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NOTE

From: The General Secretariat

To: CIREA

Subject Replies to the Questionnaire on Afghanistan
(telex No. 1392 dated 27.03.97)

Delegations will find herewith a compilation of the replies received to the Questionnaire on Afghanistan.⁽¹⁾⁽²⁾

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- (1) The data received from Denmark, The Netherlands, Spain and Sweden is currently being translated and will be transmitted to CIREA at a later date.
(2) Luxemburg has no data to supply on this subject.
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QUESTIONNAIRE ON AFGHANISTAN

1. Statistics :

- number of asylum applicants from Afghanistan for each year during the period 1993 to 1996
- acceptance and rejection figures for applicants from Afghanistan each year over the period 1993 to 1996
- number of asylum applicants from Afghanistan granted refugee status during the period 1993 to 1996
- number of asylum applicants from Afghanistan granted de facto protection during the period 1993 to 1996
- number of rejected asylum applicants from Afghanistan returned to their country of origin during the period 1993 to 1996

2. Details of applications submitted by Afghan citizens

(a) applicant profile:

- male
- female
- average age
- minors
- unaccompanied minors
- religion
- socio-professional origin
- region of origin
- ethnic origin

(b) reasons given:

- membership of a party or political organisation, trade union or student organisation
- activities of a political nature (distributing pamphlets, participation in demonstrations, etc.)
- enforcement of the sharia
 - = in general
 - = adultery
 - = moslem deserter
 - = position of women
 - = position of homosexuals
- religious affiliation (e.g. Position of Hindus, Sikhs, Shi'a etc.)
- situation of ethnic minorities
- ethnic conflicts, including statelessness
- other reasons (e.g. Human rights violation)

(c) How did the applicant leave his country of origin
(specify place of origin)

- Who made arrangements for exit ?
- What services were provided by agent ?
- How much was paid and who financed it ?

(d) Route taken when and after leaving the country of origin

- means, routes and border crossings when leaving Afghanistan
- means, routes and border crossings after having left Afghanistan
- documents presented at border controls
 - = authentic document issued in the name of the applicant or otherwise (e.g. Forged document or no document at all)
- shorter or longer stay in other countries

(e) Documents produced in support of the application

- type of documents produced by the applicants
- authenticity of documents and how determined

(f) Were applications made on entry or within the country ?

3. Assessment of applications in accordance with the Geneva convention

Are you of the opinion that there could (still) be reason to conclude that there is a possibility of persecution under the circumstances prevailing in Afghanistan at the moment?

If so, how do you assess applications from asylum applicants that mainly invoke :

- the general situation in the country
- activities of a political nature (distributing pamphlets, participation in demonstrations, etc.)
- membership of the DVA/Watan party
- belonging to the former Najibullah regime
- belonging to the former Afghan army, Khad (or Wad), military intelligence service or Sarandoil
- former judges or public prosecutors
- relatives of persons belonging to the two previous categories
- young men claiming fear of being forced to join the Taliban
- enforcement of the sharia
 - = in general
 - = moslem deserter
 - = adultery
 - = position of women
 - = position of homosexuals
 - = illicit sexual relations

- = problems regarding child custody
 - = problems with divorce
 - = refusal to grow a beard
 - membership of an ethnic group (e.g. Pashtun, Hazara)
 - collective persecution/discrimination
 - other (e.g. having applied for asylum abroad)
 - belonging to a religious minority (sikh, hindu, shi'a)
 - marriage to a citizen of former soviet republic
 - persons who studied or worked in the Russian Federation under Najibullah
4. Is there an internal flight alternative? If so, please specify for which group or groups it is available and specify which areas.
 5. Are there judgments of principle of your courts relating to asylum applications by Afghan nationals, for example concerning
 - persecutions because of the sexe of a person
 - the question of the existence of state authorities.
 6. Cases of asylum-seekers who voluntarily refused protection offered by humanitarian organisations which operate (in loco or in neighbouring countries) (hosts in accommodation camps, protected camps).
 7. Eventual application of exclusion clauses (art. 1F of the Geneva convention). Please give details.
 - Do states continue to utilise article 33(2) and article 1(f) of the 1951 United Nations convention and are problems faced by members states when comparing these paragraphs with articles 2 and 3 of ECHR ?
 - Do member states, having refused 51 convention recognition find they do not pursue return based on ECHR article 3?
 8. Basic procedures for scrutinising applications:
 - Before taking a decision, do you interview applicants systematically or selectively?
 - In the latter case, on what criteria is the interview based?
 9. Are asylum applicants whose applications are rejected granted an alternative status?
If so, what is this status, approximately how many obtain this status and when does it expire?
 10. Treatment of asylum applicants whose applications are refused:
 - Repatriation to Afghanistan
 - = How is repatriation implemented and where to?
 - = Are there any particular difficulties?
 - = Do you monitor repatriated asylum applicants? If yes, please specify how and if you have any

information whether returned applicants are being subjected to interrogation or inhumane treatment after their return.

- Expulsion to third country: if so, please specify which.

11. Do you have a diplomatic representation in Kabul? If the answer is no, how do you collect information on the situation in Afghanistan ?

BELGIUM

1. Statistics

(1) Admissibility stage

Year	Applications	Decision of Aliens' Office		Decision of Comm.-Gen.'s Office		Total admissible
		Admissible	Inadmissible	Admissible	Inadmissible	
1993	74	17	54	38	7	55
1994	63	4	58	24	31	28
1995	81	16	65	21	35	37
1996	100	20	80	19	18	39

It should first be remarked that there has been a constant rise in the number of applications from Afghanistan.

It can further be noted that only 20% of asylum-seekers were declared admissible. This can possibly be explained by the fact that a number of Pakistanis pose as Afghans. Those living in the border area sometimes speak the same language (Pashto). Such asylum applications are declared inadmissible.

(2) Substantive examination

Year	Decision of Comm.-Gen.'s Office		Decision of the Permanent Commission on Appeal for Refugees		No decision
	Accepted	Refused	Accepted	Refused	
1993	43	10	1	3	1
1994	13	11	0	5	4
1995	22	5	0	0	10
1996	4	2	0	0	33

This shows clearly that the percentage accepted is relatively high.

2. Profile of Afghan asylum-seekers

2.A. Applicant profile

a. Sex

Year	Male	Female	? ⁽¹⁾
1993	52	21	1
1994	53	10	0
1995	63	18	0
1996	81	19	0

As can be seen from the above table there is a majority of men. There are also many couples, the wife following the husband. A woman on her own is a rather rare occurrence.

b. Age

Age at the time of the application	up to 15 years	20-30	30-40	40-50	+ 50	unaccompanied minors	accompanied minors
number	(+89	33	133	61	13	9	1

The above table shows that 86% of applicants are men between the ages of 30 and 40 at the time of applying for asylum.

c. Minors

The decision as to whether or not an applicant is a minor needs to be taken in accordance with his or her national law. In Afghanistan one is considered to be of age at eighteen. Statistics indicate that there were only 9 unaccompanied Afghan minors in the period 1993-1996.

As a rule Belgium does not repatriate unaccompanied rejected minors unless they are under special escort and covered by a special arrangement.

It furthermore appears impossible to repatriate people to Afghanistan.

⁽¹⁾ The sex of asylum-seekers has only been entered systematically into the database since 1994.

d. Religion

Most Afghan applicants interviewed to date at the Commissioner-General's Office are Sunnites. Some of these belong to the Shia religion and more specifically to the Hazeri minority. Finally, a considerable number of applicants are Hindus.

e. Socio-professional origin

In general it can be stated that most Afghan asylum-seekers have completed secondary education or even higher studies in the former USSR. They therefore belong rather to an elite. As regards their professional background, there is a large group consisting of military people including many officers. Finally there are the Hindus, who often belong to a richer trading elite.

f. Region of origin

Most asylum-seekers come from Kabul. Other asylum-seekers are generally from the border area with Pakistan. As stated before, the "Afghan asylum-seekers" group includes a number of Pakistanis who, since they live in the border area, are able to speak Pashto.

g. Ethnic origin

A large group appear to be of Hindu origin. Others are Hazeris or Pashtos.

2.B. Reasons given*– membership of a political organization*

A considerable number of asylum-seekers appear to have based their applications on problems arising from their (true or alleged) membership of the Khalq or Watan party. In more recent times membership of one or other Mujaheddin group is also alleged to give rise to a fear of persecution.

– Activities of a political nature

Politically-based activities are also often invoked as a reason, e.g. the distribution of pamphlets, participation in meetings, criticizing the Taliban, etc.

– Enforcement of the Sharia

For the time being this is not yet being invoked as a reason in actual practice. However, some people have left the country as a precautionary measure as they fear the strict interpretation of the Sharia by the Taliban.

– *Religious affiliation and/or ethnic minorities*

Membership of a religious and/or ethnic minority such as Hinduism is invoked as a reason. The Hazaris' membership of the Shia community is also given as a reason for persecution.

– *Other reasons*

Other reasons are: former pro-communist activities, family ties with persons who maintained good contacts with the former Najibullah regime, having studied in the former USSR, human rights violations, etc.

Applicants very frequently follow their partners or other family members.

