumstances, considered as a serious harm under [Article 15\(a\) QD](#). The sentence does not need to have already been imposed. The mere existence of a real risk that a death penalty may be imposed on the applicant upon return could be considered sufficient to substantiate the need of subsidiary protection.
- As the addition of the term ‘**execution**’ suggests, [Article 15\(a\) QD](#) also encompasses the intentional killing of a person by non-State actors exercising some kind of authority. It may

also include extrajudicial killings, but an element of intentional and formalised punishment needs to be present.

Death penalty is envisaged under Islamic law. The former Penal Code was reported to significantly limit the number of crimes punishable by the death penalty and the death penalty was rarely carried out in practice. Before the Taliban takeover, in the areas under their control, they imposed punishments through a parallel justice system, based on a strict interpretation of the *Sharia*. This included instances of executions, including public executions by stoning and shooting [[Criminal law and customary justice](#), 1.8, 2.3.3; [Anti-government elements](#), 2.5; [Society-based targeting](#), 1.6].

The justice system imposed following the Taliban takeover is believed to be a continuation of the established shadow courts during their insurgency. Sharia law is the basis for the judgements and actions of judges and police officers in Afghanistan under Taliban rule. Capital and corporal punishment are regarded as relevant punishments for certain crimes under Sharia law according to Taliban officials. There were no reports on capital punishments issued by a court as of early December 2021. It was suggested that Taliban judges avoided to issue too harsh punishments to avoid losing support among the population. However, two events of public display of the corpses of persons allegedly involved in crimes were reported in Herat in late September and early October 2021. Neither report on these instances mentioned any court proceedings [[Country Focus 2022](#), 1.5].

Summary executions of alleged ISKP affiliates by the Taliban were also reported. Persons with perceived links with ISKP were killed without due process, drawn out of their homes and shot on the spot in Nangarhar. Similar events were also reported in Laghman and Kunar [[Country Focus 2022](#), 2.5].

If there is a reasonable degree of likelihood of death penalty or execution, subsidiary protection under [Article 15\(a\) QD](#) shall be granted, unless the applicant is to be excluded in accordance with [Article 17 QD](#).



In some cases, the death penalty would have been imposed for a serious crime committed by the applicant, or for other acts falling within the exclusion grounds ([Article 17 QD](#)). Therefore, although the criteria of [Article 15\(a\) QD](#) would be met, exclusion considerations should be examined (see [6. Exclusion](#)).

### 3.2. Article 15(b) QD

Last update: April 2022

As noted in the chapter on [Refugee status](#), some profiles of applicants from Afghanistan may be at risk of torture or inhuman or degrading treatment or punishment. In such cases, there would often be a nexus to a reason for persecution falling under the definition of a refugee, and those individuals would qualify for refugee status. However, with reference to cases where there is no nexus to a Convention ground, the need for subsidiary protection under [Article 15\(b\) QD](#) should be examined.



Under [Article 15\(b\) QD](#), serious harm consists of torture or inhuman or degrading treatment or punishment of an applicant in the country of origin.

[Article 15\(b\) QD](#) corresponds in general to [Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms \(ECHR\)](#). The jurisprudence of the European Court of Human Rights (ECtHR), therefore, provides relevant guidance in order to assess whether a treatment may qualify as serious harm under [Article 15\(b\) QD](#).

Torture is an aggravated and deliberate form of cruel, inhuman or degrading treatment to which a special stigma is attached.

- According to relevant international instruments, such as the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment \(CAT\)](#), **'torture'** is understood as:
  - ✓ an intentional act
  - ✓ that inflicts severe pain or suffering, whether physical or mental
  - ✓ for such purposes as obtaining from the person subjected to torture or from a third person information or a confession, punishing the former for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind.

The distinction between torture and inhuman or degrading treatment or punishment is more a difference of degree than of nature. These terms cover a wide range of ill-treatment that reach a certain level of severity.

- **'Inhuman'** refers to treatment or punishment which deliberately causes intense mental or physical suffering (which does not reach the threshold of torture).
- **'Degrading'** refers to treatment or punishment which arouses in the victim feelings of fear, anguish and inferiority capable of humiliating or debasing them.

The assessment whether a treatment or punishment is inhuman or degrading further implies a subjective consideration by the person who suffers such treatment or punishment. No specific purpose on the part of the perpetrator (e.g. obtaining information or a confession, punishing, intimidating) is required in this regard.

When examining the need for protection under [Article 15\(b\) QD](#), the following considerations should be taken into account:

- **Healthcare unavailability and socio-economic conditions:** It is important to note that serious harm must take the form of conduct of an actor ([Article 6 QD](#)). In themselves, the general unavailability of healthcare, education or other socio-economic elements (e.g. situation of IDPs, difficulties in finding livelihood opportunities, housing) are not considered to fall within the scope of inhuman or degrading treatment under [Article 15\(b\) QD](#), unless there is intentional conduct of an actor, such as the intentional deprivation of the applicant of appropriate healthcare.<sup>18</sup>

See also the profiles of [2.15 Persons living with disabilities and persons with severe medical issues](#) and [2.18 Individuals who were born in Iran or Pakistan and/or who lived there for a long period of time](#).

- **Arbitrary arrests, illegal detention, and prison conditions:** Special attention should be paid to the phenomena of arbitrary arrests and illegal detention, as well as to prison conditions. Arbitrary arrests and illegal detention centres run by different actors (linked to the former government, to militias, to strongmen or to insurgent groups) have been widespread in Afghanistan. In general, human rights were not respected in these illegal detention facilities and persons who face a real risk of being illegally detained may be in need of protection.

Soon after the takeover, the Taliban announced the release of ‘all political detainees’ throughout Afghanistan and released thousands of prisoners, inter alia from Kabul’s main prison Pul-e Charkhi [[Country Focus 2022](#), 1.5.2].

On 31 October 2021, a Taliban official stated that there were around 4 000 prisoners in Afghanistan, including 600 in Pul-e Charkhi. Current prisoners were detained based on criminal charges including murder and killings. It was also reported that the Taliban incarcerated people with minor ‘suspicion of illegal activity’. Some of the prisoners who fled from prison on 15 August 2021, had been arrested and reincarcerated. The same official further claimed that inmates were reportedly provided with food, medical care, access to legal procedures, and allowed to receive visits from family members. However, there were reports indicating that inmates did not have access to legal counsel and suffered in cells, waiting a formal judicial system being put in place. Female inmates reportedly lacked medical care in Kabul prison [[Country Focus 2022](#), 1.5.2].

Former government employees of the prison reportedly returned to work. It was also reported that some former inmates became guards. In October 2021, the Taliban were said to have trained 130 uniformed guards for prisons and planned to train further 160 guards who will serve as prison guards both in Kabul city and in the provinces. Although they were taught that prisoners would only be punished by the law, there were reports of Taliban fighters arresting people and using violence and torture in custody [[Country Focus 2022](#), 1.5.2].

Other incidents of reported torture by the Taliban refer to journalists, healthcare professionals, and civilians during the weeks of fighting in Panjshir [[Country Focus 2022](#), 1.5.2, 2.5, 2.6, 2.8, 3.2]. The Taliban have also been accused of committing human rights

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<sup>18</sup> CJEU, *M'Bodj*, paras. 35-36. See also CJEU, *MP*, paras. 57, 59.

violations against alleged ISKP affiliates, including illegal detention and torture in Nangarhar. Similar events were also reported in Laghman and Kunar [[Country Focus 2022](#), 2.5].

When assessing the conditions of detention, the following elements can, for example, be taken into consideration (cumulatively): number of detained persons in a limited space, adequacy of sanitation facilities, heating, lighting, sleeping arrangements, food, recreation or contact with the outside world. Furthermore, it can be assessed that in cases where the prosecution or punishment is grossly unfair or disproportionate, or where a person is subjected to prison conditions which are not compatible with respect for human dignity, a situation of serious harm under [Article 15\(b\) QD](#) can occur. It should also be stressed that in official and unofficial detention centres, torture often took place [[State structure](#), 2.1.1, 2.1.2, 2.1.3, 2.1.4, 3.6].

See also the profile of [2.17 Individuals accused of ordinary crimes](#).

- **Corporal punishments:** Under the *Sharia*, corporal punishments are envisaged for different crimes, for example stoning for adultery, public flogging for drinking alcohol and hand amputation for some types of theft. Article 29 of the Constitution of Afghanistan prohibited ‘punishment contrary to human dignity’, and Afghanistan has been a party of the CAT since 1987. However, corporal punishments were permitted by law in Afghanistan due to the pluralistic legal system, whereby Islamic and civil laws interacted with one another, allowing individual judges and courts to determine how to prescribe punishments under either code.

Previously, during the conflict, corporal punishments, including the use of lashings and beatings, were more frequent in areas controlled by anti-government elements. In territories under their control, the Taliban operated a parallel justice system based on a strict interpretation of the *Sharia*. In addition to executions (see [3.1 Article 15\(a\) QD](#)), the operation of this system led to punishments reported by UNAMA to be cruel, inhuman, and degrading [[Anti-Government Elements](#), 2.5; [Criminal law and customary justice](#), 1.6, 1.8].

Following the takeover, the Taliban have made clear statements regarding the required adherence to the *Sharia*. Physical punishments including executions are reportedly considered as necessary parts of Islamic law. Therefore, some punishments used during the last Taliban rule would be revived, for example amputation of hands. No reports on corporal punishments issued by a court were found during the reference period of this guidance. It was suggested that Taliban judges avoided to issue too harsh punishments to avoid losing support among the population. However, there were reports on Taliban fighters subjecting civilians to punishments, inter alia whipping alleged thieves [[Security September 2021](#), 1.1.2, [Country Focus 2022](#), 1.5.1]. Where there is no nexus to a reason for persecution under the refugee definition, the risk of being subjected to corporal punishments such as the above may qualify under [Article 15\(b\) QD](#).

See also the profile of [2.17 Individuals accused of ordinary crimes](#), and [4. Actors of protection](#)

- **Criminal violence:** Common criminality and organised crime have been reported throughout the country, with an increase in recent years, especially in major cities such as Kabul, Jalalabad, Herat, and Mazar-e Sharif. Reported crimes comprised kidnappings of adults and children, robberies and burglaries, murders and extortion. Criminal groups targeted businessmen, local officials and ordinary people, while foreigners and wealthy

Afghans were indicated as the main targets [[Security 2020](#), 1.4.2, 2.1.2; [Society-based targeting](#), 8.5]. Only limited information on criminal activities after the Taliban takeover is available [see [1.7 Other non-State actors](#)]. Where there is no nexus to a reason for persecution under the refugee definition, the risk of being subjected to crimes such as the above may qualify under [Article 15\(b\) QD](#).

Other cases for which a real risk of serious harm under [Article 15\(b\) QD](#) may exist are, inter alia, some situations under the profile of [2.13 Children](#), [2.16.2 Land disputes](#), etc.



In some cases, those at risk of torture or inhuman or degrading treatment or punishment (for example, because of mistreatment in prisons) may also have committed or contributed to excludable acts as defined in [Article 17 QD](#). Therefore, although the criteria of [Article 15\(b\) QD](#) would be met, exclusion considerations should be examined (see [6. Exclusion](#)).

### 3.3 Article 15(c) QD

This section focuses on the application of the provision of [Article 15\(c\) QD](#). Under [Article 2\(f\) QD](#) in conjunction with [Article 15\(c\) QD](#), subsidiary protection is granted where substantial grounds have been shown for believing that the person would face a real risk of suffering serious harm defined as **serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict**.

Each element of the provision is addressed in a separate subsection.



The contents of this chapter include:

- Preliminary remarks
- Armed conflict (international or internal)
- Qualification of a person as a 'civilian'
- Indiscriminate violence
- Serious and individual threat
- Qualification of the harm as a 'threat to (a civilian's) life or person'
- Nexus/'by reason of'

### Preliminary remarks

Last update: April 2022

#### Reference period

The following assessment is based on relevant EUAA COI documents concerning the reference period **1 January – 8 December 2021**. Background information from 2020 regarding the security situation is also taken into account. Events taking place after 8 December 2021 are not taken into account in the common analysis.



Following the Taliban takeover, security incidents and the number of civilian casualties due to indiscriminate violence in a situation of armed conflict have decreased. However, the situation in the country is still evolving. The security situation in a given territory should always be assessed in light of the most up-to-date COI available.

#### Legal framework

[Article 15\(c\) QD](#) defines the third type of harm that constitutes a ground for qualification for subsidiary protection. It covers a more general risk of harm and the protection needs which may arise from armed conflict situations.



Under Article 15(c) QD, serious harm consists of serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.



In addition to the applicable EU legal instruments, this analysis builds on the most relevant European case law. Three judgments of the CJEU<sup>19</sup> and one judgment of the ECtHR have been taken into account in particular:

**CJEU, *Diakité* judgment**<sup>20</sup>

The judgment is of particular importance for the interpretation of relevant concepts, and in particular of 'internal armed conflict'.

**CJEU, *Elgafaji* judgment**<sup>21</sup>

The judgment is of importance with regard to the appreciation of the degree of indiscriminate violence and in particular with regard to the application of the 'sliding scale'. In this judgment, the CJEU further discusses the 'serious harm' under the provision of [Article 15\(c\) QD](#) in comparison to the other grounds for granting subsidiary protection and considers the relation between [Article 15\(c\) QD](#) and the ECHR, in particular [Article 3 ECHR](#).

**CJEU, *CF and DN* judgment**<sup>22</sup>

The judgment is of particular importance for the interpretation of the concept of 'serious and individual threat to a civilian's life or person' in the context of an international or internal armed conflict under [Article 15\(c\) QD](#). The CJEU found that 'Article 15(c) of Directive 2011/95 must be interpreted as meaning that, in order to determine whether there is a 'serious and individual threat', within the meaning of that provision, a comprehensive appraisal of all the circumstances of the individual case, in particular those which characterise the situation of the applicant's country of origin, is required.'

Furthermore, that 'the elements to be taken into account in assessing whether there is a real risk of serious harm, within the meaning of Article 15(c) of Directive 2011/95 may also include the intensity of the armed confrontations, the

<sup>19</sup> It can be noted that a relevant case is currently pending at the CJEU: [Case C-579/20](#) (Request for a preliminary ruling from Staatssecretaris van Justitie en Veiligheid, the Netherlands) concerns the application of Article 15(c) QD when the level of 'mere presence' is not reached and the application of a 'sliding scale'.

<sup>20</sup> CJEU, *Aboubacar Diakité v Commissaire général aux réfugiés et aux apatrides*, C-285/12, judgment of 30 January 2014 (*Diakité*).

