

Ref.: TG EUR 36/2017.001

Mr. Per-Willy Amundsen
Minister of Justice
Ministry of Justice
PO Box 8005 Dep
0030 Oslo
Norway

4 September 2017

Dear Minister of Justice

RE: AFGHANS RETURNED FROM NORWAY TO AFGHANISTAN – HUMAN RIGHTS CONCERNS

With this letter Amnesty International would like to present and express its serious concerns about the returns of Afghan nationals from Norway to Afghanistan. We also would be grateful for any information and views you may share on the content of this letter, prior to the publication of a report on this issue in October 2017. **We would be able to reflect in the report any relevant information received by 18 September 2017.**

Amnesty International has conducted research on the return of Afghan nationals from Norway, as well as from a number of other European countries, to Afghanistan. Our findings, which will be included in the report, are based on extensive desk and field research conducted between May and August 2017. Researchers documented over 25 returns from different European countries to Afghanistan, mainly through in-person interviews in Afghanistan. In many cases, Amnesty International was able to corroborate interviewees' testimony by gathering additional information from their lawyers and relatives in Europe, and by obtaining supporting evidence such as death certificates, medical records, police reports, court documents, other legal documents, as well as photographs and videos. In Kabul, researchers also spoke with the International Organization for Migration, the UN Refugee Agency, and the Afghan Ministry for Refugees and Repatriation.

HUMAN RIGHTS RISKS IN AFGHANISTAN

Afghanistan is currently the site of a non-international armed conflict between anti-government forces (dominated by the Taliban) and pro-government forces. In recent years, the conflict's geographic scope has expanded and new anti-government forces (including the group calling itself the Islamic State) have emerged. The conflict has killed and injured tens of thousands of people. Between 2009 and 2016, The United Nations Assistance Mission in Afghanistan calculated that nearly 25,000 civilians had been killed and over 45,000 injured.¹

The fear of becoming a casualty in this increasingly dangerous and widespread conflict has pushed Afghans to flee within and outside of the country's borders. Afghanistan's internally displaced people (IDP) population is expected to surpass 2 million by the end of 2017. While many people remain displaced within Afghanistan, millions more have managed to flee beyond its borders. Afghan refugees represent the third-largest refugee population in the world after Syrians and Palestinians.² More than 2.5 million Afghan refugees live in dozens of countries, with the vast majority (95%) residing in Iran and Pakistan.³

¹ United Nations Assistance Mission in Afghanistan, *2016 Annual Report on the Protection of Civilians in Armed Conflict in Afghanistan*, 1 February 2017, <https://unama.unmissions.org/protection-of-civilians-reports>, p. 3.

² UNHCR, *Global Report 2016*, http://reporting.unhcr.org/publications#tab-global_report, June 2017, p. 16.

³ UNHCR, *Global Report 2016*, http://reporting.unhcr.org/publications#tab-global_report, June 2017, p. 75.

**AMNESTY
INTERNATIONAL**



AMNESTY INTERNATIONAL INTERNATIONAL SECRETARIAT
Peter Benenson House, 1 Easton Street,
London WC1X 0DW, United Kingdom
T: +44 (0)20 7413 5500 F: +44 (0)20 7956 1157
E: amnestyis@amnesty.org W: www.amnesty.org

Another factor pushing Afghans to seek asylum is the fear of torture and other ill-treatment. In 2017, the UN committee responsible for overseeing the implementation of the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* registered its grave concern at “the various reports alleging that perpetrators of war crimes and gross human rights violations, including acts of torture, are still holding, or have been nominated for, official executive positions,” which has created a “general climate of impunity and contributes to creating widespread acceptance and legitimization of torture in Afghan society.”⁴

Moreover, many Afghans are also at risk of persecution – defined in EU and international law as “severe violations of basic human rights”⁵ on the basis of a person’s race, religion, nationality, membership in a particular social group or political opinion.⁶

In light of the deterioration of the security situation in Afghanistan, Amnesty International considers that Afghans forcibly returned to Afghanistan may be exposed to serious harm and or persecution.