2. (C-D). Route taken and use of an agent

On the whole Afghan asylum-seekers use two different routes to reach Belgium:

- (a) The most frequent route takes them on foot or by car to Peshawar. They then take public transport to Karachi, Lahore or Islamabad. From there they pursue their journey by plane to Germany or the Netherlands and travel on to Belgium by train or car.

Their stay in Pakistan ranges from one week to a couple of months.

Most applicants enlist the aid of an agent, who helps them acquire a (forged) passport, visa and tickets in Pakistan. Sometimes these agents also accompany them during their journey.

The amounts involved are in the region of \$ 3 500. In nearly all cases costs are borne by the applicant refugee.

- (b) There is also a group of Afghans whose residence permits in the former USSR have expired. Such students reach Belgium by plane from Moscow.

2.E. Documents

Documents submitted in support of their asylum applications are: identity cards (often dating back to before 1992), occupational cards of the Khad, membership cards of the Watan party, Russian diplomas, marriage certificates, etc.

In practice many documents appear to have been forged. Authentication by the authorities does not however appear to be possible.

2.F. Application within the country or at the border

Applications for asylum from 1993 to 1996	
At the border (in practice Zaventem airport)	295
Within the country	25

3. Acceptance of reasons given in the light of the Geneva Convention**3.(A) Introduction: Afghanistan and genuine fear of persecution**

The Belgian authorities regard Afghanistan as a country where serious human rights violations occur.

It is assumed that the current Taliban (and before that the Mujaheddin groups) are capable of highly repressive acts in the face of any form of opposition or criticism. In such cases one can speak of persecution by semi-official bodies. Moreover, persecution of this type can be regarded as a threat to people's freedom and/or lives.

The applicant refugee must nevertheless present a coherent and convincing account. Incoherence, contradictions and manifest fraud are not tolerated.

3.(B). Rulings with regard to reasons invoked

a. General situation

Asylum-seekers who merely refer to the general situation in Afghanistan are not accepted. In practice this is a rare occurrence. However, the current situation is such that it is always taken into consideration.

b. Membership of a political party, student organization or trade union.

Asylum may be obtained on the basis of such an activity. However, the asylum-seeker must present a coherent and convincing account.

c. Activities of a political nature

Refugee status may be granted on the basis of such activities.

d. Belonging to the former Najibullah regime

Belonging to the former regime is of course accepted as a reason.

e. Belonging to the former Afghan army, the Khad or the military intelligence service

Belonging to the former Khad often results in the granting of asylum. It should, however, be pointed out that this raises the question of whether the exclusion clause should be applied. To date this has not yet been applied by the Commissioner-General's Office.

f. Fear of being forced to join the Taliban

If presented sufficiently forcefully this aspect may result in the granting of asylum.

g. The Sharia

– Moslem deserters

No cases reported to the Commissioner General's-Office.

– Adultery

No cases reported to the Commissioner-General's Office.

– Position of women

Discriminatory treatment by the Taliban and strict interpretation of the Sharia provide the basis for a relatively flexible application of the Geneva Convention. However, this reason has so far never been invoked.

– *Homosexuality*

This has not yet been invoked as a reason by applicant refugees from Afghanistan. In a hypothetical case the granting of refugee status would be considered where the person in question can clarify his sexual proclivities in a convincing manner. In view of the highly rigid attitude of the Taliban, it is not absolutely necessary to demonstrate the individual and current nature of the fear expressed.

– *Problems with divorce and child custody*

Has not yet been accepted as a separate aspect.

– *Refusal to grow a beard*

In a hypothetical case, the mere refusal to grow a beard would in itself be insufficient to obtain asylum. However, it may be invoked as a reason where it expresses a clear political stance.

h. Membership of an ethnic minority

Membership of the Hazeri or Hindu minority may be accepted as a reason.

i. collective persecution

Collective persecution is not accepted as a reason by the Commissioner-General's Office. Individual fears must always be involved.

j. "Republikflucht"

"Republikflucht" as such is not accepted as a reason in view of the absence of a well-organized authority.

k. Marriage to a citizen of the former USSR

i. Studies or work in the former USSR

May be accepted as a reason.

4. *Internal flight alternative*

In view of the current situation in Afghanistan the internal flight alternative is not applied.

5. *Judgments relating to Afghan asylum-seekers*

6. *Asylum-seekers who voluntarily refused protection offered by humanitarian organizations operating in the area.*

The Commissioner-General's Office has no information on these aspects.

6. *Exclusion criteria*

As a rule exclusion clauses are rarely applied. In practice this has never been applied in respect of Afghanistan owing to a lack of evidence. It is however hypothetically conceivable that the exclusion clause could be applied in respect of both former members of the Khad and members of the Mujaheddin.

Before any application of the exclusion provision, an examination is first made of the extent to which the asylum-seeker is directly or indirectly involved in acts of violence, the responsibility he bears in a specific organization or group, the importance he has in the organization and whether the acts of these organizations are commensurate with the objectives pursued.

7. *Procedures for scrutinizing applications*

In principle every asylum-seeker is interviewed, by up to three relevant bodies (Aliens' Office: cases at the admissibility stage, Commissioner-General's Office: appeals at the admissibility stage and a second time at the substantive examination stage and finally the Permanent Commission on Appeal for Refugees: substantive appeals). Where the asylum-seeker goes through all stages he is interviewed four times, not counting the possibility of appeal before the Council of State.

There are some exceptions to this basic rule. In certain cases (especially Yugoslav, Guinean, Zairian and Angolan asylum-seekers) a letter is sent for the purpose of the substantive examination asking whether they wish to continue the procedure and make their reasons known in writing. It is then decided on the basis of the answer to this letter whether a substantive interview is required. This makes it possible to issue a direct refusal where there are clear contradictions between the letter and the statements made by the person in question at the admissibility stage. This procedure is not applied to Afghan files.

"Immediate acceptance" is a second exception. Where it appears in urgent appeal at the Commissioner-General's Office that the case is good enough for immediate acceptance, the substantive interview is cancelled. This is rather rare and only occurs in consultation.

The Permanent Commission on Appeal for Refugees is an administrative legal board; appellants are always convened with a view to being heard at the session. They may be assisted or represented by a lawyer.

9. Alternative status for asylum applicants whose applications are rejected

Apart from the "provisional status" which was introduced for specific categories of former Yugoslavs (and which still applies to a number of them), Belgium does not use the concept of tolerated-persons status or any other alternative status. Hence the broad interpretation of the Convention.

Because of the backlog accumulated over many years by the various bodies responsible for processing asylum applications, the asylum procedure sometimes dragged on for years. As many applicants had become well integrated into Belgian society in the meantime, some of them have had their status regularized by the Minister for Internal Affairs (although this remains an exceptional measure).

10. Repatriation

The Aliens' Office is responsible for repatriation.

11. Information from Afghanistan

Belgium does not at present have a diplomatic representation in Kabul.

As regards the collection of information, the Commissioner-General's Office has a documentation unit which, if required, can be called on to carry out specific research on a particular file. In order to obtain a balanced picture of a specific situation the Commissioner-General's Office never relies solely on local diplomatic representatives. An attempt is always made to consult several sources for each individual country. In the case of Afghanistan recourse is had to specialists, journalists or international aid organizations depending on the information requested.

GERMANY

1. Statistics (*):

- number of asylum applicants from Afghanistan for each year during the period 1993 to 1996
- acceptance and rejection figures for applicants from Afghanistan each year over the period 1993 to 1996
- number of asylum applicants from Afghanistan granted refugee status during the period 1993 to 1996

Period	Admitted (First applications)	Total number of decisions	Accepted	Protected from deportation by Section 51 of the Aliens Law	Rejected	Other solutions
1993	5 506	10 086	1 162	-	6 041	2 883
1994	5 642	14 283	2 232	-	10 368	1 183
1995	7 515	7 674	891	43 (*)	6 394	2 111
1996	5 663	7 223	356	13 (*)	6 585	1 373

(*) It is only since 1995 that there has been separate provision for protection from deportation under Section 51 of the Aliens Law. Where it has been irrefutably demonstrated that the conditions exist, the person concerned also enjoys the legal status of a recognized refugee within the meaning of the Geneva Convention.

- number of asylum applicants from Afghanistan granted de facto protection during the period 1993 to 1996

No statistics are kept concerning asylum applicants granted de facto protection.

(*) Statistics of the Federal Office for the Recognition of Refugees.

- number of rejected asylum applicants from Afghanistan returned to their country of origin during the period 1993 to 1996

Statistics are not kept concerning the total number of Afghan asylum applicants who have returned to their country of origin. Statistics cover only persons returned by the border police. During the period 1993 to 1996 no Afghan nationals were deported to their country of origin.

2. Details of applications submitted by Afghan citizens

(a) Applicant profile

(The following details are based on a recent sample survey carried out at the regional offices of the Federal Office for the Recognition of Refugees).

- male
- female

Asylum applicants are predominantly men; women account for some 30%.

- average age

In the majority of cases the age range of asylum applicants is from 18 to 40 years.

- minors

Asylum applicants frequently include minors; they are almost always accompanied by one or both parents.

- unaccompanied minors

Unaccompanied minors do occasionally apply.