<sup>21</sup> CJEU, *Elgafaji v Staatssecretaris van Justitie*, C-465/07, Grand Chamber, judgment of 17 February 2009 (*Elgafaji*).

<sup>22</sup> CJEU, *CF and DN v Bundesrepublik Deutschland*, C-901/19, Third Chamber, judgment of 10 June 2021 (*CF and DN*).

level of organisation of the armed forces involved, and the duration of the conflict [...], as well as other elements such as the geographical scope of the situation of indiscriminate violence, the actual destination of the applicant in the event that he or she is returned to the relevant country or region and potentially intentional attacks against civilians carried out by the parties to the conflict.'

### ECtHR, *Sufi and Elmi* judgment<sup>23</sup>

It should be noted that ECtHR jurisprudence on [Article 3 ECHR](#) is not of direct applicability when discussing the scope and elements of [Article 15\(c\) QD](#). However, the elements outlined in *Sufi and Elmi* with regard to the assessment of the security situation in a country, and the degree of generalized violence, were consulted in order to design the indicators of indiscriminate violence for the purposes of this common analysis.

**Figure 4. Elements of the legal provision of Article 15(c) QD.**



All of these elements have to be fulfilled in order to grant subsidiary protection under [Article 15\(c\) QD](#).

Common analysis of the factual preconditions and guidance on the possible application of [Article 15\(c\) QD](#) with regard to the situation in Afghanistan are provided below.

### 3.3.1 Armed conflict (international or internal)

Last update: November 2021

\*Minor updates added: April 2022

A definition of an international or an internal armed conflict within the meaning of [Article 15\(c\) QD](#) is not provided by the QD itself. In *Diakité*, the CJEU interprets the concept of 'internal armed conflict' under [Article 15\(c\) QD](#) and concludes that it must be given an interpretation, which is autonomous from international humanitarian law.



[...] internal armed conflict exists, for the purposes of applying that provision, if a State's armed forces confront one or more armed groups or if two or more armed groups confront each other. It is not necessary for that

<sup>23</sup> ECtHR, *Sufi and Elmi v United Kingdom*, Applications nos. 8319/07 and 11449/07, judgment of 28 June 2011 (*Sufi and Elmi*).

conflict to be categorised as ‘armed conflict not of an international character’ under international humanitarian law;

**CJEU, *Diakité*, para.35**

In *Diakité*, the CJEU sets a low threshold to assess whether an armed conflict is taking place, noting that,



[...] nor is it necessary to carry out, in addition to an appraisal of the level of violence present in the territory concerned, a separate assessment of the intensity of the armed confrontations, the level of organisation of the armed forces involved or the duration of the conflict.

**CJEU, *Diakité*, para.35**

Furthermore, in the context of [Article 15\(c\) QD](#), differentiation between ‘international’ or ‘internal’ armed conflict is not necessary, as the provision is equally applicable in situations of international and internal armed conflict.

It should also be noted that an armed conflict can be taking place only in parts of the territory.

Over the summer months of 2021, the Taliban’s offensive advanced rapidly and resulted in them taking over almost all of the country. ANSF personnel often withdrew from positions without engaging in confrontations. In their statements following the takeover of Kabul in August 2021, the Taliban declared the war to be over [[Security September 2021](#), 1.1.1]. However, in some areas resistance armed groups were organised and armed confrontations took place [[Security September 2021](#), 1.4.1]. ISKP also continues to be active in the country [[Country Focus 2022](#), 3.1.1].

### 3.3.2 Qualification of a person as a ‘civilian’

Last update: November 2021

Being a civilian is a prerequisite in order to be able to benefit from protection under [Article 15\(c\) QD](#). The purpose of the provision is to protect only those who are not taking part in the conflict. This includes the potential application of [Article 15\(c\) QD](#) to former combatants who have genuinely and permanently renounced armed activity.

The QD itself does not provide a definition of the term ‘civilian’. In light of the interpretative guidance given by CJEU in *Diakité*, the term should be read by reference to its usual meaning in everyday language, whilst taking into account the context in which it occurs and the purposes of the rules of which it is a part. Therefore, the term ‘civilian’ could be considered to refer to a person who is not a member of any of the parties in the conflict and is not taking part in the hostilities, including those who are no longer taking part in hostilities.

In the context of Afghanistan, applications by persons falling under the following profiles should be examined carefully. Based on an individual assessment, such applicants may be found not to qualify as civilians under [Article 15\(c\) QD](#). For example:

- **Taliban**
- **Armed groups opposing the Taliban:** several paramilitary groups continued to exist or were formed in the final days of the Taliban offensive and after their takeover [[Security September 2021](#), 1.3.4]
- **Other armed groups:** other armed groups active in Afghanistan include, for example, ISKP, IMU, the Haqqani Network, Al Qaeda, Jundullah.

See also the chapter [1. Actors of persecution or serious harm](#).

It should be noted that actively taking part in hostilities is not limited to openly carrying arms but could also include substantial logistical and/or administrative support to combatants.

It is important to underline that the assessment of protection needs is forward-looking. Therefore, the main issue at hand is whether the applicant will be a civilian or not upon return. The fact that the person took part in hostilities in the past would not necessarily mean that [Article 15\(c\) QD](#) would not be applicable to him or her. For example, the assessment should take into account whether the person had voluntarily taken part in the armed conflict; those who willingly joined the armed groups are unlikely to be considered civilians.

In case of doubt regarding the civilian status of a person, a protection-oriented approach should be taken, which is also in line with international humanitarian law, and the person should be considered a civilian.



Exclusion considerations may also apply (see [6. Exclusion](#)).

### 3.3.3 Indiscriminate violence

#### Assessment of indiscriminate violence: general approach

Last update: April 2022

‘Indiscriminate violence’ refers to the source of the specific type of serious harm defined in [Article 15\(c\) QD](#). The CJEU in *Elgafaji* notes that the term ‘indiscriminate’ implies that the violence,



[...] may extend to people irrespective of their personal circumstances.  
**CJEU, *Elgafaji*, para.34**

Some acts of violence may be indiscriminate by their nature, for example: (suicide) bombings, attacks and armed confrontations in areas that are inhabited or frequented by civilians (e.g. marketplaces, public roads, healthcare facilities).

Based on *Elgafaji*, in situations where indiscriminate violence is taking place, the following differentiation can be made with regard to its level:

**Figure 5. Levels of indiscriminate violence on the basis of CJEU, *Elgafaji*, para.43.**

I. territories where the degree of indiscriminate violence reaches such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, **solely on account of his or her presence** on the territory of that country or region, face a real risk of being subject to the serious threat referred to in Article 15(c) QD.

In this category, 'mere presence' would exceptionally be considered sufficient and no further individual elements would need to be substantiated.

II. territories where indiscriminate violence takes place, however, it does not reach such a high level, and with regard to which **additional individual elements would have to be substantiated**.

Within this category, the level of indiscriminate violence may vary from territories where it is at such a low level that in general there would be no real risk for a civilian to be personally affected, to territories where the degree of indiscriminate violence is high and a lower level of individual elements would be required to establish a real risk of serious harm under Article 15(c) QD.

With regard to the second category (text box on the right), *Elgafaji* provides guidance on how the serious and individual threat has to be assessed, an approach commonly referred to as the 'sliding scale'.



[...] the more the applicant is able to show that he is specifically affected by reason of factors particular to his personal circumstances, the lower the level of indiscriminate violence required for him to be eligible for subsidiary protection.

**CJEU, *Elgafaji*, para.39**

See further guidance concerning some individual elements which may be of relevance in this assessment in the sub-section [3.3.4 Serious and individual threat](#).



In armed conflicts the targeting of civilians may have nexus to one of the reasons for persecution according to the refugee definition. Therefore, refugee status may be granted as noted in the section above.

See, for example, the profiles [2.1 Persons affiliated with the former Afghan government](#), [2.3 Religious leaders](#), [2.5 Educational personnel](#), [2.6 Healthcare professionals and humanitarian workers, including individuals working for national and international NGOs](#), [2.7 Journalists and media workers](#), [2.8 Human rights defenders](#), and [2.11 Ethnic and religious minorities](#). Such targeted violence, furthermore, would not be considered 'indiscriminate'.

The common analysis regarding the degree of indiscriminate violence combines quantitative and qualitative elements in a holistic and inclusive assessment. The indicators applied are formulated in reference to the ECtHR judgment in *Sufi and Elmi*:



[...] first, whether the parties to the conflict were either employing methods and tactics of warfare which increased the risk of civilian casualties or directly targeting civilians; secondly, whether the use of such methods and/or tactics was widespread among the parties to the conflict; thirdly, whether the fighting was localised or widespread; and finally, the number of civilians killed, injured and displaced as a result of the fighting....

**ECtHR, *Sufi and Elmi*, para.241**

These indicators have been further developed and adapted in the country guidance context, in order to be applied as a general approach to assessing the element of ‘indiscriminate violence’, irrespective of the country of origin in question. The security situation in the respective territories is assessed by taking into account the following elements:

**Figure 6. Indicators in the assessment of the level of indiscriminate violence.**



## Security situation in Afghanistan: recent events

### Taliban final offensive and takeover

Since the US-Taliban agreement in February 2020 (hereafter: Doha agreement), the Taliban in general stopped their offensives against US troops and interests in Afghanistan and intensified their attacks against the ANSF. In response to the Taliban attacks, ANSF resumed their operations against the Taliban [Security June 2021, 1.3]. In the first quarter of 2021, the Taliban’s military strategy was reportedly focused on preparation for large-scale offensives against provincial centres, complex attacks against the ANSF’s installations, and degrading ANSF capabilities [Security September 2021, 1.3.3].

Analysts commented on the increase in targeted killings of ANSF members, journalists, members of the judiciary, women’s rights activists and other members of civil society in the



winter of 2020-2021, noting that the insurgents intended to weaken the morale of the Afghan forces and undermine public trust in the government [[Security September 2021](#), 1.4.3].

A report of the UN Secretary General to the Security Council noted the ongoing deterioration of the security situation in Afghanistan between 12 February and 15 May 2021, with the southern, eastern, and northern regions recording the highest number of incidents. A total of 6 827 security related incidents were recorded, which represents an increase of 26.3% compared with the same period in 2020 [[Security September 2021](#), 1.4.2].

When US and Coalition forces officially began to withdraw their troops in May 2021, the Taliban launched their offensive, overrunning numerous ANSF checkpoints, bases, and district centres [[Security September 2021](#), 1.1.1, 1.3.3].

On 22 June 2021, UNAMA noted that more than 50 districts had fallen to the Taliban since the beginning of May 2021, most of them surrounding provincial capitals which suggested that the Taliban were positioning themselves to advance towards these capitals once foreign forces withdrew [[Security September 2021](#), 1.4.1]. Controlling border crossings and major road routes was also a focus for the Taliban [[Security September 2021](#), 1.3.3].

Taliban gains in the north, including control of significant transportation routes, led the Afghan government to launch what it called 'National Mobilization', arming local volunteer militias known as 'uprising movements' and delegating power to local leaders to recruit and arm within their community to fight the Taliban. However, the militias could not resist the Taliban forces and soon dissolved or joined the Taliban [[Security September 2021](#), 1.3.4].

In the first week of August the Taliban advanced further. Key cities fell as the ANSF surrendered and in less than nine days the Taliban took control over most of Afghanistan's provincial capitals [[Security September 2021](#), 1.1.1]. During the last days of this offensive, key cities fell as Afghan forces surrendered. On 15 August, President Ashraf Ghani fled the country, police and other government forces gave up their posts, and Taliban fighters entered the capital and took control of its checkpoints. Taliban leaders entered the presidential palace, addressed media on the following day, and declared the war to be over [[Security September 2021](#), 1.1.1, 1.4.1].

## Incidents

According to ACLED data, in the five months between 1 March and 30 July 2021 there were 5 781 security incidents recorded in Afghanistan, of which 3 985 were coded as battles, 1 408 as remote violence and 388 as incidents of violence against civilians [[Security September 2021](#), 1.4.2]. The average frequency of incidents at the country level in this period was 268 security incidents per week. This was a significant increase compared to the previous reporting period of thirteen months, from 1 January 2020 to 28 February 2021, when the total number of security incidents recorded by ACLED was 8 660, therefore an average frequency of 143 security incidents per week [[Security June 2021](#), 1.3].

According to UNAMA, the use of non-suicide IEDs in targeted attacks in the first half of 2021 increased fourfold compared with the same period in 2020. Anti-government elements targeted civilians, including human rights defenders, media workers, religious elders, civilian government workers, and humanitarian workers, and members of the Hazara ethnicity and Shi'a Muslim religious minority in sectarian attacks [[Security September 2021](#), 1.4.2]. In its War Casualty Report, The New York Times recorded that May 2021 saw the highest death toll in a single month since July 2019 with at least 405 pro-government forces and 260 civilians killed. In June 2021, at least 703 Afghan security forces and 208 civilians were killed, the highest





count among security forces since The New York Times began tracking casualties in September 2018. According to the same source, at least 335 Afghan security forces and 189 civilians were killed in Afghanistan in the month of July, and in the first five days of August, at least 115 Afghan security forces and 58 civilians were reported to have been killed [[Security September 2021](#), 1.4.2].

UNAMA documented a continuation of attacks on health and education facilities and workers during the first half of 2021, including direct attacks and fighting causing damage to, schools, hospitals, and their personnel [[Security September 2021](#), 1.4.4]. In the first six months of 2021, WHO recorded 30 incidents involving attacks on health care in Afghanistan, affecting eight provinces and 18 districts, of which 22 occurred between March and end June 2021. This marked an increase compared to the same six-month period in 2020, when 19 incidents occurred [[Security September 2021](#), 1.4.3].

UNAMA further reported on ‘concerning developments’ during May and June 2021, including ‘intentional destruction of civilian property and infrastructure, and attacks that appeared to intentionally target objects indispensable to the survival of the civilian population’. The majority of these incidents were attributed to the Taliban after they took control of a new area [[Security September 2021](#), 1.4.4].

On 15 July 2021, Tolo News reported that the Taliban either torched or destroyed 260 government buildings and assets in 116 districts and that 13 million Afghans were deprived of social services. In a briefing to the Security Council on 6 August 2021, the Secretary General’s Special Representative on 13 August 2021 stated that ‘roads, bridges, schools, clinics and other critical infrastructure are being destroyed’ [[Security September 2021](#), 1.4.3].

The UN Secretary General reported an increase in attacks claimed by or attributed to ISKP between 12 February and 15 May 2021 - 88 compared with 16 during the same period in 2020, including targeted attacks on civilians in urban areas [[Security September 2021](#), 1.3.5].