RETURNS FROM NORWAY TO AFGHANISTAN

Amnesty International is particularly concerned by Norway’s policies and practices towards Afghan asylum-seekers.

First: we are concerned about the recent dramatic drop in asylum recognition rates for Afghan nationals in Norway: according to Eurostat data, from 82% in 2015 to 30% in 2016.

Second: we are concerned about the high numbers of people returned from Norway. Norway appears to be the European country responsible for the largest number of forcibly returned Afghans – not even proportionally to its comparatively small population of 5 million, but in sheer numbers. According to the Afghan authorities, of the forced returns in the first four months of 2017, a full 32% (97 out of 304 people) came from Norway. In 2016, the proportion was even higher: the Afghan Ministry of Refugees and Repatriation told Amnesty International that there had been 580 forced returns from Europe, with Norway accounting for 372 people – over 64%.

Third: We are concerned about the credible reports we received that Norway has sent people back to a risk of serious human rights violations in Afghanistan. Below are the cases of most concern – at the interviewees’ request, their names and some identifying information has been withheld for their safety.

- The case of AAAA: She told researchers that in 2015 her husband BBBB had been kidnapped and ransomed by a group opposed to his work. The kidnappers had beaten him so badly he was unable to speak for days. She told researchers: “They had tied his legs and hands. He was injured from head to toe and was shivering so much.” After the family managed to release him, they were too frightened to go to the hospital and had to ask a doctor to treat him at home. After he had recovered, AAAA and her husband and other family members – including an infant – fled the country. It took them several months to reach Norway. For reasons that are not entirely clear, their asylum claim was rejected and their appeal failed. The family was presented with two options: to be forcibly returned after being detained for a period of time, or “accept” a return and thereby receive the equivalent of USD 12,000 and avoid detention. She told Amnesty International: “So we agreed to a return and decided to start from scratch again – we had no choice.” BBBB started in a new line of work, and tried to keep a low profile. But a few months after returning from Norway, he disappeared. A few days later, AAAA discovered that her husband had been killed, and she is certain that the responsibility lies with the group that had previously kidnapped him. Amnesty International has seen BBBB’s death certificate,

⁴ UN Committee Against Torture, *Concluding Observations on the Second Periodic Report of Afghanistan*, 12 June 2017, UN Doc. CAT/C/AFG/CO/2, <http://www.refworld.org/docid/596f4f754.html>, para. 7.

⁵ European Union: *Council of the European Union, 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 (recast)*, 20 December 2011, OJ L 337/9-337/26; 20.12.2011, 2011/95/EU, <http://www.refworld.org/docid/4f197df02.html>, Art. 9(1)(a).

⁶ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, <http://www.refworld.org/docid/3be01b964.html>, Art 1(A)(2).

as well as police reports questioning a suspect in his murder. Although researchers are not in a position to verify the authenticity of these documents, if genuine they provide compelling evidence of BBBB's murder. AAAA wept as she told researchers: "Not a single word of what we said was a lie, but Norway didn't believe us. If we had been accepted, my husband would be alive today." She said that she and the rest of her family remain in hiding: "I'm so afraid I can't even bring my children to their father's grave."

- The case of CCCC: He is a 31-year old man who converted to Christianity in Norway. He said he was drawn to the religion by its followers' kindness and peacefulness. After several years in the country, the Norwegian authorities returned him to Afghanistan in May 2017. It was his first time in Kabul. He told researchers: "I am scared. I don't know anything about Afghanistan. Where will I go? I don't have funds to live alone and I can't live with relatives because they will see that I don't pray." Additionally, he cannot return to his province of origin; he said that an enemy of his family had attacked him 10 years previously, and showed researchers over a dozen deep scars across his legs, arms and torso. His Hazara ethnicity adds another level of vulnerability. UNHCR has recognized that converts from Islam, Christians, people involved in blood feuds, and Hazara people are all being at risk of persecution in Afghanistan.⁷
- A third case is that of 20-year old DDDD. He said that his father, who was a police commander, was killed by the Taliban in 2003. Several years after his father's death, DDDD said that he and his brother started receiving threatening letters from the Taliban. They received eight or nine letters. A copy of one letter is on file with Amnesty International, marked with the official Taliban stamp, stating: "You are told to hand over any weapons of your father and surrender yourself to the Mujahedeen or you will have the same fate as your father." UNHCR has recognized police officers as being at risk of persecution by Anti-Government Elements like the Taliban, and reported that relatives of police officers have been subjected to harassment, forced disappearances, violence, and killings.⁸ DDDD fled to Norway in late 2015. He told researchers: "I felt like a human being in Norway – I had never felt that way here in Afghanistan." His asylum claim was denied and the Norwegian authorities returned him to Afghanistan in late December 2016.