- religion

Applicants are mostly Muslims. To a lesser extent they also include Hindus.

- **socio-professional origin**

Applicants come from all strata of society although there is an above-average number of financially comfortable applicants. The men include numerous academics, senior government officials, officers, teachers and engineers. The educational and professional qualifications of the women are comparatively lower; about 10% have an academic qualification, e.g. in medicine.

The young people are mostly still at school or have had hardly any schooling as a result of the civil war.

- **region of origin**

The great majority of asylum applicants come from the capital Kabul and surrounding area. There is also fairly frequent reference to the towns of Herat and Jalalabad while the remaining applicants come from all regions of Afghanistan.

- **ethnic origin**

Asylum applicants are mostly Pashtuns or Tajiks; to a lesser extent they also include Hazaras.

(b) Reasons given:

- **membership of a party or political organization, trade union or student organization**

Applicants frequently state they are members of the People's Democratic Party of Afghanistan (PDPA) or one of its subsidiary organizations. As a rule, involvement is limited to party membership without any higher profile activity.

Many of these applicants now fear persecution by Taliban. In this connection reference is made to the use of coercion by Taliban, e.g. arrests, torture and long-term imprisonment.

- **activities of a political nature (distributing pamphlets, participation in demonstrations, etc.)**

Fear of persecution for political activities is not usually given as a reason.

Individual applicants refer to persecution by Taliban for distributing pamphlets criticizing the regime of those in power in Kabul.

- **enforcement of the Sharia**
 - = **in general**
 - = **adultery**
 - = **Muslim deserter**
 - = **position of women**
 - = **position of homosexuals**

Coercion arising from the Sharia is seldom given as a reason. At most women refer to the general constraints imposed on women by rigid Islamic rules in the areas controlled by Taliban, e.g. the widespread ban on taking up employment or the obligation to remain fully veiled in public.

Abandoning Islam, adultery and homosexuality are not given as causes of persecution in asylum proceedings initiated by Afghan applicants.

- **religious affiliations (e.g. position of Hindus, Sikhs, Shi'ites, etc.)**

Applicants do not generally base their desire for asylum on persecution on grounds of religious affiliation. Some Hindus refer to the difficulty of living together with the predominantly Islamic population. They claim to have been subject inter alia to insults, pillaging and violent attacks by Muslims.

- **situation of ethnic minorities**

This does not feature in applications for asylum.

- **ethnic conflicts, including statelessness**

Conflicts between various ethnic groups are not cited as reasons for asylum.

- **other reasons (e.g. human rights violation)**

Younger applicants often claim to have fled in order to avoid the threat of compulsory recruitment by Taliban, or because they have already been so recruited.

Most applicants in any case refer to the physical dangers resulting from the civil war, e.g. the absence of personal safety, or to the basic dissatisfaction particularly on the part of educated

applicants regarding the present political and social situation in Afghanistan.

(c) How did the applicant leave his country of origin (specify place of origin)?

- **who made arrangements for exit?**

Exit is almost always arranged by the applicant's relatives. For this purpose use is mainly made of facilitators.

- **what services were provided by the agent?**

The facilitators usually organize the whole journey including the necessary papers and accompany the applicant to Germany.

- **how much was paid and who financed it?**

According to information provided by the applicants, facilitators ask for between US \$2 000 and 20 000. The money is found from savings or through the sale of jewellery or with the help of loans which are generally provided by relatives.

(d) Route taken when and after leaving the county of origin

- **means, routes and border crossings when leaving Afghanistan**

The great majority of applicants travel by private car or minibus from Kabul to Pakistan. They frequently claim to have crossed the border without being checked. Some also claim to have left the country legally via the Torkham border post.

Less frequently the route from Herat or Mazar-i-Sharif to Iran or Uzbekistan is used.

- **means, routes and border crossings after having left Afghanistan**

Once Pakistan has been reached, the journey is usually continued by direct flight from Karachi to Frankfurt.

If the route is via Uzbekistan, applicants first travel by private car to Moscow and thence by air

to Germany. Only rarely does an applicant claim to have entered Germany by road from Moscow. In such cases applicants are regularly unable or unwilling to indicate the countries of transit.

Applicants who leave Afghanistan by Iran usually travel overland to Istanbul and from there take the plane to Germany.

– documents presented at border controls

- authentic document issued in the name of the applicant or otherwise (e.g. forged document or no document at all)

In order to pass the border checkpoints, applicants are usually provided with false passports by the facilitators. These are frequently said to be Pakistani documents. It is not usually possible to obtain more detailed information from applicants since – according to the latter – the facilitators take back all papers as soon as the applicant has passed through the checkpoint.

Only in a few individual cases do applicants use genuine passports of their own.

– shorter or longer stay in other countries

Applicants usually stay in other countries only as long as is necessary for transit.

In Pakistan there may be a stay of several months if attempts to contact a facilitator are only begun there and the continuation of the journey has still to be organized.

(e) Documents produced in support of the application

– type of documents produced by the applicants

Most applicants produce no documents at all.

Moreover, when documents are produced they frequently include comprehensive proof of the professions exercised and the education received. Some applicants have People's Democratic Party cards, military papers or Khad papers. To a lesser extent, applicants bring passports. Some of these are passports issued by the Afghan Consulate in Hamburg.

- authenticity of documents and how determined

As a rule, the documents produced are authentic.

Where there are doubts as to the authenticity of documents and these are also important for a decision, they are submitted for checking to the Foreign Office or the Border Control Police.

- (f) Were applications made on entry or within the country?

Applications are mainly made within the country.

3. Assessment of applications in accordance with the Geneva Convention

Are you of the opinion that there could (still) be reason to conclude that there is a possibility of persecution under the circumstances prevailing in Afghanistan at the moment?

As the country is in ruins, there is not at present any nationwide force in Afghanistan with the overall organizational ability to carry out political persecution. Structures similar to those of a State do however exist in the areas controlled by Taliban, i.e. more than two-thirds of Afghanistan. Political persecution at regional level in the Taliban areas is therefore a possibility. On the other hand, it can be categorically denied that there is any political persecution in the other power zones, particularly those controlled by militia General Dostam and former President Rabbani, since there are no "State" power structures.

- the general situation in the country

The general situation in Afghanistan continues to be characterized by armed clashes between the various power groups fighting for political supremacy. In Afghanistan as a whole there is still an absence of any functioning overall State power; the country is basically divided into three power blocks. The fighting leads to a great many abuses of human rights. Individual freedoms and political participation rights are limited, not least because of the rigid Islamic social structure.

The constraints arising from the general situation in the country of origin cannot in principle be regarded as political persecution. Persecution is only political if it intentionally infringes the rights of the individual. This is not the case with disadvantages suffered by an individual as a result of the general

situation in his country of origin, e.g. harsh economic conditions or limited political rights, or indeed the general effects of war and armed conflict.

Where an application is based on the general situation, the granting of asylum is not in principle considered.

- activities of a political nature (distributing pamphlets, participation in demonstrations, etc.)

Whether political activities such as the distribution of pamphlets can lead to penalties depends on the circumstances in each individual case. The granting of asylum can only be considered if there is a danger that the return of an individual will lead to harsh persecution. In practice, applications based on such considerations are often refused owing to the contradictory and unsubstantiated claims of the applicants.

- membership of the PDPA/Watan Party

Simply belonging to the former PDPA does not, according to available information, give rise to political persecution. There is only a danger where former PDPA members used force against other persons or were responsible for acts of violence or are suspected of being so. In such cases asylum is usually granted when the applicant would be returning to areas controlled by Taliban since there is a likelihood of what amounts to State persecution.

- belonging to the former Najibullah regime

The possibility that those working for the former Najibullah regime could be subjected to reprisals and acts of revenge cannot be excluded. The position and function of the person concerned is of particular importance here. While prominent officials of the former communist regime are usually afforded refugee status, mere collaborators and lower ranking officials are less likely to be persecuted owing to the passage of time since the fall of the communist regime; asylum is therefore not usually granted.

- belonging to the former Afghan army, Khad (or Wad), military intelligence service or Sarandoi

According to available information, belonging to the former military is no longer a sufficient reason for a person returning to fear persecution. Only in the case of officers who held high-ranking positions during the communist regime is asylum granted owing to the threat of "State" persecution in the areas controlled by Taliban.

Prominent officials of the Khad and the military secret service are also much more likely to suffer reprisals.

In such cases consideration is usually given to granting asylum or protection from deportation under Section 53 of the Aliens Law.

- former judges or public prosecutors

Former judges or public prosecutors are generally regarded as being entitled to asylum since if they return to Taliban areas they are likely to suffer reprisals and acts of revenge which can be qualified as political persecution. Such cases are however very rare in practice.

- relatives of persons belonging to the two previous categories

Relatives of persons belonging to these categories are usually granted refugee status owing to the danger of all the members of a family being held liable for the crimes of one member in areas controlled by Taliban.

- young men claiming fear of being forced to join Taliban

According to available information, Taliban has in the past forced people to undertake civilian work, e.g. the digging of graves. Insofar as such requisitioning is arbitrary, it cannot be regarded as political persecution. It is only relevant for asylum purposes if Taliban bases such action on characteristics that are important for asylum (race, religion, political conviction, etc.). In such cases consideration is given to granting asylum.