### Civilian casualties

UNAMA documented 5 183 civilian casualties (1 659 killed and 3 524 injured) between 1 January and 30 June 2021, an increase of 47 % compared with the first six months of 2020, and comparable with figures in 2014 and 2018 [[Security September 2021](#), 1.4.4]. A record number of girls and women were killed and injured during this period, and overall child casualties also reached record levels. Women comprised 14 % of all civilian casualties, an increase of 82 % compared with the same period in 2020, while child casualties represented 32 % of all civilian casualties [[Security September 2021](#), 1.4.4].

Casualty numbers reported by UNAMA increased in April 2021 as international military forces withdrew, and as districts and administrative centres were captured by the Taliban. UNAMA recorded 2 392 civilian casualties between 1 May and 30 June 2021, the highest on record for those months since records began in 2009. Most casualties were attributed to non-suicide IEDs used by AGEs, and to ground engagements. Control of many districts and administrative centres changed hands during this period, resulting in significant fighting in civilian populated areas and destruction of civilian property and increasing incidence of ‘killing, ill-treatment, persecution and discrimination in communities affected by the fighting’ [[Security September 2021](#), 1.4.4].

Between 1 January and 30 June 2021, UNAMA recorded 439 casualties (124 killed and 315 injured) in ISKP claimed or attributed attacks [[Security September 2021](#), 1.3.5]. The group retained its ability to carry out terrorist attacks in Kabul and other major cities. It claimed the





attack on the Kabul international airport in August 2021, which killed more than 170 and injured 200 others [[Security September 2021](#), 1.1.3].

## Displacement

In its mid-year 2021 report UNAMA described that ‘indiscriminate shelling during ground engagements, the use of IEDs including victim activated pressure-plate IEDs, and airstrikes, all of which took place in populated areas, contributed not only to a high number of civilian casualties, but also to an increased fear among the population of the battle coming to their doorstep. Families were displaced from their homes due to the conflict, whether forcibly due to fighting nearby, or following pre-emptive decisions to relocate in anticipation of the situation growing worse’ [[Security September 2021](#), 1.4.5].

As of 22 August 2021, UNOCHA recorded 546 000 people newly displaced in Afghanistan in 2021 due to fighting [[Security September 2021](#), 1.4.5]. According to UNOCHA, 336 130 were displaced by conflict from 1 June 2021 onwards. During this period, people who were displaced originated from all of Afghanistan’s 34 provinces with the exception of Paktika and Panjshir [[Security September 2021](#), 1.4.5]. In mid-July 2021, noting that an estimated 270 000 Afghans had been internally displaced since 2021 due to insecurity and violence, UNHCR warned of a ‘looming humanitarian crisis’. On 13 August 2021, UNHCR further reported that around 80 % of the displaced were women and children [[Security September 2021](#), 1.4.5].

## Security situation in the first weeks following the Taliban takeover

### Incidents and casualties

Since the clashes between the Taliban and the Afghan forces ended, the number of civilian casualties has dropped significantly. On 15 August 2021, Pajhwok News reported that civilian casualties had dropped by 49 % compared to the previous week. On 21 August 2021, the same source reported that civilian casualties had dropped eight times compared to the previous week, from 361 to 47 recorded deaths or injuries. The latter number also included deaths and injuries caused during rallies and stampedes at Kabul’s international airport. [[Security September 2021](#), 1.4.4]

However, this downward facing trend was interrupted by the terrorist attack at Kabul’s international airport on 26 August 2021, claimed by ISKP. The two bomb blasts caused over 170 deaths and more than 200 persons were injured. During the last days before 31 August, the US sources claimed to have repelled several other terrorist attacks against Kabul’s international airport [[Security September 2021](#), 1.1.3, 1.4.1, 1.4.4]. On 29 August 2021, a US drone strike killed ten civilians of the same family, including seven children, after mistaking a civilian NGO worker carrying canisters of water in his trunk for a terrorist with explosives [[Country Focus 2022](#), 3.2].

### Evacuation efforts

After the Taliban moved into Kabul, tens of thousands of Afghans entered or assembled outside the airfield of Hamid Karzai International Airport in Kabul trying to leave the country. Many states evacuated their citizens, persons with residence permits or similar links to their country, as well as persons that had assisted diplomatic missions or military forces, such as embassy staff and interpreters. Some countries also evacuated persons that they considered to be at risk under the new circumstances. It was reported that in the period between 14 and 31 August, more than 114 000 persons had been evacuated. [[Security September 2021](#), 1.1.3].





## Resistance to the Taliban

As of late August 2021, the general security situation remained volatile and unstable in Afghanistan. However, there were few reports on armed clashes since the Taliban's final advance and overtaking of Kabul in mid-August 2021 [[Security September 2021](#), 1.4.1].

A resistance group, the NRF, emerged in Panjshir. NRF consists of militia fighters and former government soldiers loyal to the previous administration and opposed to the Taliban rule. The group initially kept Panjshir from Taliban control and took control of four districts in neighbouring provinces. However, as of 23 August, the Taliban claimed that they had retaken control of three of the districts in Baghlan province.

The Taliban announced the seizure of Panjshir on 6 September 2021, although Ahmed Massoud claimed the fighting was still ongoing [[Country Focus 2022](#), 3.1].

As of 1 October 2021, the LWJ mapping of Taliban control in Afghanistan, last updated on 15 September 2021, considered 391 districts under Taliban control, Chahar Kint district in Balkh as contested, and 15 districts in Panjshir, Baghlan, Parwan, Kapisa, Wardak, and Takhar as having guerrilla activity.<sup>24</sup>

## Recent security trends

### Incidents and casualties

Conflict-related violence has decreased since the Taliban established control over the country. Pajhwok Afghan News reported that the second week of September could be 'marked as the second week in the past decade in which no civilian was killed or injured or no conflict related incidents happened', although other security related incidents, such as beheadings, explosions, and killings, took place. On 23 October 2021, Pajhwok Afghan News reported again on record low levels of casualties, counting six deaths and three wounded during the week, in contrast to 56 killed and 90 injured the week before, caused by an attack on a Shia Mosque in Kandahar. The majority of cases of violence against civilians was recorded in the provinces of Nangarhar and Kabul, followed by Baghlan and Panjshir, according to ACLED data for the period of 16 August 2021 – 15 November 2021 [[Country Focus 2022](#), 3.1].

Despite the general decrease in violence following the Taliban takeover, Afghanistan witnessed a number of attacks claimed by or attributed to ISKP. According to media reports, ISKP used 'the same hit-and-run tactics' until recently practiced by the Taliban against the previous Afghan government, including roadside explosions and targeted killings. The security incidents were particularly reported in northern and southern provinces as well as in Kabul City. Attacks were particularly reported to take place in Nangarhar province, defined as a 'stronghold' of ISKP. Violence levels in Nangarhar saw an increase with almost daily incidents [[Country Focus 2022](#), 3.1.1].

Examples of incidents with civilian casualties include when unidentified gunmen opened fire against a Taliban vehicle in Jalalabad in late September 2021, killing two Taliban members and at least one civilian. In early October 2021, at least two Taliban members were reportedly killed, and three civilians wounded, after unidentified gunmen 'opened a fire on a Taliban

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<sup>24</sup> FDD's Long War Journal interactive map, accessed 1 October 2021, [url](#).



patrol at a vegetable market in Jalalabad. Another two Taliban members were killed and at least three civilians wounded when unidentified gunmen attacked two Taliban members, who, as reported by eyewitnesses, were collecting taxes from vendors in Hada area of Laghman province [[Country Focus 2022](#), 3.2].

Other recent examples of security incidents by ISKP include several roadside bomb attacks targeting the Taliban in September and October 2021, resulting in civilian casualties. For example, at least three people were reported to have been killed and about 20 others wounded in a series of five blasts in Nangarhar province on 18 September 2021. It was reported that Taliban members were among the casualties and that the target of the roadside bombs were Taliban vehicles. Two people were also reported to have been wounded after a magnetic bomb targeted a vehicle in Dasht-e Barchi area of Kabul city in late September 2021, while on 3 October 2021, at least five civilians were killed in an 'apparent roadside bomb' explosion outside Eid Gah Mosque in Kabul during a memorial service for the mother of Taliban spokesman Zabihullah Mujahid. At least two civilians, one of whom a child, were killed and four other civilians wounded after twin roadside bombs targeted a Taliban vehicle in Jalalabad in late October 2021 [[Country Focus 2022](#), 3.2].

ISKP also claimed responsibility for incidents in November 2021, for example, a number of car bombs explosions in Kabul and an attack on a military health facility in Kabul. Five attackers, three Taliban guards and at least seven other people were killed in the latter assault. Three women and a child, were also killed in the assault [[Country Focus 2022](#), 3.2].

On several instances, ISKP targeted the Shia (Hazara) community. For example, on 8 October 2021, at least 72 people were reported to have been killed and 143 wounded after an ISKP suicide bomber carried out an attack on a mosque in Kunduz, used by Shia Muslim (Hazara) minority. ISKP suicide bombers also attacked a mosque used by the Hazaras in Kandahar during Friday prayers, on 15 October 2021. At least 47 people were reported to have been killed and 70 wounded in the attack [[Country Focus 2022](#), 3.2].

In the period between 18 September and 10 November 2021, Taliban officials and affiliated media reported on Taliban raids against ISKP, arrests of ISKP members, and prevention of attacks. In a press briefing in Kabul on 10 November 2021, Taliban spokesperson Zabihullah Mujahid stated that Taliban security forces destroyed 21 bases of ISKP in different locations including the provinces of Kabul, Nangarhar, and Herat, capturing about 600 ISKP fighters in the past three months. On 29 October 2021, BBC reported that bodies of people who were shot, hanged, or beheaded were found 'every few days' in Jalalabad, with many having notes in their pockets claiming their ISKP affiliation. While no group claimed responsibility for these killings, the Taliban were reported to have been 'widely assumed to be responsible' [[Country Focus 2022](#), 3.1.1].

The Taliban have also been accused of committing human rights violations against captured resistance fighters and civilians during the weeks of fighting in Panjshir and after that. For example, as reported by BBC on 13 September 2021, at least 20 civilians were killed in Panjshir valley, among whom a shopkeeper, who was reportedly tortured and killed after being accused by the Taliban of 'selling sim cards to resistance fighters' [[Country Focus 2022](#), 3.2].

## Displacement

As of 15 November 2021, UNHCR estimated that 3.4 million people were internally displaced in Afghanistan, reporting that around 667 000 Afghans had been internally displaced due to

the conflict since January 2021. Until the beginning of November 2021, displaced persons were registered in 33 Afghan provinces. The highest number of displaced persons originated from the provinces of Panjshir, Daykundi, Kunduz and Herat. Most were displaced to regional capitals and urban centres. The provinces with the largest arrival of displaced persons in the same period, were Kabul, followed by Herat, Daykundi and Kapisa. UNHCR reported that 80 % of the displaced persons were women and children [[Country Focus 2022](#), 3.3.1].

According to UNOCHA, 21 991 Afghans were internally displaced in the period between 4 August and 18 October 2021. In November 2021, UNHCR estimated that around 169 000 internally displaced persons had returned to their places of origin in the period between September and November 2021 [[Country Focus 2022](#), 3.3.1].



The summary above is provided at a country level. For detailed information regarding the security situation in the different provinces see the EUAA COI reports [Security June 2021](#) and [Security September 2021](#).



Indiscriminate violence and civilian casualties have dropped significantly following the takeover by the Taliban. Conflict-induced displacement has also decreased since August 2021. Following the withdrawal of international troops, one of the main actors of the previous conflict (former Afghan government) has ceased to exist, while the conflict between the Taliban and ISKP continues. The violence which takes place in the country is reportedly targeted, however, civilian casualties have also been observed in the course of such incidents. Security incidents were also taking place particularly in certain areas of the country. Therefore, at the time of writing, the **level of indiscriminate violence** is considered to be significantly lower than before (the Taliban takeover). Nevertheless, the future risk of indiscriminate violence in any part of the country, should always be based on the most recent information concerning the dynamics in the particular area as well as the country as a whole. Limitations with regard to reliable reporting from the country should also be taken into account.



As the security situation in Afghanistan evolves, in order to make a forward-looking assessment with regard to the **level of risk due to indiscriminate violence** in a situation of armed conflict, the following elements could be taken into account on the basis of relevant and up-to-date COI:

- **Actors in the conflict**

Elements which may be relevant include the emergence and/or operational capacity of different actors in Afghanistan. In addition, the potential involvement of other states in the conflict may change the security dynamics in the country.

The duration and relative stability of control of a particular actor in the territory would also be important to take into account.

- **Incidents and civilian casualties**

The nature of methods and tactics used by armed groups would be an important element to consider with regard to the risk for civilians. Certain methods and tactics would have a more significant indiscriminate impact on the civilian population.

The trends in the quantitative indicators related to frequency of security incidents as well as civilian casualties should also be taken into account in the holistic assessment of the level of violence.

- **Geographical scope**

The geographical scope of possible confrontations or indiscriminate attacks on the civilian population should also be taken into account. Some conflict-related violence may be limited to a certain region based on the actors involved, for example in relation to local armed groups resisting the Taliban.

- **Displacement**

Conflict-related displacement may be an important indicator of the level of violence taking place and/or the perception of the risk by the civilian population.

### 3.3.4 Serious and individual threat

Assessment of personal circumstances

Last update: November 2021

This section presents a general framework regarding the individual elements which may be relevant to take into account in the assessment of serious and individual threat in territories where the 'mere presence' threshold is not reached. This is without prejudice to the actual assessment of the level of indiscriminate violence in the country, which at the time of writing is found to not be feasible.

In situations where the level of indiscriminate violence does not exceptionally reach what is referred to as the 'mere presence' threshold, the assessment should continue with an analysis of the individual circumstances of the applicant.



[...] the more the applicant is able to show that he is specifically affected by reason of factors particular to his personal circumstances, the lower the level of indiscriminate violence required for him to be eligible for subsidiary protection.

**CJEU, *Elgafaji*, para.39**

Certain personal circumstances could contribute to an enhanced risk of indiscriminate violence, including its direct and indirect consequences.

≠ **refugee status**

It is important to differentiate these individual elements from the individual elements which would result in the deliberate targeting of the applicant, whether as an individual or as a part of a group defined by one of the grounds under the refugee definition.

≠ **IPA**

The assessment should also be distinguished from that under internal protection alternative, with regard to the reasonableness for the applicant to settle in a different location than their home area.

In the context of the ‘sliding scale’, each case should be assessed individually, taking into account the nature and intensity of the violence in the area, along with the combination of personal circumstances present in the applicant’s case. It is not feasible to provide exhaustive guidance about what the relevant personal circumstances could be and how those should be assessed.

