



*Mission Permanente
de la République Islamique d'Iran
auprès des Nations Unies
et des autres Organisations Internationales à Genève*

In the Name of God, the Compassionate, the Merciful

Ref. 2050/1076253

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and with reference to the latter's Communication No. UA IRN 34/2021 dated 23 December 2021 concerning **the risk of refoulement and obstacles faced by Afghan nationals seeking asylum**, has the honor to transmit, herewith, the comment of the Islamic Republic of Iran in that regard.

The Permanent Mission of the Islamic Republic of Iran avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 14 February 2022



Office of the United Nations
High Commissioner for Human Rights
Palais des Nations
CH-1211 Geneva 10
Email: registry@ohchr.org

In the Name of God, the Most Compassionate, the Most Merciful

Comment

By

The Islamic Republic of Iran

Concerning the risk of refoulement and obstacles faced by Afghan nationals seeking asylum

In response to a joint urgent appeal communicated by the Special Procedures Mandate-Holders, dated 23 December 2021 and allegations raised therein appertaining to the risk of refoulement and obstacles faced by Afghan nationals seeking asylum, facts enumerated hereinafter are presented for your attention.

It is more than four decades that the Islamic Republic of Iran continues to host at least four million Afghan refugees and displaced people, mostly from Afghanistan. Iran has prevented the rush of this population towards European borders under the increasingly difficult circumstances and at tremendous costs, playing a crucial role in containing the forced displacement and refugee problem at the global level. This has been done even though the international contribution in this respect has thus far been minimal and the Government of the Islamic Republic of Iran – in comparison with other countries – has received the lowest financial assistance and aid from international donors to host refugees.

Notwithstanding the foregoing and while facing the severe barriers that unilateral coercive measures (UCM) have been creating for our economic growth and development, Iran with respect to humanitarian approach thereof, has exhausted all efforts and endeavours to host Afghan nationals. With this approach, the Government, while conducting its national vaccination program, has also vaccinated the Afghans in Iran against COVID-19, irrespective of their legal status; 3,630,474 doses have been administered till 24 January 2022.

It should be reminded that Iran's obligations in this context arise out of the 1951 Convention Relating to the Status of Refugees and its Protocol (hereafter the Convention) as a primary source of international law, to which Iran is a party with some reservations and the Iranian Regulations Relating to Refugees 1342 (1963) (hereafter the Regulations).

Pertaining to what is declared in the urgent appeal regarding the 1310 (1931) Act on the Entry and Residence of Foreign Nationals, it should be highlighted this act is a general law, while the specific law on refugees and asylum-seekers is the Regulations. Therefore, any conflict comes up between their articles will be resolved by the principle of *lex specialis*. In addition, any prior contradictory rule (*legi priori*) is considered null and void by article 14 of the Regulations. Consequently the Iranian related laws are in compliance with its international obligations and commitments. In relation to the compatibility of the Iranian law with its obligation under article 31 of the Convention, it is worth mentioning that this obligation as the Convention stipulates, is subject to the condition that the foreign nationals “present themselves without delay to the authorities and show good cause for their illegal entry or presence.”

With regard to observing the principle of non-refoulement, the Iranian Government underlines the position of the related committee on the interpretation of the article 33 where the possibility of mass migration or of attempted mass migration was excluded from the scope of that article with no objection as it has been recognized and endorsed under article 12 of the Regulations.

Since the US withdrew from Afghanistan, Iran has been trying to prevent the situations from deteriorating and has acquired numerous safe-conducts for fugitive former officials through diplomatic channels. Subsequent to the announcement of Amnesty for all by Taliban, hitherto Iran has not found any reliable, convincing and neutral international report on existence of systematic, pre-mediated and imminent risk of irreparable harm and grave human rights violations. The Government scrupulously gives out that if there are some countries convinced of the perpetration of the aforementioned violations in Afghanistan, Iran will be ready to facilitate the transfer of those Afghan nationals to their territories.