- enforcement of the Sharia
 - in general
 - muslim deserter
 - adultery
 - position of women
 - position of homosexuals
 - illicit sexual relations
 - problems regarding child custody
 - problems with divorce
 - refusal to grow a beard

The application of Islamic law (Sharia) is not in itself sufficient grounds for asylum.

Rules and punishments relating to the Sharia can in principle only give entitlement to asylum if they involve characteristics that are important for asylum (race, religion, political conviction, etc.).

Punishment for adultery, illicit sexual relations or refusal to grow a beard do not, in the light of the above conditions, constitute political persecution since they consistently fail to have any asylum implications.

The same is true of rules relating to child custody and divorce.

An asylum application on these grounds therefore has no prospect of success.

However, in cases where there is danger of draconian punishment under the Sharia for particular forms of conduct, e.g. stoning for adultery in the area controlled by Taliban, protection from deportation is regularly given on humanitarian grounds (Section 53 of the Aliens Law in conjunction with Article 3 of the ECHR).

Muslim apostates are liable to sentence of death under the Sharia applied in the area controlled by Taliban. Such a punishment relates to the criterion of religious conviction which is significant for asylum and constitutes political persecution. An asylum application on these grounds is therefore likely to succeed.

Women are subject to the Islamic behavioural code throughout Afghanistan. Their condition is particularly difficult in the area controlled by Taliban. According to Taliban thinking, a woman's place is in the home. Consequently, it is almost impossible for women and girls to exercise a profession or attend school in the area controlled by Taliban. In addition, there are constraints in daily life, e.g. the

obligation to appear in public only if fully veiled and accompanied by a male relative.

Since discrimination against women and the persecution of women are not in principle seen as forms of persecution that are relevant for asylum, an asylum application on these grounds is not in fact likely to succeed.

Where Islamic rules of conduct for women turn out to be life-threatening, protection from deportation is granted on humanitarian grounds (Section 53 of the Aliens Law). Such protection from deportation is regularly granted to single women from the area controlled by Taliban as they have no means of surviving owing to the ban on exercising a profession.

Homosexuality is a punishable offence under the Sharia.

Given the strict application of the Sharia in the area controlled by Taliban, the persecution of homosexuals – a criterion for asylum – cannot be ruled out. The granting of asylum may be considered in individual cases.

– **membership of an ethnic group (e.g. Pashtun, Hazara)**

Persecution does not generally occur in Afghanistan solely on ethnic grounds.

Both the Pashtun majority population and the Uzbek, Tajik and Hazara minorities live mainly in separate settlements which provide them with protection and a safe haven. Persecution of ethnic minorities can however not be ruled out in those areas captured by rival ethnic groups, e.g. in the course of fighting.

Persecution relevant for asylum may occur in individual cases.

Such situations however are of no significance in asylum practice.

– **collective persecution/discrimination**

Any collective persecution gives entitlement to asylum if acts of persecution against a group of people in a particular area spread, are repeated and have a general effect that leads to actual individual danger for every member of that group (persecution).

According to available information there is no evidence in any area of Afghanistan of such group persecution of ethnic or religious minorities.

- Other (e.g. having applied for asylum abroad)

There is no evidence that merely applying for asylum leads to persecution in Afghanistan.

- Belonging to a religious minority (Sikh, Hindu, Shi'a)

No indications of political persecution of religious minorities can be perceived.

The Sikhs and Hindus, who were mainly settled in Kabul, saw their property looted in the past in the confusion of the civil war. Such excesses no longer occur. Our understanding is that Sikhs and Hindus are at present tolerated in all parts of Afghanistan and are widely able to practise their religion unhampered.

Insofar as asylum seekers from Taliban areas report obstacles to vocational training or abuse from Muslims, the kind of harassment involved does not carry any weight as far as asylum is concerned.

According to current information, Shi'ites can practise their religion freely – even in Taliban areas – and are not regularly subject to any other discrimination.

- Marriage to a citizen of a former Soviet republic

No such situation has been reported yet.

- Persons who studied or worked in the Russian Federation under Najibullah

Having studied or worked in the former Soviet Union does not, in itself, generally trigger persecution in Afghanistan.

This, in particular, is true even for the region controlled by Taliban where a qualified work force is needed to rebuild the country. For this, Taliban are also making use of persons who were educated or worked in the Soviet Union. Even for its armed forces Taliban is deploying people who received their military training in the Soviet Union, e.g. as pilots for the air force.

Studying or a professional activity in the Soviet Union is thus not generally germane to the question of asylum.

4. Is there an internal flight alternative? If so, please specify for which group or groups it is available and specify which areas.

The alternative of internal flight exists where the applicant is indeed threatened by political persecution in parts of his home country, but can however live without fear of persecution in other parts of the country and finds adequate means of subsistence there. In addition, it must be possible for victims of persecution actually to reach the flight alternative.

There is no such flight alternative, as thus defined, in Afghanistan at present.

It is not generally possible for victims of persecution to get away to regions where they are not at risk of persecution since, without ethnic and family connections, people not from the area can hardly manage to find the basic essentials for survival.

A further factor is that victims of persecution from the North or South of the country find their escape to the other part of the country barred because of the fighting still going on in the Salang Pass, the route linking the two parts, which renders it impassable at present.

5. Are there judgments of principle of your courts relating to asylum applications by Afghan nationals, for example concerning

- persecution because of the sex of a person

Political persecution of women merely because of their sex is categorically denied by the courts.

- the question of the existence of state authorities

Jurisprudence assumes unanimously that Afghanistan no longer has any general government structures.

High court jurisprudence differs on the question of whether there are (quasi) government structures with corresponding bodies at regional level.

A supreme court decision on this issue is still pending.

6. Cases of asylum-seekers who voluntarily refused protection offered by humanitarian organizations which operate (in loco or in neighbouring countries)(hosts in accommodation camps, protected camps). Where such instances occur, what explanations (justifications) are given by those concerned?

No such cases have yet occurred.

7. Eventual application of exclusion clauses (Article 1F of the Geneva Convention). Please give details.

- Do states continue to utilize Article 33(2) and Article 1(f) of the 1951 United Nations Convention, and are problems faced by Member States when comparing these paragraphs with Articles 2 and 3 of the ECHR?

The exclusion clauses in the Geneva Convention relating to the Status of Refugees are not applied in German law.

Of course, it is possible to reject an application for asylum under Article 30(4) of the Law on Asylum Procedure as manifestly unfounded where the conditions of Article 51(3) of the Aliens Law – which corresponds in essence to Article 33(2) of the Geneva Refugee Convention – obtain.

Such is the case where the person concerned has been convicted of a particularly serious offence and thus constitutes a serious threat to the safety of the Federal Republic of Germany or a public danger.

A person eligible for asylum can, of course, be deported to his home country under the conditions laid down in Article 51(3) of the Aliens Law. Deportation will however be stayed where humanitarian grounds pursuant to Article 53 of the Aliens Law exist, e.g. the likelihood of a death sentence or other treatment in breach of human rights.

- Do Member States, having refused recognition under the 1951 Geneva Convention, find they do not pursue return based on ECHR Article 3?

This situation arose in 1996 with 1 104 Afghan applicants for asylum. People are not expelled if there are humanitarian grounds preventing deportation, such as the threat of inhumane treatment.

8. Basic procedures for scrutinizing applications

- Before taking a decision, do you interview applicants systematically or selectively?
- In the latter case, on what criteria is the interview based?

Decisions in asylum proceedings are taken on the basis of an individual hearing in which the applicant is questioned systematically and comprehensively on his reasons for seeking asylum.

There may exceptionally be no hearing when there is already sufficient evidence in the dossier for asylum to be granted.

9. Are asylum applicants whose applications are rejected granted an alternative status? If so, what is this status and how many obtain this status?

There is no provision for special status for Afghan asylum seekers whose applications have been rejected. Where deportation cannot take place for humanitarian reasons (Article 53 of the Aliens Law), the person concerned is usually given provisional permission to remain under the general arrangements (but no right of residence, only postponement of deportation).

In 1996, 1 104 Afghans could not be deported on humanitarian grounds.

10. Treatment of asylum applicants whose applications are refused:

- Repatriation to Afghanistan

- = How is the repatriation implemented and where to?**
- = Are there any particular difficulties?**
- = Do you monitor repatriated asylum applicants? If yes, please specify how and if you have any information whether returned applicants are being subjected to interrogation or inhumane treatment after their return.**

There are no repatriations to Afghanistan at present. The Federal Border Police are currently establishing whether and in what way repatriations to Afghanistan can be carried out.

- Expulsion to third country: if so, please specify which?

No deportations were carried out in 1996 to third, i.e. safe, countries.

11. Do you have a diplomatic representation in Kabul? If the answer is no, how do you collect information on the situation in Afghanistan?

There is no diplomatic representation in Kabul.

To get information, the Ministry for Foreign Affairs itself and the Embassy at Islamabad which has responsibility for Afghanistan keep up a variety of contacts with Afghans from the various ethnic and political tendencies. The Ministry for Foreign Affairs completes its picture by means of travel to different parts of Afghanistan.

