

RESTREINT UE/EU RESTRICTED



**Council of the
European Union**

**Brussels, 3 March 2016
(OR. en)**

6738/16

RESTREINT UE/EU RESTRICTED

**MIGR 43
COASI 19**

NOTE

From: European Commission and European External Action Service (EEAS)
To: Permanent Representatives Committee

Subject: Joint Commission-EEAS non-paper on enhancing cooperation on migration, mobility and readmission with Afghanistan

Delegations will find attached the above joint Commission-EEAS non-paper.



EUROPEAN COMMISSION

Brussels, 2 March 2016

Ares(2016)1077130

FROM:	European Commission and the High Representative
TO:	COREPER Ambassadors
SUBJECT:	Joint Commission-EEAS non-paper on enhancing cooperation on migration, mobility and readmission with Afghanistan

Country Fiche proposing possible leverages across Commission-EEAS policy areas to enhance returns and effectively implement readmission commitments.

1. Key Migration Features on Afghanistan

Afghan nationals as migrants to the EU

- In 2015 irregular migration of Afghan origin to the EU reached an **unprecedented level of around 213,000 persons**, making Afghans the **second largest group** of migrants and asylum-seekers to the EU last year, after the Syrians, followed by the Iraqis. Main countries of destination are Germany and Sweden. Many are unaccompanied minors. It is clear that an important share of these migrants do not come directly from Afghanistan but that they were previously in Iran or Pakistan. The main route to reach Europe is from Turkey, via Greece and subsequently through Western Balkans.
- In 2015 there were 176.900 asylum applications, which is double the number of 2014. The acceptance rate increased from 43% in 2014 to 60% during the second and third quarters of 2015. The positive trend in the asylum application acceptance rate from 2014-2015 is an indicator that Member States are aware of the worsening security situation and threats to which people are exposed. Despite this, more than 80,000 persons could potentially need to be returned in the near future.
- The Afghan migrants can be divided into: refugees, coming from affected areas of conflict (qualifying for asylum in EU Member States) and economic migrants (who do not qualify for asylum status).

- The main push factors are: a deteriorating security situation with record levels of terrorist attacks and civilian casualties (over 11,000 civilian casualties recorded in 2015), compounded by a deteriorating economic situation. Both are likely to grow stronger. A survey by Democracy International showed that 82% of household youth and 72% of students point to unemployment and poverty as their major concern in Afghanistan right now - the percentage of household youth respondents naming unemployment as the biggest problem facing youth has more than doubled since 2013.
- Member States have the competence, when processing asylum applications, to declare which areas are safe or not; there is a divergent practice on the type of protection given (refugee or subsidiary protection) and with regard to on which ground (indiscriminate violence/armed conflict or torture/inhuman degrading treatment) asylum is granted. There is a need for a common definition of **safe areas** in Afghanistan (not obvious, given the rising insecurity in many provinces). European Asylum Support Office (EASO) has recently produced a Country of Origin Information analysis¹ on Afghanistan identifying areas that are deemed safe or not. EASO, with the support of the Commission and the NL Presidency is also piloting the development of common guidelines by Member State experts on the assessment of Afghan asylum claims.

Migration situation in the region

- With regard to refugee flows, Afghanistan is primarily a country of origin, with 2.5 million Afghan refugees in Iran and 2.9 million in Pakistan – many of whom have been there for decades. There are, however, 230,000 Pakistani refugees in Afghanistan. There are 1.1 million internally displaced persons (IDPs) in Afghanistan.
- Afghan refugees in the region face restrictions on their integration into the labour market and society, rendering their situation precarious without reliable long-term perspectives.
- At least 100,000 Afghans are in Turkey, of which 80,000 are registered international protection applicants, with applications often remaining pending for years, and rarely leading to asylum being granted.
- Due to the deteriorating situation in Afghanistan, as well as pressure on Afghans in Pakistan and Iran, **there is a high risk of further migratory flows to Europe**. This calls for a strengthening of interventions to maintain asylum space in the region.