Beyond the cases of people who appear to have been returned to a serious danger of individual persecution, Amnesty International has also documented two cases of families who – following a return from Norway – closely escaped death or serious injury in suicide attacks.

- EEEE is a 44-year old woman who was returned from Norway in August 2016. She said that her husband and young son were on their way to a mosque in Kabul on 11 October 2016 when a suicide attacker struck, killing 14 and injuring 26. Since the attack, she said her son has become too frightened to leave the house.
- The case of the Farhadi family, which was covered extensively in the Norwegian print and TV media, is similar.⁹ According to media reports, the parents and their two sons were forcibly returned from Norway to Kabul in October 2016, and were close to a suicide attack on the Baqir-ul-uloom mosque in Kabul on 21 November 2016. At least 27 people died when a suicide bomber blew himself up inside the mosque – an attack for which the group calling itself the Islamic State has claimed responsibility.¹⁰ One of the sons, 13-year old Ali Reza, told the Norwegian news outlet Dagbladet that he was with a friend at the main entrance to the mosque when there was an explosion, followed by a fire. His two-year old brother Subhan was injured when the pressure from the explosion caused his mother to drop him. After the family returned home, Ali Reza said that Subhan began to bleed from his ears. According to his mother, he still has pain in one ear.

⁷ UNHCR, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, 19 April 2016, HCR/EG/AFG/16/02, <http://www.refworld.org/docid/570f96564.html>, p. 50, 53, 74, 79.

⁸ UNHCR, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, 19 April 2016, HCR/EG/AFG/16/02, <http://www.refworld.org/docid/570f96564.html>, p. 36, 41.

⁹ <http://www.vg.no/nyheter/utenriks/afghanistan/afghanistan-returene-doenen-naer-i-moskeangrep/a/23936754/>; <https://www.dagbladet.no/nyheter/familie-sendt-ut-av-norge-med-tvang---rammet-av-bombe/65363934>; <http://www.noas.no/afghanistan-og-behovet-for-rettshjelp/>;

¹⁰ "Deaths as Suicide Bomber Attacks Shia Mosque in Kabul," *Al Jazeera*, 22 November 2016, <http://www.aljazeera.com/news/2016/11/kabul-suicide-blast-shia-mosque-casualties-feared-161121083359269.html>.

VIOLATIONS OF INTERNATIONAL LAW

In conclusion, Amnesty International's research provides credible evidence that, by returning people to Afghanistan, Norway has violated the principle of *non-refoulement*. This binding principle of international law prohibits the transfer of anyone to a place where they are at risk of serious human rights violations.

Amnesty International considers that returns to Afghanistan cannot currently take place in safety and dignity, and that therefore all States – including Norway – should suspend the implementation of forced returns to Afghanistan.

We would welcome an opportunity to meet with you before or after our report is published. Additionally, if your Government has comments regarding our concerns, or further information to share regarding the drop in asylum recognition rates, the high rate of returns, or these specific cases, we will include them in our report if we receive them by Monday 18 September 2017.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Shea', with a long horizontal line extending to the right.

Anna Shea
Researcher/Advisor - Refugee and Migrant Rights

cc: Minister of Immigration and Integration Sylvi Listhaug, Prime Minister Erna Solberg, Director General Frode Forfang, Minister of Foreign Affairs Børge Brende.