Besides the situation reports and information from the Ministry for Foreign Affairs, publications by human rights organizations, UN reports, opinions of experts, as well as national and international media reports are evaluated.

GREECE

1. STATISTICS

TABLE

*NUMBER OF ASYLUM APPLICATIONS SUBMITTED
BY AFGHAN NATIONALS AND NUMBER GRANTED*

YEAR	NUMBER OF APPLICATIONS	APPLICATIONS GRANTED
1993	6	-
1994	11	-
1995	6	-
1996	17	-

2. DETAILS OF APPLICATION

(a) Applicant profile

Most Afghan asylum applicants are men aged 25-45.

Quite often they are accompanied by their wives and dependent children.

None of Afghanistan's ethnic or religious groups appears to be predominant amongst the asylum applicants.

(b) Reasons given

The main reasons given by asylum applicants between 1992 and 1996 concerned the general instability in Afghanistan following the withdrawal of Soviet troops and the replacement of Najibollah.

As the Taliban take-over of most of the country and the strict imposition of Islamic law took place in 1996, applicants submitting their requests during the abovementioned period do not usually refer to the current situation in Afghanistan.

(c) How did the applicant leave his country of origin?

(d) Routes taken

Apart from two Afghans who arrived legally via Athens airport, the rest entered Greece illegally via the border with Bulgaria or with Turkey.

(e) Documents produced in support of the application

Most applicants produce no documents to prove their claims and support their applications.

(f) Applications on entry or within the country

The asylum applications of the Afghans who arrived legally were submitted immediately on arrival at Athens airport, while the rest were submitted quite some time after the illegal entry of the applicants concerned. Some of the applicants requested asylum after removal proceedings had gone against them, following their arrest for being present illegally, thereby abusing the asylum procedure in order to avoid expulsion.

3. ASSESSMENT OF APPLICATIONS IN ACCORDANCE WITH THE GENEVA CONVENTION

The reasons given are examined on the basis of Article 1A of the 1951 Geneva Convention.

The assessment of the danger alleged by the applicant is carried out in each case on the basis of information provided by him, with all the recent data from official sources regarding the current situation in Afghanistan being taken into account.

4. INTERNAL FLIGHT

Did not apply in any of the cases.

5. CASE-LAW CONCERNING ASYLUM APPLICATIONS FROM AFGHAN NATIONALS

There is no case-law of this nature.

6. CASES OF ASYLUM APPLICANTS WHO VOLUNTARILY REFUSED PROTECTION OFFERED BY HUMANITARIAN ORGANIZATIONS, ETC.

No such cases have arisen.

7. APPLICATION OF EXCLUSION CLAUSES (ARTICLE 1F OF THE GENEVA CONVENTION)

To date, the exclusion clauses in Article 1F of the Geneva Convention have not been applied to Afghan nationals.

8. BASIC PROCEDURES FOR SCRUTINIZING APPLICATIONS

In accordance with current legislation, every asylum application always results in the applicant being interviewed by specially trained personnel from the authority receiving the application.

In particular, the applicant is required to explain his reasons orally and to produce all supporting documents in his possession in order to prove his claims.

The interview is always conducted with the assistance of an interpreter.

9. TEMPORARY RESIDENCE PERMITS ON HUMANITARIAN GROUNDS

Because of the abnormal situation which has recently arisen in Afghanistan, Afghan nationals who have applied for asylum in Greece, and whose application has been rejected, are not removed, but are granted temporary residence permits on humanitarian grounds, in accordance with Greek law, until the situation returns to normal.

10. REMOVAL

The decision on whether or not to remove (expel) Afghans is taken in accordance with Greek legislation on a case-by-case basis, as in the case of nationals from other third countries.

However, the Greek authorities face insurmountable obstacles in the case of the expulsion of Afghan nationals living illegally in Greece since, on the one hand, no airline is operating direct flights to Kabul and, on the other, there is no Afghan diplomatic representation in Greece to provide them with travel and other documents.

Naturally, Afghans who have been granted refugee status, or who are covered by the non-refoulement (non-return) clause of Article 33 of the 1951 Geneva Convention, are exempt from the procedure.

11. DIPLOMATIC REPRESENTATION IN AFGHANISTAN

There is no Greek diplomatic representation in Kabul. Information on the current situation in Afghanistan is therefore obtained via the Greek Foreign Ministry from Greece's diplomatic missions in neighbouring countries (Moscow, Islamabad, etc.) or from other official sources (e.g. UN High Commissioner for Refugees).

FRANCE

1. STATISTICS

Afghan asylum applications	1993	1994	1995	1996
No of applications	84	122	106	89
No of acceptances	67	100	88	91
No of rejections	27	12	72	27

2. DETAILS OF AFGHAN APPLICATIONS

(a) Applicant profile:

- Overall, the number of applications from men and women over the period in question is the same, although slightly more women applied in 1996. Cases where the wife has been widowed or the husband has gone missing are fairly frequent.
- Couples and family groups, many of whom join refugee parents and close relatives in France, account for a major share of applications (nearly one third).
- In several cases, young married women join husbands with refugee status whom they married in Pakistan and, more rarely, in Germany, the United Kingdom or Iran.
- Every age category is represented, although most applicants are over the age of 30.

Applications from unaccompanied minors are the exception.

- Although no statistics are available on the religion, socio-professional origin or ethnic origin of applicants, the situation is broadly as follows:
- Most applicants are SUNNIS, although SHI'ITES, mainly HAZARAS and, less frequently, ISMAELIANS and Shi'ite Tajiks from Herat, account for a not inconsiderable number of applications. During the period in question, six applications were received from HINDUS. On the other hand, there is no record of applications from SIKHS.
- The TAJIKS are the ethnic group most often encountered, followed by the PATHANS (PASHTUNS), HAZARAS and UZBEKS. Other ethnic groups are scarcely, if at all, represented.

FRANCE

- Most applicants are educated up to at least secondary education level and very often beyond. They represent the country's executive class (liberal professions (in particular, doctors), officials (often teachers, especially among women) including military personnel) and the middle class (traders).
- They are generally from Kabul or the neighbouring regions (Parwan, Wardak, Nangarhar); if not originally from Kabul, they were in most cases resident there. Some residents of Herat sought asylum in France following the capture of that town by the TALIBAN in September 1995.

(b) Reasons given:

- Applicants claiming an **active political commitment** are former members of the PDPA/Watan or former Communist youth movement and many female applicants are members of women's organizations with Communist party links.
- Others plead fear of persecution merely on the grounds that the duties which they performed entailed **membership of the fallen Najibullah regime**.
- **Enforcement of the sharia** over the period under consideration is a reason increasingly given by women, generally in association with other reasons (ethnic, political), especially by educated women who complain that, in the event of their return to Afghanistan, they will be unable to exercise their profession in that country. However, adultery, the position of homosexuals or illicit sexual relations, along with the problems of divorce and child custody or the refusal to grow a beard, have never been cited as sources of fear.
- **Religious affiliation** is cited relatively rarely, although Shi'ite HAZARAS systematically give it as a reason for seeking asylum, and as such has to be set in the general context of interfactional conflict. The few HINDUS seeking asylum status also cite it as a reason.
- Fighting between the various **Mujahidin factions** during this period is the main reason given. The nature of these factions is both ethnic and religious. Depending on the ethnic origin of the applicants, the town or district in which they live and their personal/professional profile, the reasons given by them include threats, reprisals, abduction, arbitrary detention and abuse, including the murder of members of their families, carried out by one or other of these factions.

The factions **most frequently mentioned** in connection with persecution are:

- Sunni fundamentalist movements:
 - * Gulbuddin Hekmatyar's HEZB-I ISLAMI movement (Pathan (Pashtun)), with an occasional reference to the dissident group of Younis Khalis
 - * the ITTEHAD-I ISLAMI movement, headed by Abdul R. SAYYEF (Pathan) and backed by Saudi Arabia
 - * former Head of State B. RABBANI's JAMIAT-I ISLAMI movement, backed by General MASSOUD (Tajik).

- One Shi'ite movement:
 - * the Iranian-backed HEZB-I WAHDAT (Hazara) movement, headed by K. KHALILI following the murder of MAZARI in 1995.
- the JOMBESH-I-MELLI-I ISLAMI movement, comprised of former Communists and Uzbek militiamen under the command of General DOSTOM
- However, traditionalist Sunni movements, which are not the prime mover in cases of extreme acts of violence, are less frequently cited:
 - * the Harakat-i-Inqilab-i-Islami movement (Pathan) headed by Mohammadi NABI
 - * ex-President ad interim MOJADDEDI's Liberal Jebha-i-Nejat-i-Melli movement
 - * the Royalist Mahaz-i-Melli-i-Islami movement founded by GAILANI.
- Finally, the Shi'ite HAKKAT-E ISLAMI movement headed by A. MOHSENI, which is closer to Rabbani, has never been cited as a reason.

Since 1995/1996, it has been necessary to add to this number the TALIBAN movement, on-the-ground developments having led to the capture of Kabul by the TALIBAN in September 1996 and to the present situation where it now holds two thirds of the country in the face of the northern coalition of MASSOUD, DOSTOM and KHALILI.

It is too early yet to assess the effect of these political developments on the content of asylum applications.