¹ <https://easo.europa.eu/press-releases/easo-publishes-country-origin-information-report-security-situation-afghanistan/>

2. Relations with the EU

General

- The **EU Strategy on Afghanistan**, adopted in 2014, focusses on promoting peace, security and regional stability; reinforcing democracy; encouraging economic and human development and fostering the rule of law and respect for human rights, in particular the rights of women. The Strategy promotes positive incentives to help address some of the main push factors.
- The **EU-Afghanistan Cooperation Agreement on Partnership and Development (CAPD)**, which is initialled but remains to be signed, supports, inter alia, peace and security in Afghanistan by promoting a sustainable, stable and democratic political environment. The CAPD includes a specific **article 28** on increased cooperation on migration with the possibility to conclude a legally binding readmission agreement. However, following the proposal of the COM, Member States requested the transformation of the Agreement from an EU only agreement into a mixed agreement. If this request is accepted, it could delay the Agreement's entry into force by several years, given that all Member States Parliaments would have to ratify it.
- The EU is co-hosting the **Conference on Afghanistan on 4-5 October 2016 in Brussels**, building on previous conferences (Bonn 2011, Tokyo 2012, London 2014), meant to renew the support for Afghanistan's state building process and to commit new development funds at or near current levels for the period 2017-20.

Migration

Migration relations Afghanistan-EU

- In December 2015, HRVP Mogherini and FM Rabbani agreed to launch a High-Level Dialogue on Migration (Ministerial level) in Brussels, ahead of the signature of the CAPD, and to organize a DG HOME/EEAS senior officials' visit to Afghanistan to prepare the Dialogue.
- This visit took place in the last week of January 2016. As a follow-up, a letter will be sent by HRVP/Commissioner Avramopoulos to propose a High level dialogue on migration (senior official meeting in May, followed by a ministerial meeting in June). This dialogue will also involve EU Member States.
- The dialogue with Afghan authorities is difficult and uneven. While President Ghani and parts of the Afghan Government are publicly committed to cooperate on readmission, other members of the Government do not appear to facilitate the return of irregular migrants, while attempting to re-negotiate conditions to restrict the acceptance of returnees.

Migration relations with EU Member States

- Several Member States (DK, FI, FR, NL, SE, UK) as well as Norway have concluded a Memorandum of Understanding with Afghanistan, often with UNHCR support and covering mainly voluntary return. There were demands from the Afghan side to renegotiate these agreements and introduce new conditionalities. Member States coordinate their position within the “Core-8 Group” and the Eurint Group.
- Some Member States manage to do a very limited number of forced returns, using the EU laissez-passer.

3. Interests of the country, with focus on migration

Afghan interests

- Afghanistan remains highly **aid dependent** (around 40% of GDP), with 2/3 of the budget allocated to the security sector. Without continued high levels of international transfers, the Afghan state established after the 2002 intervention is unlikely to prevail, as it is being faced by multiple security, economic and political challenges.
- President Ghani and parts of the Government see migration as a **brain drain issue** and recognize the need to cooperate with the international community.
- The ‘**Jobs for Peace**’ programme launched in autumn 2015 aims at creating short-term employment but also to address political aspects by targeting areas and populations particularly susceptible to destabilization and recruitment by insurgents.
- In December 2015 the Afghan Government adopted a **National policy paper on migration, Sustaining Self-Reliance: A Strategy for Reducing Informal Out-Migration and Re-integrating the People Who Have Left**², identifying four potential programmes that could positively impact on migration: (1) reforming public administration, (2) housing development, (3) expanding legal migration labour, and (4) increasing rural jobs through market integration.
- **Facilitation of legal migration**, mainly to Gulf countries, with which the Government plans to engage in negotiation to establish a legal migration system to channel migratory pressure with private companies providing training and accreditation for work permits in Gulf countries (as done in Pakistan and Bangladesh).
- With an estimated 6% of Afghan households relying to some degree on remittances, the economic relevance of remittances is rather limited at macro-level. Despite this, the larger part of Afghan society tends to look favourably on migration as this is a source of significant remittances at household level.

² [151210_GoA_Migration_strategy.pdf](#)

- Afghanistan is interested in cooperation on border management and combatting smuggling and trafficking in human beings.
- At regional level, Afghanistan is part of a dialogue within the framework of **the Budapest Process/Silk Routes Partnerships**, which encompasses the European countries, Turkey, and the so-called Silk Routes' countries (Iraq, Iran, Afghanistan, Pakistan and Bangladesh). The process includes several technical meetings regularly attended by Afghani representatives.

EU interests

- The EU's overarching strategic goal in Afghanistan is the development of Afghanistan's institutions to provide the resilience needed to safeguard progress to date and provide the platform for a more effective and ultimately sustainable Afghan state³. The EU also wants to address irregular migration, in particular through effective return and readmission of Afghan citizens irregularly staying in the EU.⁴

4. Possible components of EU incentives package⁵

4.1 Possible positive incentives

a) Actions to reduce irregular migration and to improve readmission and return

- EU and Member States could offer increased support for the reintegration in Afghan society of irregular migrants accepting to return back home **voluntarily**. Basic support packages may also be developed for **forced** returnees (e.g. travel assistance, basic and immediate health treatment, vocational training). **Reintegration packages** in any case should be designed in a way not to become a pull factor (attracting even more migrants). Particular care should be taken with respect to persons belonging to vulnerable categories.
- Member States are invited to explore possibilities for making contributions to the return incentive scheme, through **co-financing or transferring funds to the Commission to complement its programmes**.
- EU and Member States should identify, with support from EASO, and share information on the situations and regions in which a risk of *refoulement* exists, and where return cannot be carried out; this information should be shared to ensure a coherent and fair approach towards Afghan migrants and authorities.

