

A map of Afghanistan with the word "AFGHANISTAN" written across it in large, bold, black letters. The map shows major cities like Herat, Kabul, Peshawar, Farah, and Qandahar, and provinces like Helmand. The map is slightly blurred and has a textured, dotted appearance.

AFGHANISTAN

Guidance Note: Afghanistan

Guidance Note: Afghanistan

April 2022



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Introduction



This guidance note summarises the conclusions of the common analysis on Afghanistan and should be read in conjunction with it. The complete ‘Country Guidance: Afghanistan’ is available at <https://euaa.europa.eu/country-guidance-afghanistan-2022>

The country guidance is developed in accordance with [Article 11 of the EUAA Foundation Regulation \(EU\) No. 2021/2303](#)⁽¹⁾. It 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.

Why is 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.

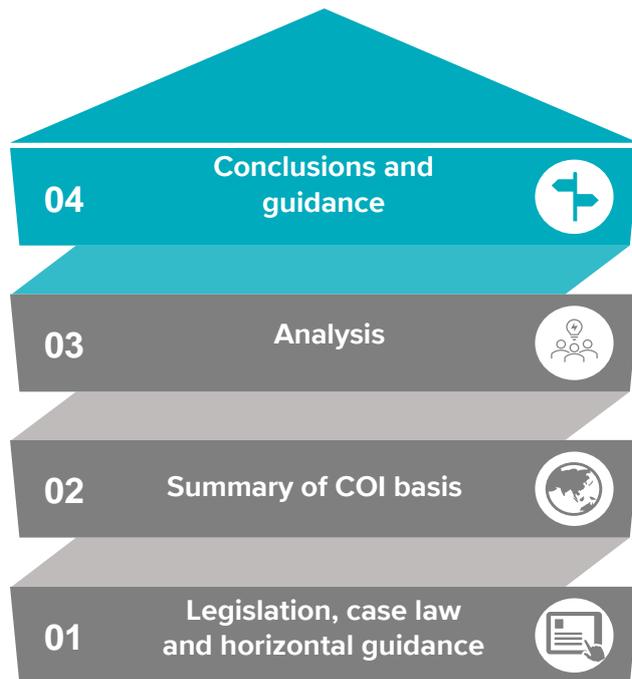
On 21 April 2016, the Council of the European Union agreed on the creation of a senior-level policy network, involving all Member States and coordinated by the European Union Agency for Asylum (EUAA), with the task to carry out a joint assessment and interpretation of the

(¹) 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, available at <https://eur-lex.europa.eu/eli/reg/2021/2303/oj>.



situation in main countries of origin ⁽²⁾. 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 is now included as a key area in the new mandate of the EUAA and it is currently regulated under [Article 11 EUAA Regulation](#).

What is included in the guidance note?



The guidance note summarises the **conclusions** of the common analysis in a light user-friendly format, providing practical guidance for the analysis of the individual case. It is the ‘executive summary’ of the complete ‘[Country Guidance: Afghanistan](#)’.

In the comprehensive [Country Guidance: Afghanistan](#), you will also find a second, more detailed, part – the **common analysis**. The common analysis 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.

The common analysis is available at <https://euaa.europa.eu/country-guidance-afghanistan-2022>.



Links to the relevant part of the common analysis (in English) are provided throughout this guidance note.

⁽²⁾ 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>.



What is the scope of this update?

The current version of the guidance note updates and replaces the ‘Guidance Note: Afghanistan’ (November 2021).

This 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 country of origin information (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 its guidance on Afghanistan.

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 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, whose work was supported by a Drafting Team of selected national experts and by the 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](#) ⁽³⁾ and of the [Qualification Directive \(QD\)](#) ⁽⁴⁾; 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>.

⁽³⁾ United Nations General Assembly, 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

⁽⁴⁾ 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.

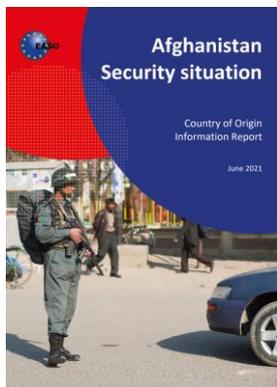


Relevant UNHCR guidelines available at the time of finalising this document, and in particular the [UNHCR Guidance Note on the International Protection Needs of People Fleeing Afghanistan](#) ⁽⁵⁾, were also taken into account ⁽⁶⁾.

