



# UNHCR

United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

## UNHCR's Observations on the EU Draft Afghanistan Return Plan

Voluntary repatriation is generally the solution sought by the largest number of refugees. Afghanistan remains no exception; voluntary repatriation to **Afghanistan** currently represents **UNHCR's largest repatriation operation**. UNHCR has moreover been designated the **responsible agency** for co-ordinating returns of both refugees and internally displaced persons in Afghanistan. **Voluntary repatriation** is a **core and statutory function** of UNHCR. The search for durable solutions has generally required UNHCR to promote measures with governments and with other international bodies to establish conditions that would permit refugees to make a free and informed choice and to return safely and with dignity to their homes. It is in this light and in follow-up to earlier discussions, in particular with the Commission, that UNHCR submits these comments.

The EU Plan on returns to Afghanistan addresses many relevant issues in the context of return and could facilitate co-ordination between a considerable number of actors. As a result, the Plan could make it easier to ensure phased and orderly repatriation movements. Given the importance of **co-operation between all key actors throughout** the voluntary repatriation operation, and to ensure co-ordination during its implementation, UNHCR recommends the early involvement of all key stakeholders, including the **Islamic Transitional Authority of Afghanistan (ITAA)** in the elaboration of the plan.

It may be useful to consider including a provision in the Plan for a **Tripartite Mechanism**, possibly in the form of a **Tripartite Agreement**, between the EU, ITAA and UNHCR. Such Agreements have a long history and constitute the **traditional framework** for repatriation. They set out the firm commitments of **key stakeholders** as regards their **responsibilities** in the legal, material and operational domain, the rights of returnees, and operational procedures of repatriation, in line with agreed international standards. They thereby facilitate the necessary co-operation between the key actors concerned. Given the number of host countries within the EU, and the relative similarities in their protection systems and interests, such an Agreement would appear not only desirable, but also feasible. In this respect, UNHCR would be pleased to offer its expertise in drafting such an Agreement as well as to facilitate contacts with the competent Ministries of the ITAA, in particular the Afghan Ministry for Refugees and Repatriation.

### Specific observations

In UNHCR's view, the EU Return Plan to Afghanistan (Article 9) could usefully elaborate further the **objectives** of the Plan. They could include the following: ensuring safe and dignified return, in a phased and orderly manner, that is fully consistent with on-going voluntary repatriation operations in the region, with clear linkages established particularly with respect to on-going reintegration and reconstruction activities, as outlined further below.

With respect to the **return model** (Article 11), persons who return voluntarily are likely to be well informed of the situation and be able to rely on family- and other networks for support, thereby facilitating reintegration. Voluntary repatriation remains the strongly preferred option in all cases. This being said, and provided that there are no new protection needs or compelling humanitarian grounds that would justify continued stay, other return modalities can be considered where persons, after the passage of a reasonable time, continue to refuse to seek voluntary repatriation. Returnee updates, profiles of districts of return, updates on categories of persons in continued need of international protection and general country-of-origin information prepared by UNHCR amongst others may be useful in this regard.

Given the considerable differences in the specific legal status of Afghans in Europe, the EU plan on returns should further identify more clearly the **persons targeted** (Article 13). Many Afghan asylum seekers obtained full recognition as Convention refugees, although in some cases, States granted some form of complementary protection (in part because persecution by non-State actors was not recognised). Most States simply suspended decisions on asylum claims due to the volatile situation in Afghanistan after 11 September 2001. In this regard it is important to note that the changes in Afghanistan, while important, cannot be considered to have reached a threshold where they could be considered fundamental, stable and durable; cessation of refugee status therefore currently should not be considered.

The **legal, physical and material safety and the dignity of returnees** is a core element of any voluntary repatriation operation. While the Plan provides for special measures for vulnerable groups, the Plan might also additionally address guarantees for readmission, as well as rights of returnees upon return including but not limited to amnesties, physical safety, the preservation of family unity and the legal status of persons seeking to repatriate. The involvement of the ITAA in negotiations is clearly needed in this regard. Further, access by UNHCR to prospective returnees in the country of asylum and returnees in the country of origin should be provided for in line with internationally agreed refugee protection guidelines.

Given the large number of persons potentially repatriating to Afghanistan, including large-scale voluntary repatriation operations from Pakistan, Iran, and from within Afghanistan, and the major challenges faced on the ground, ensuring **phased and orderly movements** is essential in order not to overwhelm the available capacities and facilities in Afghanistan. While this is hinted at in Article 20, it would be helpful to be more explicit on these aspects (including accommodation, seasonal aspects, and the availability of basic social services amongst others).

Given the on-going large scale voluntary repatriation and returnee operations, ensuring the **consistency of the EU Plan with on-going programmes for voluntary repatriation in the region** will be key to ensure smooth and co-ordinated operations in Afghanistan. Noticeably differentiated post-arrival treatment should be avoided, particularly with regard to reception facilities (see Articles 28-31), as it otherwise could invite subsequent reverse discrimination and thereby serve as a destabilising factor.

The **sustainability** of voluntary repatriation is another important concern. Repatriation from Europe must be seen as part and parcel of a much broader “plan”, taking into account the overall efforts by the international community to support reconstruction and the rebuilding of a viable State in Afghanistan. Repatriation/reintegration packages are provided for (see Article 23), while reintegration assistance is given cursory mention (Article 31) in the Plan. It would be useful if assistance not be targeted to returnees only, but also to the Afghan authorities, to assist them in ensuring long-term sustainability of returns. In this regard, UNHCR works closely with the ITAA to build its capacity to provide for returning Afghans. As part of such efforts, UNHCR acts as Secretary to a Commission established by the ITAA to co-ordinate **repatriation, reintegration and reconstruction**. As noted above, it would be useful to specify **linkages** to such on-going programmes in Afghanistan.

**Registration** of potential returnees is necessary, preferably using the **standard voluntary repatriation form** developed by UNHCR. The standard form helps ensure that key information is collected systematically to enable follow-up in Afghanistan. The forms are additionally recognised as an official identity document, and permit access to reintegration assistance available in Afghanistan.