The text below provides some indications concerning possible considerations and the nature of the assessment. The assessment should take into account the personal circumstances of the applicant as a whole. Depending on the situation in the region of origin, different circumstances may be particularly relevant.

### Indiscriminate violence, examples of relevant personal circumstances

- **Age:** when assessing the risk of indiscriminate violence, this personal circumstance would be of particular importance in relation to the ability of the person to assess the risks. For example, incidents of children becoming victim of landmines have been reported consistently over the years of conflict in Afghanistan. Children may also not be in a position to quickly assess a changing situation and avoid the risks it entails. In some cases, elderly age may also impact the person’s ability to assess and avoid risks associated with an armed conflict.
- **Gender:** when assessing the applicability of Article 15(c) QD, it is difficult to ascertain whether and in what circumstances men or women would be at a higher risk in general. It would also depend on other factors, such as the nature of the violence in the area. For example, men may be at higher risk of violence targeting local markets, banks, governmental institutions, as men are the ones more frequently being outside the home and visiting such locations. On the other hand, general gender norms in Afghanistan suggest that women may have less information regarding the current security situation and the associated risks. Moreover, if the violence moves closer to the residence of people, e.g. in the case of airstrikes or ground engagements in populated areas, women would have a more limited ability to avoid it. In the cases when they do have the ability to assess and anticipate the risk, they may also be limited in their ability to avoid the violence, as they need to be accompanied by a male in order to travel within the country.
- **Health condition and disabilities, including mental health issues:** serious illnesses and disabilities may result in restricted mobility for a person, making it difficult for them to avoid immediate risks and, in the case of mental illnesses, it can make them less capable of assessing risks. In other cases, such conditions may require frequent visits to a healthcare facility. The latter may have different implications related to the

assessment of the risk under Article 15(c) QD. Taking into account road security, this may increase the risk of indiscriminate violence as the person would be required to travel. It may also increase the risk when health facilities themselves are reported to be targeted. Moreover, if healthcare facilities are damaged and closed because of fighting, such an applicant may be at a higher risk due to the indirect effects of the indiscriminate violence as they would not be able to access the healthcare they need.

- **Economic situation:** applicants in a particularly dire economic situation may also be less able to avoid the risks associated with indiscriminate violence. They may be forced to expose themselves to risks such as working in areas which are affected by violence in order to meet their basic needs. They may also have less resources to avoid an imminent threat by relocating to a different area.
- **Knowledge of the area:** when assessing the risk of indiscriminate violence under Article 15(c) QD, the relevant knowledge of the area concerns the patterns of violence it is affected by, the existence of areas contaminated by landmines, etc. Different elements may contribute to a person's knowledge of the area. It can relate to their own experience in the specific area or in areas similarly affected by indiscriminate violence, or to their connection to a support network which would insure they are informed of the relevant risks.
- **Occupation:** the occupation the person is likely to have when they return to their home area may also be relevant to assess the risk under Article 15(c) QD. It may, for example, be linked to the need for the applicant to travel through areas where road incidents are often reported, or to frequent locations known to be particularly targeted in the conflict.

Individual elements related to the above can exist in combination. Other factors may also be relevant.

It is not feasible to provide general guidance on which individual circumstances would be sufficient to substantiate a real risk under [Article 15\(c\) QD](#) in areas with high level of violence compared to areas where the violence is considered to not be at a high level. Each case should be assessed individually.

### 3.3.5 Qualification of the harm as a 'threat to (a civilian's) life or person'

Last update: November 2021

Neither the QD, nor the CJEU in its jurisprudence, have defined the terms 'threat to (a civilian's) life or person'.

The CJEU has held that [Article 15\(c\) QD](#) has an additional scope to [Article 3 ECHR](#) and, therefore, has to be interpreted independently, but with due regard to fundamental rights as they are guaranteed under the ECHR.....<sup>25</sup>

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<sup>25</sup> CJEU, *Elgafaji*, para. 28.

By comparing the provisions of [Article 15\(a\)](#) and [Article 15\(b\) QD](#), which indicate a particular type of harm, with the provision of [Article 15\(c\) QD](#), the CJEU further concludes that the harm under the latter:



[...] covers a more general risk of harm. Reference is made, more generally, to a ‘threat ... to a civilian’s life or person’ rather than to specific acts of violence. Furthermore, that threat is inherent in a general situation of ‘international or internal armed conflict’

**CJEU, *Elgafaji*, paras. 33-34**

Some of the commonly reported types of harm to civilians’ life or person in Afghanistan include killings, injuries, abductions, disabilities caused by landmines, etc.

### 3.3.6 Nexus/‘by reason of’

Last update: November 2021

Subsidiary protection under [Article 15\(c\) QD](#) is granted to any person in respect of whom substantial grounds have been shown for believing that he or she, if returned, would face a real risk of a serious and individual threat to his or her life or person **by reason of** indiscriminate violence.

The nexus ‘by reason of’ refers to the causal link between the indiscriminate violence and the harm (serious threat to a civilian’s life or person).

The interpretation of the causation ‘by reason of’ may not be limited to harm which is directly caused by the indiscriminate violence or by acts that emanate from the actors in the conflict. To a certain extent, it may also include the indirect effect of indiscriminate violence in situations of armed conflict. As long as there is a demonstrable link to the indiscriminate violence, such elements may be taken into account in the assessments, for example: widespread criminal violence as a result of lawlessness, destruction of the necessary means to survive, destruction of infrastructure, denial of or limited access of humanitarian aid. Armed clashes and/or road blockages can also lead to food supply problems that cause famine or to limited or no access to healthcare facilities in certain regions in Afghanistan.

## 4. Actors of protection

Last update: April 2022

[Article 7 QD](#) stipulates the requirements for actors of protection:



### Article 7(1)(2) QD Actors of protection

1. Protection against persecution or serious harm can only be provided by:
  - a) The State; or
  - b) Parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State;
 provided they are willing and able to offer protection in accordance with paragraph 2.
2. Protection against persecution or serious harm must be effective and of a non-temporary nature. Such protection is generally provided when the actors mentioned under points (a) and (b) of paragraph 1 take reasonable steps to prevent the persecution or suffering of serious harm, inter alia, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and when the applicant has access to such protection.

During the insurgency, the Taliban positioned themselves as the shadow government of Afghanistan, and their commission and governing bodies replicated the administrative offices and duties of a typical government. However, a study concluded, that policymaking and its application were influenced by local Taliban leaders' personalities, preferences, and relationships. In territories under their control, the group operated a parallel justice system based on a strict interpretation of the *Sharia*, leading to executions by shadow courts and punishments deemed by UNAMA to be cruel, inhuman, and degrading [[Anti-Government Elements](#), 2.1. 2.5; [Criminal law and customary justice](#), 1.8, [Country Focus 2022](#), 1.3].

After the takeover of the capital Kabul, the Taliban announced the reestablishment of the Islamic Emirate of Afghanistan (IEA), which was in power in Afghanistan between 1996 and 2001. In October 2021, they reportedly controlled the entire territory of Afghanistan and provided service to the people [[Country Focus 2022](#), 1.1.1].

The Taliban did not announce in detail how they intend to govern Afghanistan, nor which type of political system they envisaged to adopt or on what constitutional basis the government would function. In general, they referred to *Sharia* as the legal but also the political system to be imposed and emphasised the importance of Islam for their governance. Thus, most persons appointed to the interim government were of clerical background [[Country Focus 2022](#), 1.1.3, 1.1.4].

As they had the complete state apparatus to manage after the takeover, as well as the need to provide basic public services, an initial approach seemed to be to incorporate elements of the existing civil service into the new administration [[Country Focus 2022](#), 1.2.1].

Appointments were made to central ministries and within the provincial administration, including the Ministry for Promotion of Virtue and Prevention of Vice. Under the previous



Taliban rule, one of the main functions of the body was to enforce the Taliban's interpretation of *Sharia* and there are reports that the new Ministry already has issued guidelines on topics related to 'Islamic values'. Persons working for the previous administration were asked to return to work. However, many employees evacuated in August or did not resume their work despite the general amnesty [[Country Focus 2022](#), 1.2.1].

The Taliban have also started to build up security institutions. In September 2021, it was announced that the Taliban were working to form a regular army. Taliban officials made public statements indicating to improve organization and marshal fighters and called on members related to defence, interior and intelligence agencies to move to military bases. It was also stated that a training programme was underway, that professionals will be deployed on all levels and called on former police personnel to return to work [[Country Focus 2022](#), 1.2.2].

Sources reported on a lack of control from the Taliban leadership over their fighters and observed that Taliban fighters acted on their own initiative, subjecting civilians and journalists to violence, as well as conducting house-to-house searches and retaliation acts despite the general amnesty that was issued for all who served within the previous government. It remained unclear whether such acts were sanctioned by the leadership or were caused by a lack of discipline or control in the chain of command. There was reportedly room for Taliban fighters to act on their own initiative as they did not seem to face punishment or any consequences [[Country Focus 2022](#), 1.3, 1.5.1].

Under the previous government, Afghan jurisdiction was based on three parallel and overlapping systems or sources of law; formal statutory law, tribal customary law, and *Sharia* law. In the Taliban's transition from an insurgency to a government, Afghanistan's justice system lacked an official constitution and official laws [[Country Focus 2022](#), 1.5].

As the Taliban administered shadow *Sharia* courts for years, it is expected that the coming justice system will be a continuation of the established shadow courts, which were identical to the judicial system of the former government, with both criminal and civil courts on district and provincial level, as well as a supreme court. The head of the former shadow court system, including its Supreme Court, Abdul Hakim Ishaqzai, was appointed Minister of Justice on 7 September 2021. In mid-October 2021 a new Supreme Court was reportedly established [[Country Focus 2022](#), 1.5].

Former shadow judges reportedly took positions within the justice system. It was also reported that the Taliban were looking to hire judges and prosecutors and that they had already appointed prosecutors in some areas. There were reports of judges, local leaders and other Taliban officials already actively working with public order, security and solving disputes. In international media, judges and police officers said that the basis of their judgments and actions was *Sharia* law. According to experts, the application of *Sharia* law opens up for variations, for example depending on individual interpretation and the influence of local customs and tribal structures [[Country Focus 2022](#), 1.5].

According to statements of Taliban officials, physical punishments including executions are considered as necessary parts of Islamic law, and some punishments used during the last Taliban rule would be revived. It was also stated that executions will be issued by court, but the punishments might not be carried out in public. However, according to an expert opinion, public display might not be necessary for all types of crimes but punishment for certain crimes must be carried out in public. In mid-October, the Taliban announced that punishments shall not be carried out in public unless the Supreme Court issues and orders for such actions. [[Country Focus 2022](#), 1.5.1].





The lack of due process and the nature of the punishments would not qualify the justice mechanism operated by the Taliban as a legitimate form of protection. Further taking into account their record of human rights violations, based on the information available at the time of drafting, it can be concluded that the Taliban do not qualify as an actor of protection who is able to provide effective, non-temporary and accessible protection.

No other actors are currently found to be in control of a significant part of the territory and able to provide protection within the meaning of Article 7 QD.

In case protection needs have been established in the home area, and in the absence of an actor who can provide protection in the meaning of [Article 7 QD](#), the examination may continue with consideration of the applicability of IPA, if applicable in accordance with national legislation and practice.

## 5. Internal protection alternative

Last update: April 2022

This chapter looks into the topic of internal protection alternative. It analyses the situation in Afghanistan in relation to the requirements of [Article 8 QD](#).



### Article 8 QD Internal protection

1. As part of the assessment of the application for international protection, Member States may determine that an applicant is not in need of international protection if in a part of the country of origin, he or she:

(a) has no well-founded fear of being persecuted or is not at real risk of suffering serious harm; or

(b) has access to protection against persecution or serious harm as defined in Article 7; and he or she can safely and legally travel to and gain admittance to that part of the country and can reasonably be expected to settle there.

2. In examining whether an applicant has a well-founded fear of being persecuted or is at real risk of suffering serious harm, or has access to protection against persecution or serious harm in a part of the country of origin in accordance with paragraph 1, Member States shall at the time of taking the decision on the application have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant in accordance with Article 4. To that end, Member States shall ensure that precise and up-to-date information is obtained from relevant sources, such as the United Nations High Commissioner for Refugees and the European Asylum Support Office.

It should be noted that the provision of [Article 8 QD](#) is an optional one. Therefore, the relevance of this chapter to the practice in Member States will depend on the transposition of [Article 8 QD](#) and/or the concept of IPA in national legislation and its implementation in practice.

In national legislation and practice, IPA may also be referred to as ‘internal flight alternative’, ‘internal relocation’, etc.

IPA should only be examined after it has been established that the applicant has a well-founded fear of persecution or faces a real risk of serious harm and that the authorities or other relevant actors of protection are unable or unwilling to protect him or her in the home area. In such cases, if IPA applies, it can be determined that the applicant is not in need of international protection.

It should, however, be stressed that there is no requirement that the applicant has exhausted the possibilities to obtain protection in different parts of his or her country of origin before seeking international protection.



The analysis of IPA should be part of the assessment of the future risk of being subjected to persecution or serious harm. When assessing whether IPA applies, the burden of proof lies with the determining authority, while the applicant remains under an obligation to cooperate. The applicant is also entitled to submit elements and indicate specific reasons why IPA should not be applied to them. Those elements have to be assessed by the determining authority.

In order to determine that internal protection is available in a particular part of the applicant's country of origin, three cumulative criteria have to be met: 'safety', 'travel and admittance' and 'reasonableness to settle'.

**Figure 7. IPA: elements of the assessment.**



For more general guidance on the application of IPA, see the [EUAA Practical guide on the application of the internal protection alternative](#).



For profiles who have a well-founded fear of persecution or real risk of serious harm by the Taliban, the **safety** criterion would not be met, taking into account the territorial control of the group.

For individuals with a well-founded fear of persecution or real risk of serious harm related to targeting by other actors, the uncertainty of the current situation and the lack of protection meeting the requirements of Article 7 QD would result in IPA not being safe. In exceptional cases a person may not have a well-founded fear or face a real risk of serious harm after relocating to a particular part of the country, depending on the reach of that actor. When assessing whether the requirement of safety would be substantiated, the uncertainty of the current situation should be taken into account.

There are currently no known restrictions on **travel and admittance** within Afghanistan for men. Women's ability to travel on their own in Afghanistan was already constrained by social and formal restrictions and often their freedom of movement was limited by the requirement of male consent or male chaperone. Following the takeover, the Taliban have announced further restrictions on travel for women which may affect women's ability to safely and legally travel within Afghanistan. In particular, the Ministry for the Promotion of Virtue and Prevention of Vice reportedly issued a guidance saying that women should not be offered transport of more than 45 miles (72 kilometres) if unaccompanied by a close male relative and calling on drivers to not offer rides to women that are not wearing hijab [[Country Focus 2022](#), Introduction].