- The **other reasons** given mainly concern the **general climate of insecurity** linked to the war, which is frequently cited as further justification for being unable to return to Afghanistan. Already often given as a reason in recent years, the war has been cited even more frequently since the Taliban entered Kabul in September 1996. In addition, the **fear of being forced to join a faction**, although not so far invoked with reference to the Taliban, is a reason sometimes given by young men. Finally, **rape** or fear of rape on the part of women or young people is often cited or hinted at in the context of factional persecution.

(c) How did the applicant leave his country of origin?

Arrangements to leave the country were made with the assistance of facilitators. It is not known what sums were paid to intermediaries. Personal and family possessions are apparently the primary source of funding.

(d) Routes

Most Afghans leave their country of origin by illegally crossing the Pakistan border at Jallalabad, some travel to Uzbekistan (via Mazar-i-Sharif) and one or two travel to Iran (Herat). They travel together by car and cross the border on foot. Pakistan and the former USSR countries may operate as host countries for a number of years and may also serve as transit points. Travel to Europe is generally arranged in Pakistan, purchased forged passports enabling the holders to fly from Karachi to the country of destination.

In the past, India has also been a host country.

(e) Documents produced:

- Passports issued in most cases by the Afghan Embassy in Islamabad and, on occasion, by the Afghan authorities in Kabul
- identity cards (*Taskeri*) are produced less frequently
- marriage certificates and other documents relating to civil status are rarely produced
- diplomas (often obtained abroad), trade and army papers are produced in a number of cases
- however, it is not unusual for persons or entire families to be without any documents.

These documents constitute only one of the criteria on which applications are assessed and their authenticity is assessed in the light of overall statements by the persons concerned and of past experience.

(f) Applications are generally made in France

Some applications for refugee status are made at airports. The last few months have seen a slight increase in the number of asylum applications at our Embassy in Pakistan.

3. ASSESSMENT OF APPLICATIONS IN ACCORDANCE WITH THE GENEVA CONVENTION

The continuing uncertainty and shifting situation in Afghanistan call for very careful treatment of applications, on a case-by-case basis, in the light of developments which have led to the de facto assumption of power by the TALIBAN in two thirds of the country.

- Reasons based on the **general situation** are never sufficient for a favourable decision on an application. However, extensive consideration is given to the serious nature of the atrocities perpetrated by the various factions as justification for granting asylum status where the persecution cited is of a personal nature and is linked to one of the reasons listed in Article 1 A(2) of the Geneva Convention.
- **Membership of the PDPA/WATAN** (or young Communists) is given as a reason in one third of the files handled and, where the facts are established, constitutes grounds for the granting of asylum status, in the same way as, more generally, **belonging to the NAJIBULLAH regime**: both senior officials and the middle-level categories, very often former party members, who had studied in the former USSR, were for the most part forced to resign after the fall of NAJIBULLAH and targeted as "former Communists" by one or other of the various power-sharing factions.
The agent of persecution is here constituted by all those authorities which exercised de facto power in Afghanistan up to the time the Taliban took power.

- In this connection, the same analysis could extend to **military personnel**. The few applications submitted directly by members of the **KHAD** or *Sarandoy* are subject to careful scrutiny in accordance with Article 1 F(c), which was applied at least twice during the period 1993-1996.
- The application for asylum from an emergency tribunal **Public Prosecutor** was the subject of a decision to render him ineligible under Article 1 F(c) of the Geneva Convention.
- **Wives and children** of murdered military personnel have sought asylum status and their applications have been viewed favourably in the light of the risk to their own safety resulting from their membership of the fallen Najibullah regime.
- **Enforcement of the sharia** is invoked in applications submitted by women. By itself, this reason (stemming from the obligations imposed on women since 1992, and even more today, by the Taliban: in particular, the ban on working) is insufficient to justify the granting of asylum status. However, broad account is taken of this circumstance as a factor aggravating the persecution suffered by women seeking asylum for one of the reasons listed in Article 1 A(2) of the Geneva Convention: for example, an independent, highly educated woman wishing to continue in employment is thus particularly "exposed" from the standpoint of the criteria of Afghan society and is therefore subjected to particularly serious persecution because she belongs to the Ismaelian minority; or a highly educated woman who had once occupied a senior position and is being persecuted now because of her political commitment under the regime which was overthrown in April 1992.
- the **acts perpetrated by the various ethnic and religious factions** (threats, reprisals, abuse, abduction ...) have been regarded as constituting persecution within the meaning of the Geneva Convention where the applicant could fear persecution by **all** the authorities exercising de facto power in Afghanistan up to the time of the assumption of power by the Taliban.
- **Marriage to a citizen of a former Soviet Republic**, like **studies or duties** (whether commercial or diplomatic) pursued or performed in Russia, may be factors justifying fear of persecution within the meaning of the Geneva Convention where applicants with this profile are seen as supporters of the fallen Najibullah regime.
- The recent assumption of power by the Taliban and the fact that recent events have not yet been significantly reflected in the underlying reasons for seeking asylum have prevented an evaluation of the effect of these changes on the assessment of applications in the light of the Geneva Convention.

4. France does not apply the concept of internal asylum.
5. **THE COMMISSION ON APPEAL FOR REFUGEES**, which carries out judicial review of adverse decisions taken by the Office, has not handed down a decision of principle concerning "sexual reasons" in application files from Afghan applicants. It should, however, be pointed out that, in accordance with standing Commission legal practice, legislation governing the lot of women in certain countries is of a general and non-discriminatory nature and that certain women cannot be seen as belonging to a particular social group simply because they challenge the legislative provisions concerned.

On the question of the agent of persecution (existence of state authorities ...), the Commission found, in a decision of 26 October 1994 in the Khairzad case (particulars attached), that at the time power was shared between de facto authorities each of which controlled part of the territory: the forces of ex-President Rabbani and of former Prime Minister Hekmatyar, whose terms of office expired in June 1994; finally, the other forces present and exercising de facto power in the rest of the territory.

In the case in point, fears of persecution voiced by the person concerned, a former high-ranking Communist Party official under the Najibullah regime, were found to be justified insofar as she could fear persecution by all the authorities exercising de facto power in Afghanistan.

6. Some applicants arrive from **REFUGEE CAMPS** in Pakistan, where they have sometimes spent years. Very rarely do they come under the HCR mandate. In every case, the Office makes a substantive assessment of their asylum applications on the basis of the Geneva Convention criteria.
7. On at least two occasions the Office has applied the Article 1 F(c) exclusion clause to persons formerly in positions of high responsibility within the state security apparatus, where it felt there were serious reasons for considering them guilty of acts contrary to the purposes and principles of the United Nations. These decisions have been upheld by the Commission on Appeal for Refugees (see decision of 26 October 1994 in the Khairzad case, particulars attached).
8. Afghan applicants are **INTERVIEWED** on a systematic basis.
9. France offers no alternative status.
- 10.
11. France is represented in Kabul by an itinerant Ambassador possessing consular powers.

The Office obtains the bulk of its information on the local situation through the specialist press, NGO reports and reports from specialist associations, its own documentation service and those of its European Union counterparts.

Scope of Article 1 F(c) of the Geneva Convention

Responsibilities at the Afghan Ministry for State Security, political commissar in a prison for political detainees.

"Serious reasons for considering".

Documents from the OFPRA file.

Insincere statements before the Commission.

Family unity.

Inapplicability to an excluded applicant.

CRR, Sections Réunies, 26 October 1994 – 253901: KHAIRZAD

Whereas, in applying for refugee status, Mr KHAIRZAD Hafiz Houlla, of Afghan nationality, maintains in his latest statement that owing to his commitment within the party in power from April 1978 to April 1992 he, as a mere political delegate exercising no power of responsibility or authority, received threats from members of Islamic movements and was the victim of an assassination attempt in March 1992, while his close relatives were also targeted by the Mujahidin; whereas he fears persecution should he return to his country of origin; whereas his brother was accorded recognized refugee status by OFPRA;

Whereas it emerges from the file documents, in particular the written and oral statements in support of his application to OFPRA, that the applicant discharged important responsibilities at the Ministry for State Security in 1986 and 1987 in the context of which he was involved in the arrest of opposition supporters, and that in 1991 he was appointed political commissar at the Pul i Sharki prison in Kabul where political prisoners were detained; whereas his statements delivered in public session before the Commission, in the course of which he played down the importance of his duties, demonstrate his desire to conceal the nature of his responsibilities; whereas there are serious reasons for considering that the person concerned was guilty, in the context of his duties, of acts contrary to the purposes and principles of the United Nations within the meaning of Article 1 F(c) of the Geneva Convention which render him ineligible under that Convention and, consequently, despite recognition today by the Commission of his wife's refugee status, from application of the principle of family unity; whereas, therefore, the appeal may not be admitted; ... (rejection).

Situation in Afghanistan

Agents of persecution.

De facto authorities.

Facts likely to create fear of persecution.

Political opinions.

Official under a fallen regime – absence of acts contrary to the purposes and principles of the United Nations.

Activities in favour of the status of women.

Agents of persecution.

Death threats from Islamic movements exercising de facto authority.

