Challenges and priorities of the EU’s response to the situation in Afghanistan

Eleonora Milazzo and Jean-Louis De Brouwer

***The humanitarian, political, and security crisis that followed the withdrawal of US and NATO troops from Afghanistan is of global concern. The takeover of the Taliban is going to have a far-reaching impact on international affairs and policy making, both in the region and in the EU.***

***For the EU, in particular, the situation in Afghanistan represents both an external and an internal challenge. On one hand, the EU will have to find ways to engage with the country’s new leaders while not recognizing their government. The EU will also have to strike the right balance in its relations with geopolitical stakeholders such as China, Russia, and the US. On the other hand, this will be possible if and only if the EU and the Member States will be able to get rid of the crisis-mode approach which dominated their initial reaction, distinctively characterised by migration and security-related obsessions.***

***Top story at the end of the summer, Afghanistan seems now far from the headlines to the point that some are hinting at an “Afghanistan fatigue”. Still, the situation on the ground remains tragic and is likely to deteriorate further. However, this – probably short-lived – lower media attention offers more room for informal talks and innovative ways to act which help preventing the country and its population to plunge into total destitution.***

**Not another “refugee crisis”**

The outbreak of the Afghan crisis and the return to power of the Taliban have sparked concerns about another refugee crisis in Europe. But this much-feared mass flow of displaced people has not materialised yet.

In fact, Afghans are currently mostly internally displaced. As of October 2021, there were an estimated 5.5 million Internally Displaced Persons (IDPs) in Afghanistan. Of these, over half a million have been newly displaced since the start of 2021. This should be added to almost 1 million mostly undocumented Afghans from Iran and Pakistan who returned between 1 January and the end of September.

Importantly, then, the apparent absence of mass flows of people on the move to reach safety in the region or in Europe does not mean that there is no humanitarian crisis underway. With the country’s borders virtually closed and the humanitarian crisis still unfolding, the risk of displacement inside the country is going to intensify.2

Most of the population live with less than 2 USD a day and the UN is considering a scenario where nearly 100% of Afghans would plunge below the poverty line by 2022, as the brutal departure of the international community deprived thousands of households of any resources and, as a consequence of the freezing of aid and assets, civil servants are not paid anymore.3 With winter looming, the World Food Programme is therefore assessing that up to 23 million people, half the population of Afghanistan, will face acute food insecurity from November.4 As emphasized by both the UN Secretary-General Antonio Guterres and the IOM Director General Antonio Vitorino, a race against time has been engaged to prevent a humanitarian disaster

Despite these concerns, the response of EU Member States to the fall of Kabul appears to be primarily a knee-jerked reaction centred on preventing displaced Afghans from reaching EU territory and externalising protection to third countries.

In its August 31st Statement on the Situation in Afghanistan, the Justice and Home Affairs (JHA) Council stressed the need to bolster support to neighbouring and transit countries which host large numbers of refugees. The explicit goal shared by the Member States is “to prevent the recurrence of uncontrolled large-scale illegal migration movements faced in the past”.5 This, though, is not to be achieved by facilitating or creating safe pathways to protection, including via resettlement. Rather, the goal is to support Afghanistan’s neighbours, strengthen their capacity to provide protection, and make sure that the crisis stays in the region and is handled there.

The consequences of the humanitarian crisis are explicitly subsumed under a security logic, with little or no reference to human rights protection imperatives. Member States commit “to ensure that the situation in Afghanistan does not lead to new security threats for EU citizens,” including potential renewed terrorist risks coming from the country.6 While the Statement acknowledges the need to grant protection according to EU and international law obligations, clearly security considerations prevail on humanitarian ones in the response envisaged by the Council.

The JHA Council’s August 31st Statement expressed the need to initiate a crisis management mechanism, a priority later reiterated in the General Affairs’ Conclusion adopted in September. There the Council committed to coordinate with international partners, including the United Nations, and establish a political cooperation platform in the region.7

With its emphasis on security (further consolidated by the publication in early September of a counter-terrorism action plan) and the scarce references to human rights protection, the crisis management mechanism envisaged in the Council’s Statement is unprecedented and can serve as a model for crisis response in the future. Specifically, it sets a precedent for humanitarian aid to become a full-fledge migration management instrument.