In those exceptional cases where both the safety and travel and admittance criteria under IPA could be met, particular attention should also be given to the current humanitarian situation in Afghanistan. The latter would affect the **reasonableness** criterion within the assessment under Article 8 QD and result in IPA generally not being reasonable. See also the sub-section on [Humanitarian situation](#) under [General remarks](#).



Therefore, at the time of writing, it is considered that **IPA in general, would not be applicable to any part of Afghanistan.**



## 6. Exclusion

This chapter looks into the potential applicability of the exclusion grounds under [Article 12\(2\) QD](#) and [Article 17\(1\) QD](#) in relation to acts committed by applicants from Afghanistan.



The content of this chapter is structured as follows.

- Following the Preliminary remarks, this chapter provides general guidance on the applicability of the Exclusion grounds.
- It further outlines some of the factual circumstances in which exclusion may be relevant (Relevant circumstances).
- Conclusions and guidance concerning the application of the different exclusion grounds to these circumstances are included under Guidance with regard to Afghanistan.



For further general guidance on exclusion, see the [EUAA Practical Guide: Exclusion](#).

### Preliminary remarks

Last update: December 2020

Applying the exclusion grounds, where there are serious reasons to consider that the applicant has committed any of the relevant acts, is mandatory.

This chapter focuses on the exclusion of applicants found not to deserve international protection in accordance with [Article 12\(2\) QD](#) and [Article 17\(1\) QD](#).

If a person would otherwise qualify for refugee status, the following would constitute exclusion grounds, according to [Article 12\(2\) and \(3\) QD](#):



#### **Article 12(2) and (3) QD Exclusion (refugee status)**

2. A third-country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that
  - a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
  - b) he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee, which means the time of issuing a residence permit

based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes;  
c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.

3. Paragraph 2 applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.

If the person would otherwise be eligible for **subsidiary protection**, the exclusion grounds under [Article 12\(2\)\(a\) and \(c\) QD](#) would apply in the same way ([Article 17\(1\)\(a\) and \(c\) QD](#), respectively). The ground of ‘serious crime’ ([Article 17\(1\)\(b\) QD](#)), on the other hand, is broader than ‘serious non-political crime’ and has no geographical or temporal limitations.

Furthermore, additional exclusion grounds are envisaged under [Article 17\(1\)\(d\) QD](#) and [Article 17\(3\) QD](#). [Article 17\(3\) QD](#) contains an optional provision and its applicability would depend on the transposition of this provision in national legislation.<sup>26</sup>



#### **Article 17 QD** **Exclusion (subsidiary protection)**

1. A third-country national or a stateless person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that:

- (a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) he or she has committed a serious crime;
- (c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;
- (d) he or she constitutes a danger to the community or to the security of the Member State in which he or she is present.

2. Paragraph 1 applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.

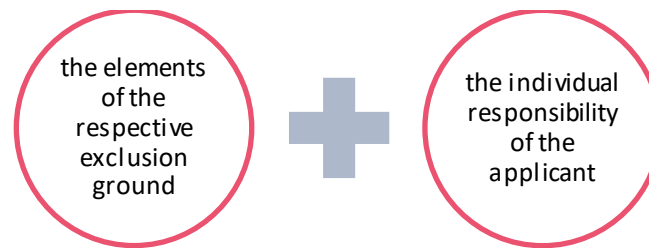
3. Member States may exclude a third-country national or a stateless person from being eligible for subsidiary protection if he or she, prior to his or her admission to the Member State concerned, has committed one or more crimes outside the scope of paragraph 1 which would be punishable by imprisonment, had they been committed in the Member State concerned, and if he or she left his or her country of origin solely in order to avoid sanctions resulting from those crimes.

It should be taken into account that an applicant could have committed multiple excludable acts, falling under different exclusion provisions. National practice may vary regarding whether one particular act should be qualified under more than one ground where the necessary elements are present.

<sup>26</sup> Noting the optional nature of this exclusion ground, and its scope, which is not country-specific, no further analysis and guidance is provided on Article 17(3) QD.

It should be underlined that the determining authority has the burden of proof to establish:

**Figure 8. Elements in applying exclusion.**



At the same time, the applicant has a duty to cooperate in establishing all facts and circumstances relevant to his or her application.

**Individual responsibility** could be substantiated not only in case of direct commission of the excludable act (for the perpetrator), but also in other instances where the person substantially contributed to the commission of an excludable act. The assessment of individual responsibility is based on the nature and extent of the applicant's involvement in the excludable act(s), as well as his or her state of mind in relation to these act(s). Different **forms of conduct** may lead to a finding of individual responsibility (for example, direct commission, inducing others, aiding and abetting, command responsibility, etc.), where the relevant intent and knowledge are established.



The applicable standard of proof is 'serious reasons for considering', which requires clear and reliable evidence, but is not as high as the standard for criminal responsibility ('beyond reasonable doubt').

The fact that the applicant was or is associated with a group or regime responsible for excludable acts(s) does not relieve the determining authority from demonstrating his or her individual responsibility.

However, depending on the nature, scale of the group or regime, the voluntary association with it and the position, rank, standing and influence of the applicant within the group, there may be sufficient evidence for both the 'conduct' and the 'state of mind' requirements to be inferred. It remains necessary, however, that the decision-maker identify the relevant mode of individual responsibility and examine the facts in light of the respective criteria.

Furthermore, the examination should take into account **potential grounds negating the individual responsibility**, such as lack of mental capacity to comprehend and/or control one's conduct (e.g. due to age, mental disease or defect, involuntary intoxication), duress (e.g. in the context of forced recruitment), self-defence or defence of others (or property, in the case of war crimes), superior orders in specific circumstances (see [Article 33 of the Rome Statute](#)),<sup>27</sup> etc.

Depending on national practice, the analysis may further proceed to take into account whether or not the possible exclusion of the applicant would meet the purposes of the exclusion clauses. Elements, such as the fact that an applicant has already served a sentence

<sup>27</sup> Rome Statute of the International Criminal Court, Article 33.

for the (otherwise) excludable act, or that the act is subject to an amnesty, could potentially be taken into account. The more egregious the excludable acts, the less relevant such aspects would be when taking the decision.



For further horizontal guidance on individual responsibility, see EUAA Practical Guide: Exclusion, p.29.<sup>28</sup>

## 6.1. Exclusion grounds



Given the serious consequences that exclusion may have for the individual, the exclusion grounds should be interpreted restrictively and applied with caution.

### 6.1.1 Crime against peace, war crime, crime against humanity

Last update: December 2020

[Article 12\(2\)\(a\) QD](#) and [Article 17\(1\)\(a\) QD](#) refer to specific serious violations of international law, as defined in the relevant international instruments:

- **‘Crime against peace’** is related to the planning, preparation, initiation, waging or participation in a common plan or conspiracy related to a war of aggression, which can only apply in relation to international armed conflict. Such a crime would usually be committed by individuals in a high position of authority, representing a State or a State-like entity. It can be noted that in practice this ground is rarely applied.
- **‘War crimes’** are serious violations of international humanitarian law, committed against a protected person or object (civilians, combatants placed out of combat such as in detention or being wounded, or those who have put down their arms, or civilian and cultural objects), or through the use of unlawful weapons or means of warfare.<sup>29</sup> War crimes can only be committed during an armed conflict qualified accordingly under international humanitarian law. The nature of the armed conflict (international or non-international) is decisive in order to define the elements of the particular war crime.<sup>30</sup>

<sup>28</sup> The ‘EUAA Practical Guide: Exclusion’ is available in different languages at <https://www.euaa.europa.eu/practical-tools>.

<sup>29</sup> **War crimes** are listed, inter alia, under [Article 8 of the Rome Statute](#), under the ‘Grave Breaches’ provisions of the 1949 Geneva Convention and Additional Protocol I, common Article 3 and relevant provisions of Additional Protocol II, the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the Statute of the International Criminal Tribunal for Rwanda (ICTR).

<sup>30</sup> Note that the assessment under Article 12(2)(a) QD and Article 17(1)(a) QD refers to the relevant international instruments defining the terms. Therefore, the assessment of whether or not an armed conflict takes place, as well as its nature, is based on international humanitarian law and may differ from the assessment in the context of Article 15(c) QD as defined in the *Diakité* judgment of the CJEU.

War crimes can be committed by combatants/fighters, as well as by civilians, as long as there is a sufficient link to the armed conflict. This means that the act needs to have been ‘closely’ related to the armed conflict.<sup>31</sup>

Some relevant (non-exhaustive) examples of war crimes include:

- violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture of persons taking no direct part in hostilities;
  - committing outrages upon personal dignity, in particular humiliating and degrading treatment of persons taking no direct part in hostilities;
  - intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
  - intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
  - intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
  - killing or wounding treacherously a combatant adversary;
  - the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognised as indispensable;
  - conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities.
- **‘Crimes against humanity’** are fundamentally inhumane acts, committed as part of a systematic or widespread attack against any civilian population.<sup>32,33</sup> Inhumane acts, which could reach this threshold when committed pursuant to or in furtherance of a State or organisational policy,<sup>34</sup> include: murder, extermination, enslavement; deportation or forced transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity; persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognised as impermissible under international law; forced disappearance of persons; apartheid; other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

<sup>31</sup> ‘The armed conflict need not have been causal to the commission of the crime, but the existence of an armed conflict must, at a minimum, have played a substantial part in the perpetrator’s ability to commit it, his decision to commit it, the manner in which it was committed or the purpose for which it was committed’, ICTY (Appeals Chamber), *Prosecutor v Kunarac et al.*, IT-96-23 and IT-96-23/1-A, judgment of 12 June 2002, para. 58.

<sup>32</sup> **Crimes against humanity** are defined in international instruments, inter alia, [Article 7 of the Rome Statute](#). See also ICC, *The Prosecutor v Germain Katanga*, judgment of 7 March 2014, ICC-01/04-01/07 (*Katanga*).

<sup>33</sup> On ‘widespread’ and ‘systematic’, see for example, ICTY, *Prosecutor v Dusko Tadic aka “Dule” (Opinion and Judgment)*, IT-94-1-T, judgment of 7 May 1997, para. 648; ICTR, *The Prosecutor v Jean-Paul Akayesu (Trial Judgment)*, ICTR-96-4-T, judgment of 2 September 1998, para. 580; ICTY, *Prosecutor v Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic (Appeal Judgment)*, IT-96-23 & IT-96-23/1-A, 12 June 2002, para.94; on ‘civilian population’ see ICTY, *Prosecutor v Dusko Tadic aka “Dule” (Opinion and Judgment)*, IT-94-1-T, judgment of 7 May 1997, para. 648; ICTR, *The Prosecutor v Jean-Paul Akayesu (Trial Judgment)*, ICTR-96-4-T, judgment of 2 September 1998, para. 644.

<sup>34</sup> On ‘state or organisational policy’, see *Katanga*, paras 1106-1113.



Crimes against humanity can be committed in peacetime as well as during an armed conflict. Even a single act could fall under this exclusion ground provided it forms part of a widespread or systematic attack against a civilian population and the act is committed by any person (including a civilian) who had knowledge of the attack and the link of the act to the attack. Some crimes against humanity would require an additional specific intent (e.g. persecution and genocide).

In order to establish whether a war crime or a crime against humanity has been committed, the case officer should consult the relevant international instruments and case law of the international criminal tribunals.

### 6.1.2 Serious (non-political) crime

Last update: December 2020

The commission of serious (non-political) crimes is a ground that could apply to applicants from all countries of origin, regardless of the general situation.

In order to determine whether the crime qualifies as **serious**, the following factors may be taken into account: the nature of the act, the actual harm inflicted, the form of procedure used to prosecute such a crime, the nature of the envisaged penalty, and whether most jurisdictions would consider it serious.<sup>35</sup>

There is no requirement that the offence constitutes a crime (or a serious crime) in both the country of origin and the country of application. Therefore, certain acts could be criminalised in Afghanistan, but not be considered serious crimes according to international standards and would therefore fall outside the scope of this provision (e.g. same sex relations). At the same time, acts that may not be considered serious crimes in Afghanistan could be relevant exclusion grounds (e.g. marital rape, sexual relations with a minor in the context of child marriage).

In order for an act to qualify as a **non-political** crime, it should be considered to have a predominantly non-political motivation or be disproportionate to a claimed political objective. Particularly cruel actions may be considered serious non-political crimes, due to being disproportionate to an alleged political objective. Terrorist acts, which are characterised by their violence towards civilian populations even if committed with a purportedly political objective, fall to be regarded as serious non-political crimes within the meaning of point (b).<sup>36</sup>

It should also be noted that State agents could be responsible for serious (non-political) crimes (e.g. in relation to death penalty and executions, and torture).

The exclusion ground for refugee status further stipulates that the act must have been committed **outside the country of refuge prior to the person's admission as a refugee**. This requirement does not apply to exclusion from subsidiary protection.

<sup>35</sup> See CJEU, *Shajin Ahmed v Bevándorlási és Menekültügyi Hivatal*, judgment of 13 September 2018, C-369/17, para. 58.

<sup>36</sup> See, for example, CJEU, *Bundesrepublik Deutschland v B and D*, C-57/09 and C-101/09, judgment of 9 November 2010 (*B and D*), para. 81.





For more general guidance on the application of this exclusion ground, see the [EUAA Practical guidance on Exclusion for Serious \(Non-Political\) Crimes](#).

### 6.1.3 Acts contrary to the purposes and principles of the United Nations

Last update: December 2020

The purposes and principles of the UN are set out in the [Preamble and Articles 1 and 2 of the UN Charter](#). In order to apply this exclusion provision, the acts must have an international dimension in the sense that they are capable of having a negative impact on international peace and security or the friendly relations between States.<sup>37</sup> However, there is no requirement that the perpetrator hold a position of power in a State or a State-like entity in order to be excluded under this provision. Accordingly, this exclusion ground may apply to certain acts which constitute serious and sustained human rights violations and/or acts specifically designated by the international community as contrary to the purposes and principles of the UN (for example, terrorist acts in light of relevant UN Security Council and General Assembly resolutions).<sup>38</sup>

Relevant jurisprudence of the CJEU, including the *B and D* case and the more recent *Lounani* case, views acts constituting participation in the activities of a terrorist group under this provision. This could cover a wide range of conduct and cannot be confined to the actual perpetrators of terrorist acts. It could, for example, include recruitment, organisation, transportation or equipment of individuals, for the purpose of, inter alia, the planning or preparation of terrorist acts, etc.<sup>39</sup> It should be noted that the CJEU finds that the mere fact that a person was a member of an organisation implicated in terrorist acts does not automatically mean that the respective exclusion ground can be applied. It is not a prerequisite that an applicant for international protection has instigated a (particular) terrorist act or has otherwise participated in the commission of such an act. [Article 12\(2\)\(c\) QD](#) and [Article 17\(1\)\(c\) QD](#) can be applied only after undertaking, for each individual case, an assessment of the specific facts brought to the attention of the authorities with a view to determining whether there are serious reasons for considering that the acts committed by the person in question, who otherwise satisfies the qualifying conditions for international protection, fall within the scope of that particular exclusion.<sup>40</sup>

### 6.1.4 Danger to the community or the security of the Member State

Last update: December 2020

In the examination of the application for international protection, the exclusion ground ‘danger to the community or the security of the Member State’ under [Article 17\(1\)\(d\) QD](#) is only applicable to persons otherwise eligible for subsidiary protection.