³ Afghanistan: European Union Strategy 2014-16. See also Article 1 of the CAPD.

⁴ CAPD, Article 28(4): "The Parties agree to conclude, upon request from either Party, an agreement regulating specific obligations for readmission (...)"

⁵ No conditionality can be attached to needs-based humanitarian aid in line with the Humanitarian principles

- EU and Afghanistan to launch an information campaign on risks related to illegal migration.
- Funding could be provided for a law enforcement cooperation project between Afghan and EU MS law enforcement entities to tackle migrant smuggling (possibly to finance under the Internal Security Fund (ISF) police 2016 or other suitable financial programmes).
- EU could assist Afghanistan in developing a legal framework to prevent the smuggling of migrants, based on the UN Protocol on migrant smuggling.
- EU is already contributing to the development of biometric identity cards and electronic population registers, also allowing for a quicker identification of the persons in the framework of a readmission procedure.

b) EU-Afghanistan migration dialogue

- High level dialogue on migration, with the objective of endorsing a "**Joint Way Forward**", engaging Afghanistan and the EU Member States to **cooperate on return and readmission**, to complement and facilitate the implementation of existing bilateral Memoranda of Understanding that several EU Member States have with Afghanistan.
- This cooperation will aim to set out procedures for readmitting irregular migrants using the EU laissez-passer for return, and through regular charter flights organized by Frontex. It would also foresee schemes for the reintegration of returnees into Afghan society.
- Should cooperation on return and readmission evolve positively, and provided that Member States show an interest, it may be envisaged at a later stage to develop a **broader engagement with Afghanistan**, with potential negotiation of a **Common Agenda on Migration and Mobility (CAMM)**.

c) Development cooperation

- The EU has pledged EUR 1.4 billion in development aid to Afghanistan for the 2014-2020 period; more than to any other country under the DCI. The four focal sectors (agriculture and rural development; health; policing and the rule of law; democratic institutions and accountability) address root causes of fragility and migration. The EU is accelerating the delivery of its assistance and plans for EUR 300 million in new commitments in 2016 and to commit more than 50% of the 2014-20 Multiannual Indicative Programme in the first three years.

- The EU will continue to mainstream migration in ongoing and planned programmes in line with areas identified in the National policy paper on migration and national development policies. The EU will continue to support the Government's ambitious reform policies 'realizing self-reliance' as a sound overall framework to stabilise Afghanistan and address root causes of migration, while providing additional targeted assistance provided to specifically migration relevant Government programmes, such as the *Government's quick impact job stimulus programme* (EUR 30 million in 2016) and the *Government's programme on biometrical national identification documents* (EUR 12 million).^[1]
- The State Building Contract for EUR 200 million in preparation is intended to be made migration sensitive, probably through one indicator linking it to the Government's policy on migration and return and possibly to the implementation of the "Joint Way Forward".
- A project supporting returnees from Europe to reintegrate them in Afghanistan, Bangladesh and Pakistan (EUR 20-30 million) is currently being prepared and likely to be implemented by the IOM, initially financed on the Asia regional allocation. Each national component could then be increased through contributions from the national envelope.
- The EU will follow up on the Afghan request to have a Migration Information Centre, and the EU is currently analysing the feasibility of a possible small information campaign.
- The EU (working with interested Member States) could offer possible support for vocational training in view of promoting skills development, which could also facilitate legal migration of Afghan workers to countries where such labour is in demand.
- The EU will continue focusing on the regional dimension, by supporting Afghan refugees, returnees and IDPs through the bilateral Aid for Uprooted People programme (EUR 25 million under the Annual Action Programme (AAP) 2014 and additional EUR 20-25 million foreseen for 2017).

d) The Brussels Conference on Afghanistan

- The leverage of the conference should be used as a positive incentive for the implementation of the **Joint Way Forward**.
- A **ministerial meeting as part of the High Level Dialogue** in the margins of the Conference could be used to take stock of the implementation of the Joint Way Forward.
- The EU should stress that to reach the objective of the Brussels Conference to raise financial commitments "at or near current levels" it is critical that substantial progress has been made in the negotiations with the Afghan Government on migration by early summer, giving the Member States and other donors the confidence that Afghanistan is a reliable partner able to deliver.

