

Different European countries' assessment of the security in Afghanistan and consequent praxis regarding asylum and deportations.

Special case – The Netherlands and Bulgaria

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Hellen Kooijman, the Netherlands, is one of the founders of the European network *Don't send Afghans back*. (www.dontsendafghansback.eu) She has a background in journalism, and a focus on Eastern Europe and especially Bulgaria about which she wrote many articles and a book. Since the persistent refugee crisis in Europe she is focused on how the European Union is dealing with refugees, especially Afghans.

I was originally only going to focus on The Netherlands but while preparing this presentation, I realised the importance of also focussing on Bulgaria. I began to realise that the European Union as a whole is moving in the direction of Bulgaria's policy regarding Afghan asylum seekers. Bulgaria sets an example for other countries when it comes to the treatment of Afghan refugees. A bad example in my opinion, a good one in the opinion of others. But I will come back to this at the end.

Let's focus on the people concerned: Afghan refugees. I would like to share with you the story of an Afghan family who came to the Netherlands three years ago, in 2015. Let's call them the X family: An Afghan family from Kabul, Muslim, a father and a mother, three children, teenagers. (by the way, this is not a picture of this family).

This family went through all the procedures, interrogations, and law suits necessary to stay in the Netherlands. Without any positive result. After 2 and a half years they were running out of possibilities. What was left was a voluntarily return to Afghanistan, or opposing this and being forced to go back. This family chose a different way. With the help of some Dutch citizens, they crossed the border to Germany. They requested asylum there. Remarkably enough they received a residence permit in Germany in less than three months.

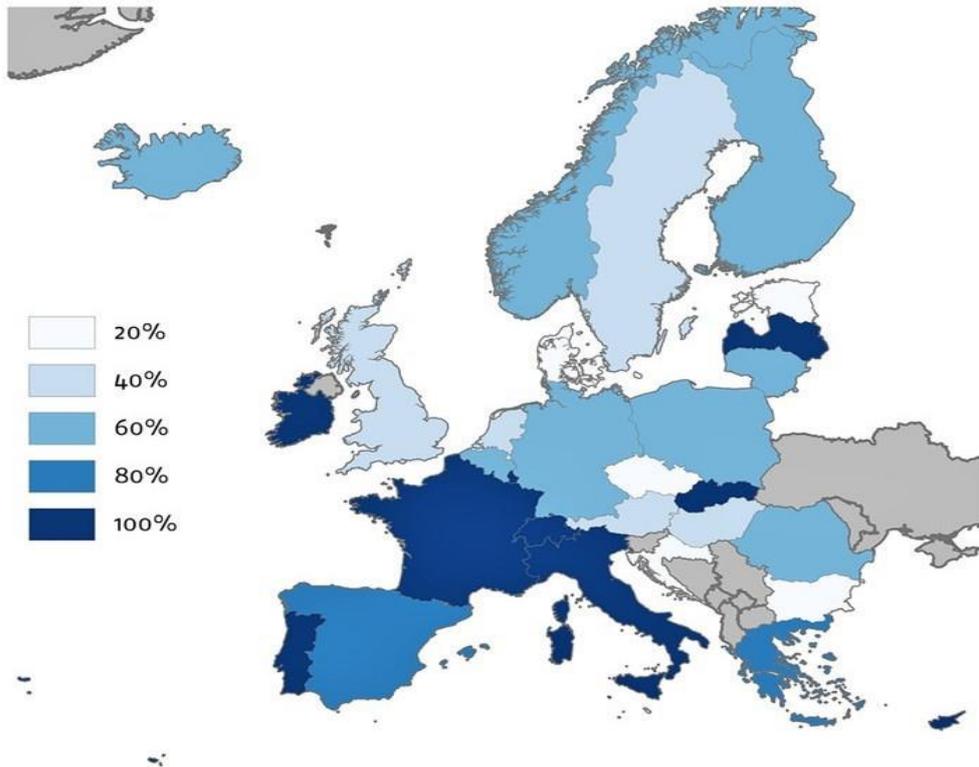
One might think that there is a direct link between the safety situation in Afghanistan and the recognition rate of refugees from Afghanistan asking for asylum. The worse the situation, the higher the recognition rate and the fewer refugees are being send back. That sounds logical, doesn't it? The reality, however, is very different.