<sup>37</sup> CJEU, *Commissaire général aux réfugiés et aux apatrides v Mostafa Lounani*, C-573/15, judgment of 31 January 2017 (*Lounani*), para. 74; CJEU, *B and D*, para. 84.

<sup>38</sup> See, for example, the 2001 UN Security Council resolutions 1373 and 1377.

<sup>39</sup> CJEU, *Lounani*, para. 69.

<sup>40</sup> CJEU, *Lounani*, paras. 70 and 72; *B and D*, paras. 87 and 94.

Unlike the other exclusion grounds, the application of this provision is based on a forward-looking assessment of risk. Nevertheless, the examination takes into account the past and/or current activities of the applicant, such as association with certain groups considered to represent a danger to the security of the Member State or criminal activities of the applicant.

The application of this provision, in particular, would often require the involvement of other authorities, which may have access to relevant information.

## 6.2. Relevant circumstances

Last update: November 2021

In the context of Afghanistan, numerous circumstances and different profiles may require consideration of the potential applicability of exclusion grounds. The QD does not set a time limit for the application of the grounds for exclusion. Applicants may be excluded in relation to events occurring in the current conflict as well as in past conflicts.

COI indicates that excludable acts are committed by many actors both in relation to the armed conflicts, as well as in the context of general criminality and human rights abuses.

Some (non-exhaustive) examples of past events which may be related to excludable acts include:

- The ‘Saur’ Revolution of 1978, subsequent purges and the 1979 crackdown of the uprising;
- Soviet Union invasion (1979) and the armed conflict between the Afghan government (supported by Soviet troops) and the ‘mujahideen’ (e.g. secret services of the PDPA regime, commanders or fighters from the anti-Soviet jihad tanzeem) (1979 - 1992);
- Afghan ‘Civil War’ (1992 - 1996);
- Taliban regime and conflict between the Taliban and the Northern Alliance (1996 – 2001);
- US-led military operation and Taliban-led insurgency against the Afghan government (since 2001);
- etc.

Afghan nationals have also been involved in conflicts outside Afghanistan, such as via the Fatemiyoun Brigade in Syria, which may be of relevance in the examination of exclusion grounds [See [COI Report: Syria - Actors \(December 2019\)](#), 2.3.4].

In relation to potential exclusion considerations, see also the chapters [1. Actors of persecution or serious harm](#) and [Analysis of particular profiles with regard to qualification for refugee status](#).



The examples mentioned in this chapter are non-exhaustive and non-conclusive. Each case should be examined on its own merits.



### 6.2.1. Past conflicts (1979-2001)

Last update: November 2021

[Main COI references: [Security June 2021](#), 1.1.1; [State structure](#), 1.1]

#### The ‘Saur’ Revolution and the Khalq Regime (1978-1979)

The year 1978 was a turning point in Afghan history. On 27 April 1978, the Khalq faction of the People’s Democratic Party of Afghanistan (PDPA), led by Nur Mohammed Taraki, and supported by military officers, overthrew the government of President Muhammad Daud Khan, and executed him and most of his family members. This event is known as the Saur Revolution.

Following the coup, Taraki became the new president and Hafizullah Amin the deputy prime minister. The Khalqi government’s non-Islamist ideology and its use of violence against opponents and some ethnic minorities led to armed resistance in the countryside. Arrests, torture, and executions caused many Afghans to flee the country. These events led to the creation of the Afghan refugee camps in Pakistan. The armed uprising was uncoordinated, but widespread [[Taliban strategies – Recruitment](#), 1.1].

President Taraki cracked down on *Parcham* (the other faction of PDPA opposed to Khalq), detaining or killing hundreds of its members and supporters. An intelligence agency, the Department for the Protection of Afghanistan’s Interests (AGSA), was established by Taraki, mainly in charge of carrying out arrests and executions. In September 1979, Taraki was overthrown by his deputy Amin and murdered. Following Amin’s seizure of power, the Workers Intelligence Agency (Kargari Istikhbarti Muassisaas, KAM), was established in September 1979 and the State Intelligence Agency (Khedamat-e Ettela’at-e Dawlati, KHAD) was established with the help of KGB soon after Babrak Karmal’s coup in December 1979 [[Security June 2021](#), 1.1.1].

Between 1978 and 1979, Khalq jailed and executed almost 5 000 people. Victims were allegedly tortured, including beatings and electrical shocks during the interrogation inside the prison. While in power, the PDPA used torture and forced disappearance, and deliberately killed civilians. On 15 March 1979, during an uprising by rebels against the PDPA government in Herat province, Afghan pilots carried out airstrikes on the city to recapture it, which resulted in the killing of up to 25 000 people. During the same period, the Afghan government assigned insurgent assassination squads to conduct house-to-house searches in Herat city [[Security June 2021](#), 1.1.1].

#### The Soviet Afghan War (1979-1989)

On 25 December 1979, the Soviet Union invaded Afghanistan and on 27 December of the same year, Soviet special forces attacked Taj Beg palace in Kabul, killed President Hafizullah Amin and his family members, and designated Babrak Karmal as the new President. The invasion was followed by a decade of armed conflict between the Afghan government, supported by Soviet troops, and armed opposition groups. The resistance became a jihad against ‘infidel invaders’ and ‘the puppet government’, uniting different armed factions, called the ‘mujahideen’. Typical mujahideen military operations were focused on hit-and-run tactics and ambushes, including shelling government targets, sabotage of infrastructure, assassinations, and rocket attacks on both civilian and military targets. The common





mujahideen practice of taking shelter in and launching attacks from villages placed civilians directly in the crossfire [[Security June 2021](#), 1.1.1; [Taliban strategies – Recruitment](#), 1.1].

The Afghan government and Soviet troops were in control of the cities while the rural and mountainous areas were inflamed by the insurgency. Soviet and government forces employed brutal tactics considered as direct violations of international law. Common tactics included launching airstrikes on civilian areas, laying mines in rural areas to cut off resistance transport and supply routes, and conducting violent raids on villages suspected of harbouring mujahideen. Suspected ‘collaborators’ were detained and often tortured and/or disappeared [[Security 2020](#), 1.1.1; [Taliban strategies – Recruitment](#), 1.1].

In May 1986, Dr Najibullah, head of KHAD, became general secretary of the PDPA and replaced Karmal in November 1986 as President of the Revolutionary Council. In 1989, the Soviet Union withdrew its troops from Afghanistan [[Security June 2021](#), 1.1.1; [Taliban strategies – Recruitment](#), 1.1].

### **The conflict between the Afghan Government and the Mujahideen Forces (1989-1992) and the Afghan Civil War (1992-1996)**

Dr Najibullah managed to stay in control, largely depending on local commanders and their militias. The pressure from the burning insurgency caused the collapse of Najibullah’s government in April 1992. After the collapse of Dr. Najibullah’s regime in 1992, a period referred to as ‘Civil war’ saw different mujahideen groups making alliances, largely based on region and ethnicity. Tajiks and Uzbeks in the north, Hazaras in the centre, and Pashtuns in the east and south, formed competing factions. Mujahideen factions were composed of *Jamiat-e Islami*, led by Burhanuddin Rabbani; *Shura-e Nazar* (The Council of the North), led by Ahmad Shah Massoud; *Hezb-e Islami* (founded by Gulbuddin Hekmatyar); *Hezb-e Islami* under the command of Yunus Khalis; *Ittihad-e Islami* under the command of Abdul Rasul Sayyaf; *Hezb-e-Wahdat* created in 1989 as a union of Shia-Hazara parties and *Harakat-e-Inqilab-e Islami-Afghanistan* led by Mawlawi Mohammad Nabi Mohammad [[Taliban strategies – Recruitment](#), 1.2; [Security June 2021](#), 1.1.1].

Between April 1992 and March 1993, the battle for Kabul between mujahideen factions and militias took place. It was characterised by severe human rights violations, including executions, imprisonment, sexual violence, abduction of women, and forced marriages. Rape of women and girls was used by militia leaders as a weapon of war or ‘rewarding’ militants. Around 25 000 people were killed. From April 1992, *Hezb-e Islami* raided Kabul with rocket attacks destroying hundreds of homes and killing between 1 800 and 2 500 people. *Ittihad* and *Jamiat* troops, in retaliation, launched rockets on civilian residential areas while trying to target *Hezb-e Islami* positions in the south. During the same period, *Wahdat* and *Ittihad* committed severe human rights violations while fighting each other, including the abduction of Hazara people by *Ittihad* and the abduction of Pashtun, Tajiks and other non-Hazaras by *Wahdat*. For instance, Shafi Diwana (Shafi the mad), a senior commander of *Wahdat* tortured and killed prisoners in Qala Khana in Kabul. *Wahdat* also reportedly held thousands of prisoners in Dasht-e Barchi area in Kabul most of whom reportedly disappeared. During the civil war, troops belonging to *Junbesh-e Mili*, led by Dostum and stationed in Naqlia base, allegedly committed ‘rape, murder and looting’, notably in 1993 [[Security June 2021](#), 1.1.1].

### **The Taliban Regime (1996-2001)**

Conflict between mujahideen factions led to the emergence in 1994 of a group called the Taliban. The founders of the Taliban were religious clerics who came together under the



leadership of Mullah Mohamad Omar and agreed on taking action in relation to the significant discontent about the Rabbani government, the roadblocks, insecurity, and abuses caused by the militias and commanders. Jalaluddin Haqqani, the founder of Haqqani Network, allied with the Taliban in the mid-1990s, and served as Taliban's Minister for Tribal and Border Affairs. The Taliban governed Afghanistan with a religious ideology based on Salafism and Pashtunwali [[Security June 2021](#), 1.1.1; [Taliban strategies – Recruitment](#), 1.2].

During the chaos of the civil war, the Taliban took control of Kandahar City in 1994. In 1996, they conquered Kabul after taking Jalalabad and Herat. After entering Kabul, the group killed President Najibullah and his brother and hanged them in Ariana circle in the city. They carried out 'public executions and amputations of one hand and one foot for theft'. They killed thousands of people, including the deliberate and systematic killing of Hazara civilians after the group captured Mazar-e Sharif on 8 August 1998. They captured Bamyan province in May 1999, where the group destroyed two giant Buddhas statues in March 2001. By 2001, the Taliban controlled most of the Afghan territory [[Security June 2021](#), 1.1.1; [Taliban strategies – Recruitment](#), 1.2].

### 6.2.2 Conflicts since 2001

Last update: November 2021

[Main COI references: [Security 2020](#), 1; [Security June 2021](#), 1]

A US-led coalition ousted the Taliban from power in late 2001, but the conflict in Afghanistan continued. After a fallback in the south and east, the Taliban reorganised and began to increase their presence in other provinces by 2006. Other AGEs operating in Afghanistan included Hezb-e Islami/Gulbuddin Hekmatyar (HIG), the Haqqani Network and Al Qaeda affiliates, including Tehrik-e Taliban Pakistan (TTP), Lashkar-e Tayyiba (LeT), Lashkar-e Jhangvi (LeJ) and the Islamic Movement of Uzbekistan (IMU). This insurgency was characterised by mainly asymmetric warfare: AGEs used roadside and suicide bombs and complex attacks, intimidation of civilians and targeted killings to destabilise the country. This was countered by searches, clearance operations and bombings by the ANSF and international military forces. According to the UNAMA, the security situation deteriorated after 2005. The conflict deepened throughout 2007 and 2008, directly affecting around a third of the country.

From 2010 onwards, the Taliban-led insurgency spread into all regions of Afghanistan. Insurgent violence intensified in the run-up to the presidential elections in 2014. Since then, security sharply deteriorated across Afghanistan.

A 2017 report by UN Secretary General noted that the Taliban had been able to control larger parts of the country and the emergence of ISKP added 'a new, dangerous dimension' to the situation. Human Rights Watch noted that although the Taliban claimed to target government and foreign military facilities only, their indiscriminate use of force killed and injured hundreds of civilians.

On 29 February 2020, the US and the Taliban signed an agreement for bringing peace to Afghanistan. After signing the deal, the Taliban almost immediately resumed and intensified attacks against ANSF. In response to these attacks, ANSF also resumed their operations against the Taliban. Widespread fighting between the ANSF and Taliban took place in various provinces of the country. Fighting between ANSF and other AGEs was also reported [[Security 2020](#), 1.3, [Security June 2021](#), [Security September 2021](#)].



An overview of the most important actors who may have been involved in excludable acts during this period is given below.

### **The former Afghan government and pro-government forces**

Unlawful and arbitrary arrests, intentional killings, and summary executions by ANSF were reported, targeting particularly members or suspected members of AGEs and their families. ANA and NDS were also responsible for indiscriminate airstrikes causing civilian casualties [[State structure](#), 2.1; [Security 2020](#), 1.3.5].

The use of torture and other ill-treatment during detention were reported from all ANSF facilities, particularly in prisons under the command of NDS in which torture was described as common and systematic practice [[State structure](#), 2.1, 3.6].

Cases of sexual abuse and exploitation of boys, including the practice of *bacha bazi* perpetrated by members of the ANSF and pro-government militias were reported, as well as child recruitment or use of children in combat or in support role, especially within the ANP and the ALP [[State structure](#), 2.1.1-2.1.3].

Despite the efforts of the government to fight against corruption, it remained a widespread phenomenon in Afghanistan, especially within the ANSF (ANP and ALP are perceived as the most corrupt forces), the judicial system, and some ministries, such as the Ministry of Interior. Reported crimes included extortion, bribery and embezzlement [[State structure](#), 1.8, 2.1.2, 2.1.3, 3.4].