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.

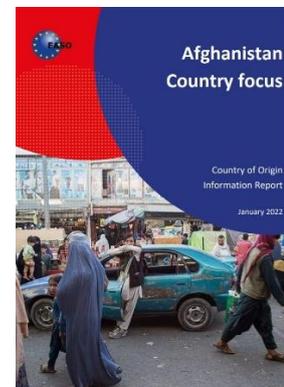
This update is mainly based on the following recent COI:



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)

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.

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

⁽⁶⁾ 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.



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



General remarks

Last updated: 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.

The 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 updated: 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.



Read more in the common analysis.

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 2021, 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 comprised 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** 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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. Read more on the sub-section [Moral and societal norms in Afghanistan](#) of the common analysis online.

See also **2.10 Individuals considered to have committed blasphemy and/or apostasy.**

2.9.1 Honour-based violence and moral offences

Last updated: 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 updated: 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

Last updated: April 2022





have committed blasphemy and/or apostasy

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 updated: 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 updated: 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 updated: 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 the sub-section [Situation of women after the Taliban takeover](#) of the common analysis online.

2.12.1 Violence against women and girls: overview

Last updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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 updated: 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

Article 15(a) QD

Death penalty or execution

Last updated: 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 updated: 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 updated: 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.



Read more in the common analysis.

- 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.



Read more in the common analysis.

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.



Read more in the common analysis.

- 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.



Read more in the common analysis.

- 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.



Read more in the common analysis.





Actors of protection

Last updated: 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, 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.



Read more in the common analysis.

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 updated: 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.

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



Read more in the common analysis.





Exclusion

Last updated: 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

Refugee status

- a crime against peace, a war crime, or a crime against humanity
- 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

Subsidiary protection

- 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.



Read more in the common analysis.





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.



Read more in the common analysis.

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

Last updated: 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.⁷

In terms of qualifying the relevant acts as war crimes, armed conflicts⁸ 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;

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

⁸ 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.





- 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 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.

Serious (non-political) crime

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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

Last updated: 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 under [Article 12\(2\)\(c\) / Article 17\(1\)\(c\) QD](#), 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

Last updated: November 2021

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.



Read more in the common analysis.

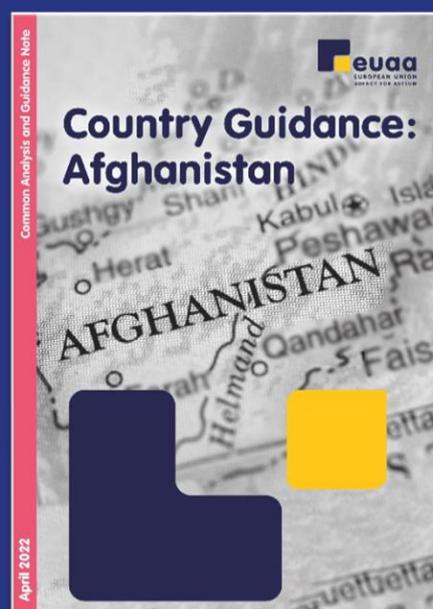




Abbreviations

ALP	Afghan Local Police, a security initiative to include armed militias in the police force, under the auspices of the Ministry of the Interior.
ANSF	Afghan National Security Forces, including Afghan National Army (ANA), Afghan National Police (ANP) and National Directorate of Security (NDS)
CJEU	Court of Justice of the European Union
COI	Country of origin information
EU	European Union
EUAA	European Union Agency for Asylum
IDP(s)	Internally displaced person(s)
IPA	Internal protection alternative
ISKP	Islamic State Khorasan Province
LGBTIQ	LGBTIQ people are people: who are attracted to others of their own gender (lesbian, gay) or any gender (bisexual); whose gender identity and/or expression does not correspond to the sex they were assigned at birth (trans, non-binary); who are born with sex characteristics that do not fit the typical definition of male or female (intersex); and whose identity does not fit into a binary classification of sexuality and/or gender (queer).
NGO	Non-governmental organisation
QD (Qualification Directive)	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
UN	United Nations
UNAMA	UN Assistance Mission in Afghanistan
UNHCR	UN High Commissioner for Refugees

The comprehensive common analysis, which forms the basis for this guidance note is available in e-book and pdf format in English.



Find them at

<https://euaa.europa.eu/country-guidance-afghanistan-2022>

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