**Challenges ahead**

The EU humanitarian and development footprint in Afghanistan is huge. With more than €4 billion in development aid since 2002, Afghanistan is the biggest recipient of EU aid worldwide.8 In addition to this, around €1 billion in humanitarian aid has been provided since 1994.9 Significantly, the flow of aid support is not going to stop: President von der Leyen, during the Rome G20 Summit on 12 October, confirmed a total package of € 1 billion in aid, including € 300 million humanitarian aid, also aimed at meeting needs in neighbouring countries, while direct development aid, which should be provided via the Afghan government, remains frozen.

Considering its fire power as a donor, the question is, then, how the EU should engage in the country and what challenges it is likely to face.

First of all, the EU has to engage with key geopolitical players, starting with the US. The way their decision to leave was implemented left far-reaching consequences, particularly as it was also followed by the Australia, United Kingdom and United States (AUKUS) deal affair. This, though, is unlikely to prove an unsurmountable obstacle. In fact, there is potential for strengthened cooperation around common goals, also given that the US has never considered Afghanistan as strategic as, for example, Pakistan.

It will be more difficult to start a conversation with Russia and China, as both heralded the fall of Kabul as another symptom of the decline of the old world order and of the weakness of the EU. However, their positions seem to be dominated by security concerns, i.e. to prevent any spill-over, particularly at regional level where Russia is eager to play a key role, and have shown little appetite for economic engagement.

A second layer of the EU’s involvement could be a much-needed dialogue with other countries in the region. Regional neighbours see the fate of Afghanistan as an important factor of regional security and economic development: the country shouldn’t become a pariah state and its population left to total destitution. They see a major humanitarian crisis looming and call for the suspension of sanctions, including the unfreezing of assets, while stressing the necessity of forming an inclusive government respectful of fundamental human rights. These regional players could serve as mediators between the Taliban and the international community. In this effort, they could also join forces with other Muslim countries, in particular Qatar, where the EU has announced its intention to open a delegation in 2022.

Last but not least, the EU cannot but engage with the Taliban. Benchmarks have been set by the Foreign Affairs Ministers in early September and first talks were held in Doha in the beginning of October. Re-establishing a presence in Kabul is being considered, for instance in the form of a humanitarian office.

Indeed, contrary to development aid, which remains frozen, humanitarian aid is delivered via partners, in particular UN agencies. This means that humanitarians will have to talk to the Taliban in order to reach the population in need. At the moment, they manage to control the whole territory, although their capacity should not be overestimated, as testified by numerous terrorist attacks happening in the country.

Importantly, though, this dialogue should be limited to what is necessary to deliver aid and should remain in the form of soft political engagement, without implying any formal recognition of the regime. It will also be important to keep in mind that establishing a dialogue in the current situation could inevitably mean reinforcing or legitimating human rights violations and discrimination, particularly for women or discriminated ethnic groups who will not be admitted to the negotiating table nor have access to aid agencies operations.0

While the EU will have to engage in an international coordinated effort to start this dialogue, it remains to be seen whether the Taliban will be ready for it. Donors need reliable interlocutors who can talk to development agencies and reassure them about how the money is going to be used. The question, then, becomes whether the Taliban regime will be able to provide sufficient guarantees while managing internal conflicts between ethnic groups.

**Key steps for an adequate response to protection challenges**

An ambitious and comprehensive EU response should be articulated in at least two complementary steps which, taken together, would form a protection continuum that live up to EU and international law.

Firstly, it is paramount to adopt humanitarian visas and organise humanitarian corridors. This solution has been called for by the LIBE committee in the European Parliament. The latter urged the Commission to take legislative initiative and put together a common European framework/coordination mechanism for humanitarian visas. Humanitarian visas are currently issued at the discretion of individual Member States according to their national legislation. The response required to cope with the magnitude of the Afghan crisis makes the Visa Code, and specifically Article 25, insufficient. What is needed, instead, is to ensure that the Afghan population has adequate and legal pathways to seek asylum. Family reunification visas should also be given high priority.

Secondly, it is necessary to adopt binding resettlement programmes from third states with the support of UNHCR. The Commission took initiative in 2016 with a new package to update the common European asylum system with a resettlement framework regulation. The latter was blocked by the Council even if the European Parliament had built up a majority backing the proposal.