### **Taliban**

The Taliban have a hierarchical organisation with strong leadership and operated a parallel government structure ('shadow government') across Afghanistan. During the insurgency, they controlled large parts of Afghanistan and have committed excludable acts in every province. They have been involved in abductions, targeted killings, indiscriminate and deliberate attacks against civilians and civilian objects. The Taliban considered foreign troops and those who worked closely with them (some of the ANSF, interpreters, spies, and contractors) to be top priority targets. Other primary targets included government officials or employees, as well as their families or those perceived as supporting the government. In areas under their control, the Taliban had established a parallel justice system to handle civil and criminal disputes. Punishments enforced by the Taliban parallel justice system included summary execution, mutilation and stoning to death [[Anti-government elements](#), 2.5, 2.6; [Criminal law and customary justice](#), 1.8, 2.3.3]. See section [1.1 Taliban](#).

### **ISKP**

ISKP, a UN-designated terrorist organisation in Afghanistan, appeared in late 2014 or early 2015. They used indiscriminate and deliberate suicide attacks to target Shia Muslims and other religious minorities like Sikhs, but also government officials and other civilians. UNAMA has indicated that ISKP's attacks on Shia minorities during 2019 constituted serious violations of international law, potentially amounting to war crimes and crimes against humanity. They also practice summary executions, including through beheadings. ISKP are suspected to receive assistance by the Haqqani Network to plan and carry out high profile attacks [[Anti-government elements](#), 3.2, 3.5, 3.6]. See the section [1.4 ISKP](#).





## Other non-State armed groups

Other insurgent groups such as the Haqqani Network, Al Qaeda and foreign AGEs are often linked with either the Taliban or ISKP and it is sometimes difficult to distinguish their acts from those of the Taliban or ISKP [[Anti-government elements](#), 4.1, 4.2, 4.3]. See [1.3 Haqqani network](#), [1.5 Al Qaeda](#), [1.6 Foreign terrorist groups and fighters](#).

All AGEs recruited children to use them in combat or in support roles during the conflict [[Anti-government elements](#), 2.4.1, 3.4, 4].

### 6.2.3 Criminality

Last update: December 2020

[Main COI reference: [Security 2020](#), 1.4.2]

Criminal activities in Afghanistan are widely reported. Some of the crimes could trigger the considerations for exclusion, as they could qualify as serious (non-political) crimes and/or, depending on additional elements, as war crimes, crimes against humanity, or acts contrary to the purposes and principles of the UN.

Common criminality and organised crimes have been reported throughout the country, with an increase in recent years, especially in major cities such as Kabul, Jalalabad, Herat, and Mazar-e Sharif. Criminal groups target businesspersons, foreigners and local officials. Crimes reported comprised kidnappings of adults and children, robberies and burglaries, murders, extortion. Narco-trafficking and drug-related crimes are also committed in the whole country. The endemic corruption within the police (ANP and ALP), which is sometimes linked to these criminal groups, could explain rises of these groups and the inability of the authorities, or the absence of will to stop and prosecute them in order to secure law and order [[Security 2020](#), 1.4.2, 2.1.2; [State structure](#), 2.1.2, 2.1.3].

Land is a primary source of conflicts and violence. Land disputes can find their roots in family, tribal or ethnic matters, as well as in agricultural matters, such as irrigation or the lack or ineffectiveness of land administration. Such conflicts happen in every province and sometimes lead to acts, such as land grabbing, illegal appropriation, violence, assassinations [[Criminal law and customary justice](#), 2.1, 2.2].

Blood feuds are also common in Afghanistan. Retributive justice is a central component of the *Pashtunwali*, which requires the restoration of honour through carrying out revenge. Blood feuds happen mainly among Pashtuns but can also occur among other ethnic groups. Blood feuds can be the result of personal violence, disputes involving lands or family conflicts, and can go on for generations and impact entire tribes or communities. Excludable acts are committed in relation to blood feuds, including violence and murders [[Criminal law and customary justice](#), 3.1].

Violence against women and children (for example sexual violence, domestic violence and early/forced marriage, child labour, child trafficking) is commonly reported in both public and private spheres [[State structure](#), 3.3.1; [Society-based targeting](#), 3.5, 3.8, 5].





## 6.3. Guidance with regard to Afghanistan

### 6.3.1 Article 12(2)(a) and Article 17(1)(a) QD

Last update: November 2021

It can be noted that the ground ‘crime against peace’ is not found to be of particular relevance in the cases of applicants from Afghanistan.

According to COI, insurgent groups, (former) ANSF and pro-government militias, as well as civilians in Afghanistan, can be implicated in acts that would qualify as war crimes or crimes against humanity. Reported violations of international humanitarian law by all parties in the current and in past conflicts in Afghanistan could amount to war crimes.

It can be noted that, in November 2017, the Prosecutor of the ICC requested authorisation from Pre-Trial Chamber III to initiate an investigation into alleged war crimes and crimes against humanity in relation to the armed conflict in Afghanistan since 1 May 2003. The preliminary examination focuses on crimes listed in the Rome Statute allegedly committed in the context of the armed conflict between pro-government forces and anti-government forces. It includes the **crimes against humanity** of murder, and imprisonment or other severe deprivation of physical liberty, and the **war crimes** of murder, cruel treatment, outrages upon personal dignity, the passing of sentences and carrying out of executions without proper judicial authority, intentional attacks against civilians, civilian objects and humanitarian assistance missions, and treacherously killing or wounding an enemy combatant. The preliminary examination also focuses on the existence and genuineness of national proceedings in relation to these crimes. After being rejected by the decision of Pre-Trial Chamber II of 12 April 2019, the Appeals Chamber of the ICC decided on 5 March 2020 to authorise the Prosecutor to commence the investigation within the parameters of the Request.<sup>41</sup>

In terms of qualifying the relevant acts as war crimes, armed conflicts<sup>42</sup> taking place in Afghanistan can be characterised as follows:

- armed conflict between PDPA government and armed opponents from the summer of 1979 until the Soviet invasion on 24 December 1979: non-international;
- Soviet-Afghan War from December 1979 until February 1989: international;
- armed conflict between ‘mujahideen’ forces and the government (1989-1996): non-international;
- armed conflict between the Taliban and the United Front (1996-2001): non-international;
- armed conflict of coalition led by the USA against the Taliban regime between October 2001 and June 2002: international;
- Taliban-led insurgency against the (former) Afghan government (since June 2002), as well as conflict between different AGEs (2015 – ongoing): non-international.

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<sup>41</sup> For further information, see <https://www.icc-cpi.int/afghanistan>.

<sup>42</sup> Note that the assessment under Article 12(2)(a) QD and Article 17(1)(a) QD refers to the relevant international instruments defining the terms. Therefore, the assessment of whether or not an armed conflict takes place, as well as its nature, is based on international humanitarian law and may differ from the assessment in the context of Article 15(c) QD as defined in the *Diakité* judgment of the CJEU.





The amnesty envisaged under the National Stability and Reconciliation Law of Afghanistan and the amnesty provisions in the agreement with Hezb-e Islami / Gulbuddin Hekmatyar (HIG) from September 2016 would likely not prevent the exclusion of the applicant where individual responsibility for relevant excludable acts is established, as they would fail to meet the necessary requirements, i.e. being the expression of the democratic will of the citizens of Afghanistan and the individual having been held accountable in other ways.

### 6.3.2 Article 12(2)(b) and Article 17(1)(b) QD

Last update: November 2021

In the context of Afghanistan, widespread criminality and breakdown in law and order make the ground of 'serious (non-political) crime' particularly relevant. In addition to murder related to family and other private disputes, some examples of particularly relevant serious crimes may include drug trade and trafficking, trafficking in arms, human trafficking, corruption, embezzlement and other economic crimes, illegal taxation, illegal extraction, trade or smuggling of minerals, gemstones, archaeological artefacts, etc.

Violence against women and children (for example, in relation to *bacha bazi*, in the context of child marriage, honour killings, sexual violence or some forms of domestic violence, etc.), which is widespread in Afghanistan, could also potentially amount to a serious (non-political) crime.

Some serious (non-political) crimes could be linked to an armed conflict (e.g. if they are committed in order to finance the activities of armed groups) or could amount to fundamentally inhumane acts committed as a part of a systematic or widespread attack against a civilian population, in which case they should instead be examined under [Article 12\(2\)\(a\)/Article 17\(1\)\(a\) QD](#).

In relation to exclusion from refugee status, a crime could fall under this ground if committed in Afghanistan or any third country (for example, while the applicant resided in Pakistan or Iran, or in countries of transit, etc.). In relation to subsidiary protection, serious crimes committed by Afghan applicants in the host country, would also lead to exclusion.

### 6.3.3 Article 12(2)(c) and Article 17(1)(c) QD

Last update: November 2021

In the context of Afghanistan, (former) membership in armed groups such as ISKP, the Taliban or Hezb-e Islami, could trigger relevant considerations, in addition to the considerations under [Article 12\(2\)\(a\)/Article 17\(1\)\(a\) QD](#) or [Article 12\(2\)\(b\)/Article 17\(1\)\(b\) QD](#).

The application of exclusion should be based on an individual assessment of the specific facts in the context of the applicant's activities within that organisation. The position of the applicant within the organisation would constitute a relevant consideration and a high-ranking position could justify a (rebuttable) presumption of individual responsibility. Nevertheless, it remains necessary to examine all relevant circumstances before an exclusion decision can be made.





Where the available information indicates possible involvement in crimes against peace, war crimes or crimes against humanity, the assessment would need to be made in light of the exclusion grounds under [Article 12\(2\)\(a\)/Article 17\(1\)\(a\) QD](#).





## Annex I. Abbreviations and glossary

|                                    |                                                                                                                                                                                                                                        |
|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>AAF</b>                         | Afghan Air Force                                                                                                                                                                                                                       |
| <b>ACLED</b>                       | Armed Conflict Location & Event Data Project                                                                                                                                                                                           |
| <b>AGEs</b>                        | See ‘anti-government elements’                                                                                                                                                                                                         |
| <b>ALP</b>                         | Afghan Local Police, a security initiative to include armed militias in the police force, under the auspices of the Ministry of the Interior.                                                                                          |
| <b>ANA</b>                         | Afghan National Army                                                                                                                                                                                                                   |
| <b>ANDSF</b>                       | Afghan National Defence and Security Forces, see also ANSF                                                                                                                                                                             |
| <b>ANP</b>                         | Afghan National Police                                                                                                                                                                                                                 |
| <b>ANSF</b>                        | Afghan National Security Forces, including Afghan National Army (ANA), Afghan National Police (ANP) and National Directorate of Security (NDS)                                                                                         |
| <b>Anti-government elements</b>    | Armed opposition fighters, or insurgents, who are fighting against the Afghan government and its international allies. Examples of such groups of fighters are the Taliban, the Haqqani network and the Islamic Movement of Uzbekistan |
| <b>Asylum Procedures Directive</b> | Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection                                                                          |
| <b><i>baad</i></b>                 | The practice of exchanging women/girls to resolve a dispute; exchanging daughters between families for marriage to avoid bride price costs.                                                                                            |
| <b><i>Badal/ badaal</i></b>        | The concept of revenge or retribution in the Pashtunwali                                                                                                                                                                               |
| <b><i>bacha bazi</i></b>           | Dancing boys: boys or young men who are sexually exploited by men for entertainment. They are made to dance in female garb and provide sexual favours. This practice is often associated with men in power.                            |
| <b>CAT</b>                         | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment                                                                                                                                               |
| <b>CJEU</b>                        | Court of Justice of the European Union                                                                                                                                                                                                 |
| <b>COI</b>                         | Country of origin information                                                                                                                                                                                                          |
| <b>complex attack</b>              | A deliberate and coordinated attack that includes a suicide device, more than one attacker and more than one type of device. All three elements must be used for an attack to be considered complex.                                   |
| <b>ECHR</b>                        | Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), as amended by Protocols Nos. 11 and 14, 4 November 1950                                                                  |
| <b>ECtHR</b>                       | European Court of Human Rights                                                                                                                                                                                                         |
| <b>EU</b>                          | European Union                                                                                                                                                                                                                         |
| <b>EU+</b>                         | Member States of the European Union plus Norway and Switzerland                                                                                                                                                                        |
| <b>EUAA</b>                        | European Union Agency for Asylum                                                                                                                                                                                                       |



|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><i>fatwa</i></b>      | A ruling or opinion given by the head of religious community in Islam.                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>ground engagement</b> | Ground engagements include kinetic ground operations, stand-off attacks, crossfire and armed clashes between parties to the conflict. Ground engagements include attacks or operations in which small arms, heavy weapons and/or area weapons systems, i.e. mortars and rockets are fired.                                                                                                                                                                         |
| <b><i>Hanafi</i></b>     | Sunni jurisprudence in use in Afghanistan; one of the four schools of Sunni jurisprudence.                                                                                                                                                                                                                                                                                                                                                                         |
| <b>ICC</b>               | International Criminal Court                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>ICTR</b>              | International Criminal Tribunal for Rwanda                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>ICTY</b>              | International Criminal Tribunal for the former Yugoslavia                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>IDP(s)</b>            | Internally displaced person(s)                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>IED</b>               | Improvised Explosive Device. A bomb constructed and deployed in ways other than in conventional military action.                                                                                                                                                                                                                                                                                                                                                   |
| <b>ILO</b>               | International Labour Organisation                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>IMU</b>               | Islamic Movement of Uzbekistan                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>IPA</b>               | Internal protection alternative                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>ISKP</b>              | Islamic State Khorasan Province                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b><i>jirga</i></b>      | A council or assembly of tribal elders held for dispute resolution; jirgamar refers to elders whose profession is dispute settlement                                                                                                                                                                                                                                                                                                                               |
| <b>LGBTIQ</b>            | LGBTIQ people are people:<br>who are attracted to others of their own gender (lesbian, gay) or any gender (bisexual);<br>whose gender identity and/or expression does not correspond to the sex they were assigned at birth (trans, non-binary);<br>who are born with sex characteristics that do not fit the typical definition of male or female (intersex); and<br>whose identity does not fit into a binary classification of sexuality and/or gender (queer). |
| <b>LWJ</b>               | Long War Journal, blog by the Foundation for Defense of Democracies, <a href="http://www.longwarjournal.org">www.longwarjournal.org</a>                                                                                                                                                                                                                                                                                                                            |
| <b><i>madrassa</i></b>   | Islamic religious school                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Mol</b>               | Ministry of Interior Affairs of Afghanistan                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b><i>mujahideen</i></b> | Islamic 'holy warriors'. In the context of the conflict of Afghanistan, the term dates back to the 1980s, when it referred to Islamic fighting groups opposed to the communist regime and the military forces of the former Soviet Union in Afghanistan. Its fighters have since been called mujahideen. Currently, the Taliban refer to their fighters as mujahideen.                                                                                             |
| <b>NATO</b>              | North Atlantic Treaty Organisation                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>NDS</b>               | National Directorate of Security, Afghanistan's intelligence service                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>NGO</b>               | Non-governmental organisation                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>NRF</b>               | National Resistance Front                                                                                                                                                                                                                                                                                                                                                                                                                                          |