*CRR, Sections Réunies, 26 October 1994 – 253902: Mrs NOURESTANI, spouse of KHAIRZAD Hafiz Houlla **

Whereas file documents and statements made in public session before the Commission enable it to be established that Mrs NOURESTANI Sidika, spouse of KHAIRZAD Hafiz Houlla, of Afghan nationality, was, in the pursuit of her political and social activities under the regime overthrown in April 1992, publicly opposed to the Mujahidin in her capacity as party official and senior member of a government feminist organization, particularly as regards the status of women; whereas, therefore, following the fall of President Najibullah's regime, she was the recipient of death threats from the Mujahidin, who surrounded her house in Kabul and killed her brother; whereas, in the event of her return to her country of origin, she may rightly fear persecution there by the forces of both ex-President Rabbani and former Prime Minister Hekmatyar and the other authorities at present exercising de facto power in Afghanistan; whereas, therefore, the applicant, whom there is no reason to consider guilty of having acted, in the context of her duties, contrary to the purposes and principles of the United Nations within the meaning of Article 1 F(c) of the Geneva Convention, is right to maintain that the Director of OFPRA acted wrongly in rejecting her application for refugee status ... (annulment).

* This decision was upheld by a later decision on 8 January 1996.

IRELAND

1. Statistics

Number of applications

	1993	1994	1995	1996
-	0	0	4	11

- *The four applicants from 1995 were a family of mother, father and two children - all granted refuge status*
- *1996 - all 11 cases yet to be finalised*

2. Details of applications submitted by Afghan citizens

(a) Applicant profile:

- male 10
- female 5
- average age 25 - 30
- minors 5 (aged 1 - 5)
- unaccompanied minors *nil*
- religion *Muslim*
- socio-professional origin

2 Government officials 1 Housewife 1 Mechanical Engineer
1 Teacher 3 Traders 1 Unemployed 1 Servant

(remainder are children (5))

- region of origin

majority from the Kabul area , 1 from Qandahar

- ethnic origin

Shiite Muslims

(b) Reasons given:

Civil War

(c) How did the applicant leave his country of origin (specify place of origin)

In all cases the applicants travelled by truck to Pakistan and from Karachi travelled by airline to Dublin - they claimed not to know what countries they had transited.

(d) Route taken when and after leaving the country of origin

To Kabul - Jalalabad - to the Pakistan border and overland to Karachi. The majority had family and friends in Karachi who assisted with the purchase of the airline tickets. One applicant stated he paid an agent in Karachi who purchased airline tickets for the applicants.

(e) Documents produced in support of the application

All applicants had false documents.

(f) Were applications made on entry to state or in-country.

All applications were made on entry.

3. **Assessment of applications in accordance with the Geneva Convention**

At present, all our cases are assessed by the UNHCR

4 **Internal flight alternative**

Has not arisen

- 5 Are there Judgements of principle of your courts relating to asylum applications by Afghan nationals.**

No

- 6 Cases of asylum seekers who voluntarily refused protection offered by humanitarian organisations which operate (in loco) (hosts in accommodation camps, protected camps)**

Has not arisen

- 7 Eventual application of exclusion clauses (Art.1F of the Geneva Convention)**

We would apply Article 1F but have had no reason to do so yet and would be guided by the UNHCR handbook criteria.

- 8 Basic procedures for scrutinising applications**

Applicants are dealt with systematically. On arrival the applicants are given a short interview to establish a few basic facts and detailed interviews are scheduled at the first available opportunity.

- 9 Are asylum applicants whose applications are rejected granted an alternative status. If so what is this status, approximately how many obtain this status and when does it expire.**

They may be granted leave to remain for humanitarian reasons. The period granted is at the discretion of the Minister for Justice and can vary from 6 months to five years. The case is then referred to the Minister who may extend this leave to remain.

- 10 Treatment of asylum applicants whose applications are refused**

To date the question of repatriation has not arisen as the majority of cases have yet to be determined.

- 11 Do you have a diplomatic representation in Kabul. If the answer is no how do you collect information on the situation in Afghanistan.**

No. Information is provided by the UNHCR, Amnesty International and the media in general.

ITALY

1. STATISTICS

YEAR	REJECTED	ACCEPTED	TOTAL
1993	1	0	1
1994	0	7	7
1995	18	6	24
1996	22	0	22

2. DETAILS OF APPLICATIONS SUBMITTED BY AFGHAN CITIZENS

SEX

YEAR	MALE	FEMALE
1993	1	=
1994	6	1
1995	15	9
1996	16	6

ACCOMPANIED MINORS

YEAR

1993	0
1994	2
1995	7
1996	12

RELIGION

All Muslim

SOCIO-PROFESSIONAL ORIGIN

2 doctors, 5 farmers, 3 students, 3 artisans: all others unemployed

(b) REASONS GIVEN

The majority of applicants left their country because of fear of the war.
Membership of the Hizb-i Islami Afghanistan party
Spouse was politically active in support of the government of Najibullah
Membership of the Wad
Opponent of the Taliban

(c) METHOD OF LEAVING COUNTRY OF ORIGIN

All left illegally, using the paid services of a facilitator.

(d) ROUTE TAKEN

All travelled via Iran, Pakistan or Turkey

(e) DOCUMENTS PRODUCED IN SUPPORT OF THE APPLICATION

No documents. All arrived without a passport.

(f) WERE APPLICATIONS MADE ON ENTRY OR WITHIN THE COUNTRY?

All applications were made on entering Italy.

3. ASSESSMENT OF APPLICATIONS IN ACCORDANCE WITH THE GENEVA CONVENTION

Invoking the general situation in the country does not in itself confer entitlement to refugee status.

As regards activity in opposition parties, it is assessed in each case whether the various factors amount to persecution within the meaning of the Geneva Convention or whether other factors, taken together, can be deemed to constitute genuine persecution of the asylum applicant.

4. INTERNAL FLIGHT

The concept of internal flight has not been applied.

5. ARE THERE JUDGMENTS OF PRINCIPLE OF YOUR COURTS RELATING TO ASYLUM APPLICATIONS BY AFGHAN NATIONALS?

No.

6. CASES OF ASYLUM SEEKERS WHO VOLUNTARILY REFUSED PROTECTION OFFERED BY HUMANITARIAN ORGANIZATIONS

None.

7. HAVE EXCLUSION CLAUSES BEEN APPLIED?

No.

8. PROCEDURES FOR SCRUTINIZING APPLICATIONS

Decisions are taken by the full Central Commission for the Recognition of Refugee Status, after the applicant has been interviewed by one of its members.

9. ARE ASYLUM APPLICANTS WHOSE APPLICATIONS ARE REJECTED GRANTED AN ALTERNATIVE STATUS?

There is no instance of this.

10. EXPULSION

No data available, since asylum applicants whose applications are refused count as foreigners who have entered Italy illegally and as such are asked to leave Italian territory.

11. DO YOU HAVE A REPRESENTATION IN KABUL?

Diplomatic representation exists but is not at present operative. For the time being matters are handled by the Embassy of Pakistan.

QUESTIONNAIRE ON TRAVEL BY ASYLUM APPLICANTS TO AND FROM THEIR COUNTRY OF ORIGIN

POINT 1

There are several distinct situations:

- foreigners who are legally resident in Italy may return provided they are in possession of a re-entry visa issued by the police;
- recognized refugees who return to their country of origin have their refugee status withdrawn;
- as regards asylum applicants, we have no knowledge of any such cases having occurred. However, it should be said that Italy's procedure for recognizing refugee status is very fast.

POINT 2

See reply to point 1.

POINT 3

See reply to point 1.

POINT 4

Refugee status is revoked if the person concerned has acted in a way which suggests that he intends to re-avail himself of the protection of the country of his nationality (return to that country, reacquisition of its passport) as described in Article 1C of the Geneva Convention.

POINT 5

In 1996 the Central Commission for the Recognition of Refugee Status revoked that status in 33 cases: 26 Albanians; 2 Bulgarians; 1 Ethiopian; 4 Romanians.

AUSTRIA

Question 1:

	Number of Asylum applicants	Number of Asylum applications processed			
		accepted	rejected	application withdrawn	total
1993	143	14	110	0	124
1994	181	15	187	1	203
1995	141	14	203	2	219
1996	766	14	532	10	556

No statistics are kept for asylum applicants granted de facto protection.

Number of Afghan nationals repatriated or expelled to a third state in 1995 and 1996

1995: 0

1996: 8

No statistics are kept to show how many of these people were rejected asylum seekers.

Question 2:

(A)

- male : 58%
- female : 42%
- average age: 20 - 40
- minors: approximately 46%
- unaccompanied minors: rare
- religion: nearly all Muslim (mainly Sunni, some Shi'ites)
- socio-professional origin: tend to be from the higher strata of society (army and police officers, civil servants and engineers)
- region of origin: mainly Kabul, but also Herat and Jalalabad
- ethnic origin: mostly Tajik, with some Pashtuns (Pathans) and occasionally Hazaras.

(B)

Applicants frequently claimed to be members of the former People's Democratic Party of Afghanistan (PDPA) or Watan Party, the PDPA youth movement or the secret service (KHAD) or to have served in the army, the police or in another administrative capacity under the former Najibullah regime.