There are huge differences between EU member states when it comes to the treatment of Afghan asylum seekers. I have identified 4 differences between the EU member states, that I deem the most important

4 differences in the way EU member states treat Afghan asylum seekers:

- A. Differences in recognition rate
- B. Differences in dealing with Dublin regulation
- C. Differences in expulsions
- D. Differences in public support

A. Differences in recognition rate.



This is a map of countries based on figures from Eurostat in 2017. Deep dark-blue coloured are the countries where asylum applications from Afghans are 100 percent granted, for example Slovakia, Portugal, Cyprus and Lithuania. However, only very small numbers of asylum seekers applied for asylum in these countries. No more than five to fifteen people per country.

The countries coloured less blue are countries where thousands of Afghans applied for asylum and where the percentage of Afghans allowed to stay is high. In Italy almost all Afghans (92 percent) applying for asylum received a residence permit last year. Also in France this percentage is more than 90 percent. In Greece and Spain it's more than 80 percent. Then you see the countries that are somewhere in between. Belgium, for example, granted a residence permit in almost 59 percent of the cases. In Germany, almost 47 percent got a permit last year.

In the Netherlands, 35 percent of Afghan asylum seekers received a residence permit in 2017. This is comparable to Sweden (37 percent) and the UK (36 percent).

And then there are countries that receive almost no Afghans like the Czech Republic and Estonia. And Bulgaria. In Bulgaria less than 1 percent, which is particularly remarkable here considering the route through Bulgaria was favoured by many Afghans in past years. Tens of thousands have passed through Bulgaria on their journey to western and northern Europe.

Grey are the countries where no figures were known.

The Netherlands

Let's have a closer look to the recognition rate in my home country, The Netherlands. In the Netherlands, 35 percent of Afghan asylum seekers get a residence permit. Of the 1895 applications in 2017, 670 were granted.

The Netherlands has become stricter - two years ago the recognition percentage was over 52 percent, around 20 percent more than today.

Are the Netherlands assessing the security situation in Afghanistan differently than before, or have the reasons Afghan asylum seekers are asking for shelter changed?

My home country has always looked primarily at the stories of individual asylum seekers rather than at Afghanistan as a country in conflict or war. As is the case for Syria and Yemen. Despite more than 10 influential human and children's rights organisations in the field of the Dutch government with reports to persuade them to change its policies, until now our government hasn't.

In March the Council of State, which is the highest judicial organ in the Netherlands, ruled that (and I quote): 'Although the security situation in Afghanistan as a whole is *worrisome*, asylum seekers are not entitled to asylum solely because they come from Afghanistan.'

So, like in the years before, it is not the general security situation in Afghanistan but other factors that are decisive in the asylum procedure. For example, in the past gay people or atheists, or other people who are at risk because of the vulnerable group they belong to, get a status.

There are 2 minor changes since August this year.

1. There is a change in the definition of single Afghan women. In principle, they are eligible for a residence permit, unless the individual account reveals that protection is not necessary.
2. Secondly, there is a change when it comes to families with children under 18 years old. Before, they could be sent back to Afghanistan even if they were coming from a place where the security situation is extremely dangerous. According to the Dutch government, there were safe alternative locations, the most important one being the capital of Kabul. For families with children this has now officially been changed. For them, Kabul also isn't a safe place.

This minor change is basically symbolic. After all, many families come from an area that is safe in the eyes of the Dutch government. And the real number of families that can benefit from this new minor change is estimated to be no more than ten. At the moment, 160 families (510 people) with Afghan nationality are in the caseload of the DT & V (Return and Departure Service). Whether they eventually return to Afghanistan or will be transferred in the context of Dublin is unknown.

After the publication of the new guidelines of the UNHCR, in which the UN stated that Kabul isn't a safe place anymore, there were questions in parliament to the Dutch Minister of Migration whether it would be wise to send Afghans back to Kabul. But, in this respect, the Netherlands does not follow the new guidelines from the UNHCR. According to the Dutch government, Kabul is still safe enough to send people back to.

So, in summary: Except for some minor changes that hardly occur in practice, the policy of the Dutch government didn't change. The Netherlands still assesses asylum applications on an individual basis.

B. Differences in dealing with Dublin regulation

Let's have a look to my second point about how European member states differ: The way they deal with the Dublin regulation.

We all know asylum seekers are mostly heading for western and northern European countries. Their future perspectives are much better in these countries than, for example, in Greece or Bulgaria. For Afghan asylum seekers, the country where they first came into and gave their fingerprints is of crucial importance. Take for example Bulgaria where the recognition rate of asylum applications by Afghans is almost zero.

So, sending back Afghans to Bulgaria according to the Dublin Regulation is practically the same as sending them back to Afghanistan.