|                                             |                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><i>Pashtunwali</i></b>                   | A traditional social, cultural, and quasi-legal code regulating the Pashtun way of life.                                                                                                                                                                                                                                                                   |
| <b>PDPA</b>                                 | People's Democratic Party of Afghanistan                                                                                                                                                                                                                                                                                                                   |
| <b>PGM</b>                                  | Pro-government militia                                                                                                                                                                                                                                                                                                                                     |
| <b>QD<br/>(Qualification<br/>Directive)</b> | Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted |
| <b><i>Sharia</i></b>                        | The religious law of Islam; Islamic canonical law                                                                                                                                                                                                                                                                                                          |
| <b><i>shura</i></b>                         | A decision-making community council; often formed for non-State dispute settlement; made up of a group of people with community authority (elders) to discuss and find solutions to a problem.                                                                                                                                                             |
| <b>Targeted/<br/>deliberate<br/>killing</b> | Intentional, premeditated and deliberate use of lethal force by States or their agents acting under colour of law or by an organised armed group, party to an armed conflict against a specific individual who is not in the perpetrator's physical custody.                                                                                               |
| <b><i>Ulema</i></b>                         | Body of Muslim scholars who are recognised as having specialist knowledge of Islamic law and theology.                                                                                                                                                                                                                                                     |
| <b>UN</b>                                   | United Nations                                                                                                                                                                                                                                                                                                                                             |
| <b>UNAMA</b>                                | UN Assistance Mission in Afghanistan                                                                                                                                                                                                                                                                                                                       |
| <b>UNDP</b>                                 | United Nations Development Programme                                                                                                                                                                                                                                                                                                                       |
| <b>UNHCR</b>                                | UN High Commissioner for Refugees                                                                                                                                                                                                                                                                                                                          |
| <b>UNOCHA</b>                               | UN Office for the Coordination of Humanitarian Affairs                                                                                                                                                                                                                                                                                                     |
| <b>US</b>                                   | United States of America                                                                                                                                                                                                                                                                                                                                   |
| <b>USDOS</b>                                | US Department of State                                                                                                                                                                                                                                                                                                                                     |
| <b>WFP</b>                                  | World Food Programme                                                                                                                                                                                                                                                                                                                                       |
| <b>WHO</b>                                  | World Health Organisation                                                                                                                                                                                                                                                                                                                                  |
| <b><i>zina</i></b>                          | The crime of adultery; perceived to be deeply shameful and against honour.                                                                                                                                                                                                                                                                                 |



## Annex II. Country of origin information references

The main COI sources used in the common analysis are the following (listed alphabetically by reference used in the text).

|                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Anti-government elements</b>                                       | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Anti-Government Elements (AGEs)</b></p> <p>(August 2020)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_EASO_COI_Report_Afghanistan_Anti_Government_Elements_AGEs.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_EASO_COI_Report_Afghanistan_Anti_Government_Elements_AGEs.pdf</a> </p>                              |
| <b>COI query on education sector</b>                                  | <p>EUAA Country of Origin Information Query: <b>Afghanistan, Education sector: personnel and students</b></p> <p>(August 2020)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_Q18_EASO_COI_Query_Response_AFG_Educational_Personnel.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_Q18_EASO_COI_Query_Response_AFG_Educational_Personnel.pdf</a> </p>                              |
| <b>COI query on Hazaras, Shias</b>                                    | <p>EUAA Country of Origin Information Query: <b>Afghanistan, Hazaras, Shias</b></p> <p>(August 2020)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_Q13_EASO_COI_Query_Response_2020_AFG_Hazara_Shia.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_Q13_EASO_COI_Query_Response_2020_AFG_Hazara_Shia.pdf</a> </p>                                                                  |
| <b>COI query on Hindus and Sikhs</b>                                  | <p>EUAA Country of Origin Information Query: <b>Afghanistan, Hindus and Sikhs</b></p> <p>(August 2020)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_Q14_EASO_COI_Query_Response_AFG_Hindus_Sikhs.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_Q14_EASO_COI_Query_Response_AFG_Hindus_Sikhs.pdf</a> </p>                                                                        |
| <b>COI query on humanitarian workers and healthcare professionals</b> | <p>EUAA Country of Origin Information Query: <b>Afghanistan, Humanitarian workers and healthcare professionals</b></p> <p>(August 2020)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_Q16_EASO_COI_Query_Response_AFG_Humanitarian_Healthcare_Workers.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_Q16_EASO_COI_Query_Response_AFG_Humanitarian_Healthcare_Workers.pdf</a> </p> |



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|---------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>COI query on journalists, media workers and human rights defenders</b> | <p>EUAA Country of Origin Information Query: <b>Afghanistan, Journalists, media workers and human rights defenders</b></p> <p>(August 2020)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_Q17_EASO_COI_Query_Response_AFG_Journalists_Media_Human_Rights_Activists.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_Q17_EASO_COI_Query_Response_AFG_Journalists_Media_Human_Rights_Activists.pdf</a> </p>                      |
| <b>COI query on westernisation</b>                                        | <p>EUAA Country of Origin Information Query: <b>Afghanistan, Afghan nationals perceived as 'Westernised'</b></p> <p>(September 2020)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2020_09_Q19_EASO_COI_Query_Response_AFG_Westernisation.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2020_09_Q19_EASO_COI_Query_Response_AFG_Westernisation.pdf</a> </p>                                                                                 |
| <b>Conflict targeting</b>                                                 | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Individuals targeted by armed actors in the conflict</b></p> <p>(December 2017)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/Afghanistan_targeting_conflict.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/Afghanistan_targeting_conflict.pdf</a> </p>                                                                                                                        |
| <b>Country Focus 2022</b>                                                 | <p>EUAA Country of Origin Information Report: <b>Country Focus</b></p> <p>(January 2022)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2022_01_EASO_COI_Report_Afghanistan_Country_focus.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2022_01_EASO_COI_Report_Afghanistan_Country_focus.pdf</a> </p>                                                                                                                                       |
| <b>Criminal law and customary justice</b>                                 | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Criminal law, customary justice and informal dispute resolution</b></p> <p>(July 2020)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2020_07_EASO_COI_Report_Afghanistan_Criminal_Law_Customary_Justice_Dispute_Resolutions.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2020_07_EASO_COI_Report_Afghanistan_Criminal_Law_Customary_Justice_Dispute_Resolutions.pdf</a> </p> |
| <b>Key socio-economic</b>                                                 | <p>EUAA Country of Origin Information Report: <b>Afghanistan Key socio-economic indicators Focus on Kabul City, Mazar-e Sharif and Herat City</b></p>                                                                                                                                                                                                                                                                                                                                           |



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|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>indicators<br/>2020</b>                              | <p>(August 2020)</p> <p>Available at:<br/><a href="https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_EASO_COI_Report_Afghanistan_Key_Socio_Economic_Indicators_Focus_Kabul_City_Mazar_Sharif_Herat_City.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_EASO_COI_Report_Afghanistan_Key_Socio_Economic_Indicators_Focus_Kabul_City_Mazar_Sharif_Herat_City.pdf</a></p>                                     |
| <b>Key socio -<br/>economic<br/>indicators<br/>2017</b> | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Key socio-economic indicators, state protection, and mobility in Kabul City, Mazar-e Sharif, and Herat City</b></p> <p>(August 2017)</p> <p>Available at:<br/><a href="https://coi.euaa.europa.eu/administration/easo/PLib/EASO_COI_Afghanistan_IPA_August2017.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/EASO_COI_Afghanistan_IPA_August2017.pdf</a></p> |
| <b>Networks</b>                                         | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Networks</b></p> <p>(February 2018)</p> <p>Available at:<br/><a href="https://coi.euaa.europa.eu/administration/easo/PLib/Afghanistan_Networks.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/Afghanistan_Networks.pdf</a></p>                                                                                                                                |
| <b>Recruitment<br/>by armed<br/>groups</b>              | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Recruitment by armed groups</b></p> <p>(September 2016)</p> <p>Available at:<br/><a href="https://coi.euaa.europa.eu/administration/easo/PLib/Afghanistan_recruitment.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/Afghanistan_recruitment.pdf</a></p>                                                                                                      |
| <b>Security<br/>situation<br/>2019</b>                  | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Security situation</b></p> <p>(June 2019)</p> <p>Available at:<br/><a href="https://coi.euaa.europa.eu/administration/easo/PLib/Afghanistan_security_situation_2019.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/Afghanistan_security_situation_2019.pdf</a></p>                                                                                            |
| <b>Security<br/>2020</b>                                | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Security situation</b></p> <p>(September 2020)</p>                                                                                                                                                                                                                                                                                                                      |



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|-----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                         | <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2020_09_EASO_COI_Report_Afghanistan_Security_situation.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2020_09_EASO_COI_Report_Afghanistan_Security_situation.pdf</a></p>                                                                                                                                                                  |
| <b>Security June 2021</b>               | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Security situation</b></p> <p>(June 2021)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2021_06_EASO_COI_Report_Afghanistan_Security_situation.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2021_06_EASO_COI_Report_Afghanistan_Security_situation.pdf</a></p>                                                      |
| <b>Security September 2021</b>          | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Security situation update</b></p> <p>(September 2021)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2021_09_EASO_COI_Report_Afghanistan_Security_situation_update.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2021_09_EASO_COI_Report_Afghanistan_Security_situation_update.pdf</a></p>                            |
| <b>Society-based targeting</b>          | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Individuals targeted under societal and legal norms</b></p> <p>(December 2017)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/Afghanistan_targeting_society.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/Afghanistan_targeting_society.pdf</a></p>                                                                   |
| <b>State structure</b>                  | <p>EUAA Country of Origin Information Report: <b>Afghanistan, State Structure and Security Forces</b></p> <p>(August 2020)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_EASO_COI_Report_Afghanistan_state_structure_and_security_forces.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/2020_08_EASO_COI_Report_Afghanistan_state_structure_and_security_forces.pdf</a></p> |
| <b>Taliban strategies - Recruitment</b> | <p>EUAA Country of Origin Information Report: <b>Afghanistan, Taliban strategies - Recruitment</b></p> <p>(July 2012)</p> <p>Available at:<br/> <a href="https://coi.euaa.europa.eu/administration/easo/PLib/EASO_COI_Report_AFG_Taliban_Recruitment.pdf">https://coi.euaa.europa.eu/administration/easo/PLib/EASO_COI_Report_AFG_Taliban_Recruitment.pdf</a></p>                                                                      |



## Annex III. Relevant case law

### Case law referenced in the common analysis

#### Actors of persecution or serious harm

- CJEU, Mohamed M'Bodj v État belge, C-542/13, judgment of 18 December 2014  
(M'Bodj)

#### Reasons for persecution - religion

- CJEU, Bundesrepublik Deutschland v Y and Z, Joined Cases C-71/11 and C-99/11, judgment of 5 September 2012  
(Y and Z)

#### Reasons for persecution – membership of a particular social group

- CJEU, Minister voor Immigratie en Asiel v X and Y and Z v Minister voor Immigratie en Asiel, Joined Cases C-199/12 to C-201/12 judgment of 7 November 2013  
(X, Y and Z)

#### Article 15(b) QD

- CJEU, MP v Secretary of State for the Home Department, C-353/16, judgment of 24 April 2018 (MP)
- CJEU, M'Bodj

#### Article 15(c) QD

- CJEU, CF and DN v Bundesrepublik Deutschland, C-901/19, judgment of 10 June 2021  
(CF and DN)
- CJEU, Aboubacar Diakité v Commissaire général aux réfugiés et aux apatrides, C-285/12, judgment of 30 January 2014  
(Diakité)
- CJEU, Elgafaji v Staatssecretaris van Justitie, C-465/07, judgment of 17 February 2009  
(Elgafaji)
- ECtHR, Sufi and Elmi v United Kingdom, Applications nos. 8319/07 and 11449/07, judgment of 28 June 2011  
(Sufi and Elmi)





### Internal protection alternative

- CJEU, *X, Y and Z*
- CJEU, *Y and Z*
- CJEU, *Abdulla and Others v Bundesrepublik Deutschland*, joined cases C-175/08, C-176/08, C-178/08 and C-179/08, judgment of 2 March 2010  
  
(*Abdulla*)
- ECtHR, *A.A.M. v Sweden*, Application no. 68519/10, judgment of 3 April 2014  
  
(*A.A.M v Sweden*)
- ECtHR, *Salah Sheekh v the Netherlands*, Application no. 1948/04, judgment of 11 January 2007  
  
(*Salah Sheekh*)
- *Sufi and Elmi*

### Exclusion

- CJEU, *Shajin Ahmed v Bevéndorlási és Menekültügyi Hivatal*, C-369/17, judgment of 13 September 2018  
  
(*Ahmed*)
- CJEU, *Commissaire général aux réfugiés et aux apatrides v Mostafa Lounani*, C-573/14, judgment of 31 January 2017  
  
(*Lounani*)
- CJEU, *Bundesrepublik Deutschland v B and D*, joined cases C-57/09 and C-101/09, judgment of 9 November 2010  
  
(*B and D*)
- ICC, *The Prosecutor v Germain Katanga*, ICC-01/04-01/07, judgment of 7 March 2014  
  
(*Katanga*)
- ICTY (Appeals Chamber), *Prosecutor v Kunarac et al.*, IT-96-23 and IT-96-23/1-A, judgment of 12 June 2002





- ICTY, *Prosecutor v Dusko Tadic aka “Dule” (Opinion and Judgment)*, IT-94-1-T, judgment of 7 May 1997
- ICTR, *The Prosecutor v Jean-Paul Akayesu (Trial Judgment)*, ICTR-96-4-T, judgment of 2 September 1998

For additional information on relevant case law see:

## EUAA Practical guides

Available at: <https://euaa.europa.eu/practical-tools-and-guides>

- EUAA Practical Guide: Qualification for international protection
- EUAA Practical Guide: Exclusion
- EUAA Guidance on membership of a particular social group
- EUAA Practical guide on the application of the internal protection alternative
- EUAA Practical Guide on Exclusion for Serious (Non-Political) Crimes

## Judicial analyses

Available at: <https://euaa.europa.eu/courts-and-tribunals>

- Judicial analysis ‘Qualification for International Protection (Directive 2011/95/EU)’
- Judicial analysis ‘Article 15(c) Qualification Directive (2011/95/EU)’
- Judicial analysis ‘Exclusion: Articles 12 and 17 Qualification Directive (2011/95/EU)’



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