Regarding access to asylum procedure, on the strength of Article 3 of the Regulations, the Interior Ministry’s Permanent Committee for Refugees is mandated to examine anyone applying for asylum. The Committee is set to consider the status of asylum seekers after reviewing documents and qualifications thereof. Foreign nationals applying for asylum in Iran are, by virtue of Article 2 of the Regulations, obliged to register with the border police or a competent authority upon arrival.

The recent developments in Afghanistan prompted a deluge of Afghan nationals, 37,739 of whom legally entered Iran. Upon arrival, these individuals were accommodated in temporary camps in Sistan and Baluchistan and Khorasan Razavi provinces with all necessary services and assistance having been rendered thereto. A significant number of Afghan nationals have hitherto returned to their homeland either voluntarily or after receiving safe-conduct, or following submission of express written consent at the presence of a UNHCR representative. Neither of the Afghan nationals deported to country of origin thereof had applied for asylum on the strength of the existing rules and regulations of the Islamic Republic of Iran. Only 505 Afghans have applied for asylum in Iran whose applications are under consideration by the Committee.

I would also wish to emphasize the right and responsibility of sovereign States to their border management and control. Taking into account the security challenges, sophisticated patterns of human mobility and complexity of mixed and irregular movements in recent years, each State needs to ensure that the asylum system not to be jeopardized by the misuse and abuse of the system by those people who need no protection.

Most of displaced Afghans, a considerable number of whom are aiming to move towards Europe, illegally enter Iran with the help of smugglers. These individuals are usually arrested in northwestern parts of Iran and later deported to country of origin thereof. Therefore, taking a risky and perilous journey to set foot in preferred destinations via illegally entering Iran with the help of smugglers and then traversing all the way through the Country for nearly 2,000 kilometers in order to reach the northwestern borders and enter Turkey all bear witness to the fact that the ultimate goal pursued by most of these Afghan nationals, has never been to apply for asylum in the Islamic Republic of Iran. The Europe-bound Afghan nationals encroaching upon the Iranian territories in fact sought illegal employment, education and treatment NOT asylum. The United Nations High Commissioner for Refugees has – in an annual report released in 2021 entitled “Border Monitoring Report” –stated that most of the Afghan nationals deported from Iran had cited livelihood, family reunion and treatment as the main reasons for entering Iran, NOT applying for asylum due to a well founded fear of persecution for reasons of their race, religion, nationality, membership in a particular social group or political opinion in Afghanistan.

General observations

Commitment to international solidarity and burden and responsibility sharing for refugee protection involves all members of the international community. The fact that near 85 percent of the world refugees are still hosted by developing countries conspicuously contradicts the principle of fair and equitable burden and responsibility-sharing. It is deplorable that longstanding hospitality of several major host countries has served as a basis to evade fair and equitable burden sharing as a global responsibility. The UN human rights bodies cannot turn a blind eye to the sad fact of this institutionalized discrimination. Sustainable refugee protection and seeking durable solutions for this population require a more equitable distribution of them throughout the world through devising a long awaited mechanism for burden sharing.

There should be, definitely, no room for double standards. If open border policy is presumed a favorable attitude, it must be followed indiscriminately, not merely by certain developing countries while some affluent States are in some cases systematically suppressing asylum seekers by appeal to force. As overtly seen in recent circumstances, a few hundred asylum seekers at the borders of some developed countries are deprived from access to asylum procedures and portrayed as an urgent international crisis, certain developing countries like Iran cannot be expected to shoulder forever the costs of responsibility shirking by many other members of the international community. Furthermore, exerting pressure on Iran for keeping borders open towards endless mass influx of

displaced foreign nationals would negatively impact the economic, social and security situation of Iran and consequently result in flagrant breach of human rights of the local communities.

The so-called champions of human rights including those directly responsible for the current situation in Afghanistan need to – in lieu of building border walls – welcome, accommodate and resettle more Afghan refugees, significantly increase support for the hosting countries including the Islamic Republic of Iran and cooperate for realizing a permanent solution for the protracted situation of Afghans displaced abroad. In the same vein, it is requisite that all members of the international community refrain from any sort of destabilizing activity that would exacerbate the situation in Afghanistan and create new flows of forced displacement in the country and the region.