^[1] Programme which is currently blocked for political reasons

e) **Security**

- Improving security represents an essential element to limit the departures of Afghan citizens from the country. The EU will continue to strengthen its support to the Afghan Government efforts on law enforcement (through the Law and Order Trust Fund for Afghanistan (LOTFA)), independence of the judiciary and ensuring a professional civilian police. EUPOL is already contributing to this, and the efforts should continue after the closure of EUPOL mission in December 2016. This should also be an outcome of the Warsaw Conference in July 2016.

f) **The CAPD**

- The **CAPD** will enshrine a ten-year commitment, allowing for a more structured dialogue on migration. President Ghani is keen to have an early signature of the CAPD, which is considered a tangible strengthening of the relations with the EU. Therefore, early signature of the CAPD can be an incentive for Afghanistan to open a more structured dialogue on migration (possibly accompanied by a readmission Agreement). Early entry into force of the CAPD can be guaranteed by a signature of an EU-only agreement.

g) **Education and research**

- The EU could help boost the **exchanges of students, research and inter-cultural exchanges** and examine the possibility of opening a national window for Afghanistan for **Erasmus+** in 2016, allowing for increased use of the programme by Afghan students and university staff, extra capacity building or increased individual mobility. The risk that those students apply for asylum once in the EU and make their utmost not to return is however very high, as demonstrated by several cases recently.

h) **Regional dimension**

- **Dialogue** with Iran and Pakistan on Afghan refugees can be an important factor to allow refugees to seek asylum closer to home, which could also facilitate their (re-)integration.
- Continuing the dialogue within the framework of **the Budapest Process/Silk Routes Partnerships**, while exploring possibilities to upgrade the level of this dialogue.
- EU could encourage trilateral dialogue on migration Afghanistan-Pakistan-Iran (+Turkey). The aim would be to promote the integration/stabilisation of Afghan migrants and refugees in the hosting countries, in view to protect their rights and prevent their secondary movement towards the EU.
- Possibilities for raising additional funding to assist documented and undocumented Afghan migrants and refugees in Iran and Pakistan can be envisaged and specific areas of intervention should be determined.

- Strengthen the dialogue with UNHCR on this issue⁶; coordination ahead of the Summit on migrants and refugees scheduled for 19 September 2016.

4.2 Possible negative incentives

- Given the specific situation in Afghanistan using possible negative incentives will not produce useful results but could risk further exacerbating the dire socio-economic situation and increasing irregular migration pressure. It is, therefore, more useful to **focus on positive incentives**, to bolster Afghanistan's resilience against fragility in the critical early period of its transformation and to encourage a cooperative attitude on return, which can eventually lead to benefits for both sides.

5. Recommendations

The overall objective for the EU is twofold: 1) reducing and controlling the out-migration from Afghanistan and that of Afghan refugees in Pakistan and Iran to Europe and 2) allowing for the return of Afghan migrants and creating a favourable environment for returns.

This is to be achieved by a) reaching a political agreement with the Afghan Government on return by early summer, with the objective to start its implementation over the summer; b) continuing existing programs and launching new ones to support returns and measures to address the socio-economic situation, improve migration control and management; c) continuing to work towards stabilization and maintain mid- to long-term efforts to address root causes of migration.

6. Proposed next steps:

- The Commission, with the support of the EU Delegation to Afghanistan, should **continue coordination with Member States** in order to ensure consistency in the **ongoing renegotiations** of existing bilateral MoUs and the negotiations of new ones, as well as **return flight operations**.
- A **senior officials' meeting on return** will take place in Brussels as soon as possible to prepare the "Joint Way Forward". This would be endorsed at a **High-Level Dialogue on migration, to be held at Ministerial level in Brussels this spring**. Its implementation may be reviewed at a second **High-Level Dialogue on migration in the side-lines of the Brussels Conference on Afghanistan (4-5 October 2016)** to maximise the EU leverage.
- Creation of **reintegration packages** (EEAS, Commission and Member States) and continuing EU engagement and support in the context of the Silk Route partnership.
- Initiating **contacts with Iran and Pakistan** on possible actions **with regard to the Afghan migrants and refugees** in these countries as part of a regional approach.
- Regular **exchanges with the US on Afghanistan** – considering the strategic role of the US and its leverage on the country.

⁶ See UNHCR paper Strategic Realignment of Afghan Situation Response, 15 February 2016