Most recently, at the EU High-level forum on providing protection to Afghans at risk, Filippo Grandi asked the EU Commission and the Member States to consider offering half of the estimated 85,000 Afghan refugees who are likely to need urgent resettlement in the next five years.2 Member States have so far committed 20,000 places for 2022, Afghans excluded. This figure is considered far from sufficient by NGOs and civil society organizations, which have been calling for at least 30,000.3 With borders closed and shrinking safe pathways to countries of asylum, resettlement remains the most effective and relevant tool to address this humanitarian crisis. The point, then, is whether Member States will be willing to increase the pledge for 2022 or commit to a multiannual support scheme like it has been advocated.

Another option, as indicated by Commissioner Johansson, is for Member States to use community sponsorship and other complementary pathways. In this respect, Italy, in cooperation with faith-based and other civil society organizations, has recently signed a new protocol of agreement for the arrival of 1,200 Afghans through humanitarian corridors from Pakistan and Iran over two years, with the possibility of an extension to 36 months.4

Here it should also be noted that evacuation operations of the kind conducted so far should not be confused with humanitarian corridors. The former are one-off or sporadic operations involving former personnel working for Western governments and their families. The latter is a systematic humanitarian response targeting the general population, and, specifically, the most vulnerable ones.

In this context, the activation of the Temporary Protection Directive could have been fiercely advocated for. Unfortunately, the presentation by the Commission of the New Pact on Migration and Asylum in September 2020, and specifically its proposal to repeal this instrument and replace it with another, supposedly better emergency response mechanism, has rendered such an option almost obsolete. However, the fact that negotiations regarding the proposed new instruments have not even started gives yet another example of how dramatically unequipped the EU remains when confronted with possible sudden reception emergencies.

Therefore, it remains urgent to adopt common protection standards under the guidance of UNHCR and with the technical support of EASO. 5 Just to name a few, much-needed steps in this direction would be the suspension of returns, the re-opening of rejected asylum applications procedures, the suspension of ongoing procedures, and the full implementation of the “non-refoulement” principle, including strict monitoring and immediate sanctioning of ever-more frequent push-backs at the external EU borders.

**Conclusion**

The Taliban takeover has already taken a high toll on human rights and will continue to have a major impact on displacement regardless of the steps taken to keep migrants out of Europe. The effort to develop a well-coordinated protection strategy for Afghan refugees should go hand in hand with an assessment of the broader (geo)political framework and the state the country. The EU’s response to this multifaceted crisis should be centred on ensuring that humanitarian aid reaches the population, that the right to leave the country is safeguarded through the provision of safe and legal pathways, and that all Member State offer an adequate protection level to those in need.

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**Endnotes**

https://www.iom.int/news/iom-action-plan-calls-usd-159-m-support-afghanistan-and-regional-countries

2 See also deteriorating situation in the country: <https://news.un.org/en/story/2021/10/1103932>

3 https://www.undp.org/press-releases/97-percent-afghans-could-plunge-poverty-mid-2022-says-undp23

4 https://www.wfp.org/news/half-afghanistans-population-face-acute-hunger-humanitarian-needs-grow-record-levels

5 https://www.consilium.europa.eu/en/meetings/jha/2021/08/31/

6 https://www.consilium.europa.eu/en/meetings/jha/2021/08/31/

7 <https://data.consilium.europa.eu/doc/document/ST-11713-2021-REV-2/en/pdf>

8 https://ec.europa.eu/international-partnerships/where-we-work/afghanistan\_en

9 https://ec.europa.eu/commission/presscorner/detail/en/IP\_21\_4994

0 https://www.hrw.org/news/2021/11/04/afghanistan-taliban-blocking-female-aid-workers

According to Article 19 of the Visa Code, the admissibility requirements for a visa application can be waived on “humanitarian grounds”. Article 25 provides that, “where a Member State considers it necessary on humanitarian grounds”, a visa with limited territorial validity (LTV) must be issued. Source: <https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/556950/IPOL_BRI(2016)556950_EN.pdf>. See also <https://progressivepost.eu/lessons-from-the-afghan-crisis-in-migration-and-asylum/>

2 https://www.euronews.com/2021/10/07/un-chief-asked-eu-states-to-take-in-more-than-40-000-afghan-refugees

3 https://www.euronews.com/2021/10/07/un-chief-asked-eu-states-to-take-in-more-than-40-000-afghan-refugees

4 <https://www.infomigrants.net/en/post/36289/italy-1200-afghans-to-arrive-with-humanitarian-corridors>

5 The “Country Guidance : Afghanistan”, Common analysis and guidance note which represents the joint assessment of the situation in the country by Member States, has been updated by EASO in early November

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