Western European countries know this. The European Commission know this. The unfair treatment of Afghan nationals by the Bulgarian authorities was highlighted in a letter sent by the European Commission to the Bulgarian State Agency for Refugees and the Ministry of Interior in July 2017. In this letter the European Commission stated that (and I quote): 'Bulgaria's recognition rate of Afghan nationals is "strikingly low compared to the rate of recognition for the same nationality in other EU countries."

Still, countries differ in the use of Dublin regulation when it comes to Bulgaria.

There have been some lawsuits in which the judge agreed to the request not to return Afghans to Bulgaria. On 3 November 2017, the Italian Council of State suspended the Dublin transfer of an Afghan national from Italy to Bulgaria. But this was not the case in other countries, such as Austria.

In this respect, Afghans benefit from the attitude of the Bulgarians themselves. Because Bulgaria prefers not to take back asylum seekers at all. In July German Chancellor Angela Merkel asked Bulgaria to sign a bilateral agreement to take back refugees. This idea was rejected by the entire Bulgarian parliament. At least 60,000 migrants passed through Bulgaria from 2014 to date, and many of them ended up in Germany. Taking back tens of thousands of asylum seekers is out of the question, the Bulgarian government and parliament stated. Bulgaria doesn't have the means, and more: this will create a lot of problems because these migrants did not want to stay in Bulgaria in the first place anyway.

But perhaps it is more interesting to look at the west and north European countries and how they deal with the Dublin regulation when it comes to Afghan asylum seekers. In this respect, Italy and especially France are interesting to look at a little closer. We see that in different lawsuits, Italy and France decided that returning Afghans under the Dublin regulation is a violation of human rights.

In June of this year, the Ordinary Court of Rome decided that a 20-year-old Afghan male without a support network in Afghanistan could not be lawfully returned from Italy to Norway under the Dublin Regulation because this would have violated his fundamental human rights due to the risk of deportation from Norway to Kabul.

The court in Lyon decided in March of this year that two Afghan foreigners who had applied for asylum in Finland but had received a negative result and had to return, were in danger in Afghanistan and that Kabul was not safe enough.

In June of this year, the court in Nantes, also in France, decided that an Afghan asylum seeker whose asylum application was rejected in Belgium, could not return to Belgium because of the fact that he would be expelled to Afghanistan. The man came from Nangarhar and could not be sent back to that province because of arbitrary violence. In what I've read from this case, Belgium and France agreed upon this. But the Belgium and French courts differed in how they viewed the security situation in Kabul. According to Belgium, Kabul was safe enough. The French judge, however, decided that Kabul was not.

This is interesting. In Italy and France, some judges decide Kabul is too dangerous to send Afghans back to, but governments like the Dutch and Belgian believe Kabul is safe.

C. Differences in percentages of expulsions.

Let's have a look at the actual number of expulsions to Afghanistan, because these appear to be illogical and random. It is almost impossible to find the real figures per country, especially as Afghans are sometimes deported and then later retrieved due to errors in procedure.

The Netherlands

I want to focus on the Netherlands because according to data from the Return and Departure Service, from 1 January 2015 until now, a total of 230 Afghans have been forced to leave (have been 'deported'), and 490 have 'voluntarily' left. This year alone, up until August there have been 30 forced and 40 voluntary departures.

Something else is notable. I asked the Return and Departure Service for figures on the number of Afghan asylum seekers who are in danger of being deported, but who cannot be found. And I received the following answer:

In 2018 until August 360 Afghans left independently without supervision. They left on their own initiative and are no longer in the picture of the Dutch government. So from 360 Afghans the Dutch government does not know where they are. I suspect that they are wandering somewhere in the Netherlands or, like the Afghan family, have applied for asylum in another European country. Or they find another way to stay in Europe. Because what I know of the Afghans I meet in the Netherlands is that most of them do everything they can to not be deported to Afghanistan.

D. Differences in public support

And this brings me to the last point that is important when it comes to the treatment of Afghan asylum seekers. In practice, it turns out that the level of support Afghans get in a country from the population there, matters.

I again would like to focus on the two countries I know the best: Bulgaria and the Netherlands.

The Netherlands

In the Netherlands, there is currently a coalition made up of four political parties, two of them with a Christian signature and two with a more right-wing central signature. Migration and refugees are a major item in the Dutch political debate. The two largest parties are strict when it comes to granting asylum applications. The two smaller parties struggle more with this item. In the parliament, the left-wing parties are especially in favor of a different view of the situation in Afghanistan. There are also politicians who explicitly state that they are opposed to the expulsion of every Afghan because it is too dangerous there. The right-wing party of Geert Wilders, the PVV, prefers to not grant asylum to anyone.

Interestingly, at least 11 municipal councils, including those from big cities such as Maastricht, Rotterdam and Amsterdam, have spoken out against the expulsion of Afghans. In practice this is primarily a symbolic gesture, but in some of these municipal councils there are also politicians from the government parties.

There are also a lot of Dutch people who are standing up for Afghan refugees. And there are quite a few large organizations such as Amnesty International, Defense for Children and a number of church communities with large constituencies that are working hard for the rights of Afghans.

There were several protests in the Netherlands, not only from citizens but also from big NGO's in the field of human and children's rights and churches. Opposition parties were also involved. So far this opposition has not led to an actual change of policy. But several expulsions were prevented because of lobbying behind the scenes and pressure put on our government by citizens who stand up for refugees. Our Minister of Migration has already used his discretionary powers a number of times, allowing Afghans to stay.

There are plenty of volunteers who help Afghans in other ways. A big problem for Afghans is the credibility of their story. Afghans who can prepare and tell their story well are more likely to get a permit but, as different lawyers have told me, because of the complexity of their story, the language barrier, cultural differences and other reasons, many Afghans fail to convince the Dutch authorities that they need asylum.

This was, I understood, also the case with the family who left for Germany.

From my involvement with Don't Send Afghans back, however, I see how difficult it is to convince Dutch citizens of the danger that Afghans encounter when they are returned to Afghanistan. Compared to other conflicts-affected countries, Afghanistan isn't covered in the media. When you ask people on the street if they know where Damascus is situated most of them know. But Kabul is sometimes situated in Africa, or even Germany. Moreover, the war in Afghanistan is more complicated, not so clear-cut, and much less a war in the minds of many Dutch people.

Bulgaria

Different reports of human rights organisations show that the Bulgarian national migration authorities treat Afghan refugees unfair. Afghan claims for asylum in Bulgaria have often been rejected without fair consideration and applicants have often been persuaded to give up their claims and return to Afghanistan. Furthermore, Afghans end up in detention more than other asylum seekers.

This attitude of the Bulgarian authorities seems only to deteriorate.

This is Harmanli where the largest asylum seekers reception camp of Bulgaria is located. The living conditions are terrible there. In winter, there is hardly any heating, not enough warm clothes and people may only visit with permission.

In November, some 300 Afghans in Harmanli protested against poor living conditions in the camp and clashed with the police.

Hundreds of them were arrested and put in detention after these riots.

In Bulgarian society, there is hardly any support for Afghans. In fact, there are several civilians who have formed civil guards to find asylum seekers and transfer them to the Bulgarian police. There may be some sympathy for Syrians, but for Afghans there is hardly any support. They are seen as illegal migrants or fortune hunters, but not as refugees fleeing from violence and oppression.

Iliana Savova, the head of one of the Bulgarian Helsinki Committee, one of the most involved Human Rights Organisations in Bulgaria put it like this.

“There is a general assumption in Bulgaria that Afghans are not eligible for asylum status,”

Changing attitudes in EU?

The average recognition rate of asylum applications from Afghans for all European countries dropped in past years. In 2015, the Member States granted around 66.9 % of all Afghan asylum seekers protection. This percentage decreased to 56.8 % in 2016, to 47.4 % in 2017. This drop is mainly due to the low acceptance rate of countries like the Netherlands, and also Germany. In Germany almost 47 percent of asylum applications of Afghan Nationals were granted. In 2015, this was 73 percent.

In my talk I wanted to show that EU member states assess the security situation in Afghanistan differently, but that there is not necessarily a logical link between giving Afghan asylum seekers shelter, deporting Afghans and the security situation in Afghanistan.

When we take a closer look to practices in different countries it seems that the way Afghans are treated has more to do with internal politics and how the population views Afghans and Afghanistan. This is quite obvious in Bulgaria, but it could be said for a country like The Netherlands as well.

There seems to be a consensus on Syria: the EU does not send refugees back to Syria. But when it comes to Afghanistan, that consensus is apparently not there. Why not? Is the security situation in Afghanistan such that it cannot be definitively assessed? Or, are Afghans victims of the changing attitude of European citizens? Citizens who are not convinced that Afghans actually flee Afghanistan because of war and violence.

I would like to end with a personal note. I said at the beginning that I feared that the European Union might move in the direction of the Bulgarian policy. Let me adjust the words of Mrs Savova from the Bulgarian Helsinki Committee. Instead of Bulgaria I will write the European Union, and I will weaken the saying a little by putting the word "must" before Afghans.

“There is a general assumption in the [European Union](#) that [most](#) Afghans are not eligible for asylum status,”

I hope this will give food for thought.