They scarcely ever claimed to have been engaged in political activity (distributing pamphlets, etc.) other than mere membership of one of the above organizations.

The enforcement of the Sharia since the Taliban took power and the ensuing deterioration in the situation were often given as general reasons for fleeing the country.

The worsening situation of women in Afghanistan (ban on going out alone, wearing of the veil, restrictions on schooling and employment) was cited by women applicants especially. On the other hand, adultery, abandoning Islam and homosexuality were never in practice cited as grounds.

Shi'ite applicants sometimes gave religious affiliation as a general reason for seeking asylum (discrimination against Shi'ites under the Taliban regime). These were usually claims of a general nature which the applicants were unable to substantiate further.

The situation of ethnic minorities or ethnic conflicts were rarely given as reasons for seeking asylum.

(C)

Arrangements for leaving the country, i.e. for Pakistan or Iran, were usually made by applicants themselves (sometimes with help from relatives).

The onward journey was then organized by facilitators in Pakistan or Iran (or sometimes only in Turkey).

The services provided by the agents included procuring forged travel documents and transport.

The sums paid for these services varied from roughly US\$ 4 000 to 6 000 (for an individual) and from US\$ 10 000 to 12 000 (for a family).

In the majority of cases these funds were obtained – according to applicants – by the sale of family property.

(D)

Most applicants travelled by car or bus to Pakistan or, less frequently, Iran.

Onward travel was then usually organized by a facilitator, with most applicants claiming to have driven through unknown countries by car or lorry.

They sometimes claimed to have come through Turkey, Russia or Ukraine.

Austria was usually entered illegally, overland from Hungary.

Where border controls were not circumvented, the travel documents shown were mostly false.

Applicants stayed quite a long time (from a few months to several years) in especially Pakistan or Iran. Their stay in other transit countries was generally short.

(E)

The documents produced by applicants included military papers, party membership cards and identity cards.

Some of these documents can be checked for forgery by the forensic department.

However, in many cases authenticity cannot be established because there is nothing to compare the documents with, for example in the case of military papers or party membership cards.

(F)

Applications were made within the country, at the Federal Asylum Office.

Question 3:

We take the view that there is, in principle, a possibility of persecution under the circumstances prevailing in Afghanistan at the moment.

However, in each case there must be plausible evidence of actual persecution, or the threat of persecution, directed against the asylum-seeker personally for one of the reasons stated in the Geneva Convention.

In the past, Afghan asylum seekers have often cited only the deterioration in the situation generally, especially since the Taliban came to power and enforced the Sharia and/or the fact that they belonged to the former Najibullah regime, without further substantiating their individual fear of persecution.

As regards the categories listed in the question, insofar as they actually arose, it should be noted that:

The general situation in Afghanistan is not in itself sufficient reason to grant refugee status. Political activities, for example under the former Najibullah regime, may warrant the granting of asylum, provided that the person concerned was not merely in a subordinate position but also came to some public prominence as a result of the activities.

Simply belonging to the PDPA/Watan Party, the former Najibullah regime, the army or the secret service is thus not sufficient.

Similarly, fear of being forced to join the Taliban militia does not in itself constitute grounds for granting asylum.

The same applies to the (general) enforcement of the Sharia and the deterioration in the situation of women resulting from enforcement of the Sharia.

Refusal to grow a beard and any ensuing problems are likewise insufficient to warrant according refugee status.

Belonging to a religious minority, as claimed by a few Shi'ite applicants, did not usually lead to recognition either.

The other categories listed in the question did not arise in practice.

Question 4:

Members of the former Najibullah regime and people wishing to flee Islamic fundamentalism had the alternative of fleeing to the area then controlled by General Dostum. This will now have to be reviewed in the light of recent developments.

Question 5:

No.

However, the asylum authorities do not recognize purely gender-related persecution as persecution within the meaning of the Geneva Convention. Persecution of this type does not warrant the grant of asylum unless there is a link with one of the reasons stated in the Geneva Convention in addition to the sex of the applicant.

On the question of the existence of State authorities, according to rulings by the Administrative Court, persecution by non-state entities, as "persecution by third parties" may be relevant for asylum purposes if the State is neither willing nor able to prevent persecution emanating from other bodies.

Question 6:

There have not been any cases of this type.

Question 7:

Under the 1991 Asylum Law, a refugee is not granted asylum if he falls under Art. 1 C or F of the Geneva Convention on the Status of Refugees.

Under section 37(1) of the Aliens Law, aliens may never be refused entry, escorted to the frontier or expelled if there is good reason to believe that this would lay them open to the danger of inhuman treatment or punishment, or to the death penalty.

Question 8:

Before every decision, the asylum seeker is given a comprehensive interview, recorded in writing, in order to establish his or her identity, clarify the grounds on which asylum is sought and determine the route taken, together with any stop-offs in other States.

Question 9:

Under section 36 of the Aliens Law, the aliens police authorities must grant aliens a stay of expulsion for a fixed period not exceeding one year if expulsion is not allowed in their particular case or if it seems infeasible on substantive grounds.

However, no statistics are kept of how many people are granted such status.

Under section 8 of the 1991 Asylum Law, in particularly deserving cases, the asylum authority may, when ruling against an asylum application, allow an alien to remain resident on Austrian territory for a limited period, if expulsion cannot be carried out on legal or substantive grounds or if it would be unreasonable for significant reasons relating to the situation in the alien's State of origin. This provision has sometimes been applied to asylum seekers from Afghanistan.

However, no statistics are kept of the numbers involved.

Question 10:

Only very rarely have people been repatriated to Afghanistan (see figures under question 1). Where expulsion is allowed, the people are flown to Kabul. Difficulties do arise, in particular in obtaining substitute travel documents.

There is no monitoring to see what happens to repatriated asylum seekers.

People can be expelled to third countries if there are corresponding readmission agreements, provided that there are no obstacles to expulsion.

Question 11:

Austria has had no diplomatic representation in Afghanistan since 1989.

Austria uses information made available by other States, the UNHCR and other NGOs.

PORTUGAL

1. Statistics

Year	Number of applications	Asylum granted	Residence authorization granted	Immediate rejection	Number returned to country of origin
1993	0	0	0	0	0
1994	2	0	1	1	0
1995	0	0	0	0	0
1996	1	0	0	1	0

2. Details of applications from Afghanistan

A) Applicant profile

- Sex/age: single males
aged from 31 to 37
- Religion: 2 Muslims
1 Hindu
- Region of origin: 1 from Jalalabad
1 from Pushi Khel
1 from Kabul
- Socio-professional origin: middle/lower

B) Reasons given

- war with the former USSR
- discrimination on religious grounds
- forced membership of a guerilla group
- refusal to carry out certain practices by the party to which the applicant belonged, e.g. killing women and children

C) How the applicant left his country of origin

In all cases applicants travelled overland to Pakistan (either by bus or by hitching a lift). There they will have made contact with an intermediary, probably of Pakistani nationality, who supplied them with false papers and accompanied them on their journey to their final destination. The amount demanded by the intermediary varies between US \$7 000 and 80 Pakistan rupees. According to one of the applicants, the amount varies depending on the European country to which they wish to travel.

D) Route taken when and after leaving the country of origin**In two cases:**

1. From Afghanistan to Pakistan by bus or by hitchhiking.
2. From Pakistan by air to Paris where applicants' papers were checked.
3. From Paris to Lisbon by coach without papers being checked.

In one case:

1. From Afghanistan to Pakistan by bus.
2. From Pakistan by air to Manchester, where the applicant remained for two days.
3. From Manchester to Madrid by air, with papers being checked in Spain.
4. From Madrid to Lisbon by road without papers being checked.

E) Documents produced in support of the application

No identity or other papers were produced.

F) Asylum applications were made within the country**3. Assessment of applications in accordance with the Geneva Convention**

We are unable to reply to this question in detail since only three applications for asylum have been lodged by Afghans. However, asylum applications are always examined individually. From the statements made by individual asylum seekers, there

was in all cases deemed to be no risk of persecution within the meaning of the 1951 Geneva Convention.

4. There was no possibility of an internal flight alternative in the three applications for asylum examined during the period under consideration.
5. No
6. None.
7. They have not been applied.
8. Applicants are interviewed systematically one by one before the final decision is taken.
9. Yes.
Portuguese law provides for an alternative to right of asylum in the form of the grant of a residence authorization on humanitarian grounds, viz. when there are deemed to be "armed conflicts or systematic violation of human rights" in the applicant's country of origin, as laid down in Article 10 of Law 70/93 of 29 September 1993, together with Article 64 of Decree Law 59/93 of 3 March 1993 (general arrangements regarding aliens). Such a residence permit is valid for a maximum of 5 years and may be extended by periods identical to that granted initially.
One of the Afghan asylum applicants qualified for such status. In another case the possibility of applying this exceptional arrangement was offered provided the applicant could prove Afghan nationality, which he was unable to do.
10. Under Portuguese law, asylum applicants whose applications are refused are given a deadline to leave the country voluntarily, after which they are deported (Article 20(5) of Law 70/93 of 29 September 1993). So far, no persons have been returned to Afghanistan.
11. No.
In view of the small number of asylum applications by Afghans, the fact that Portugal has no diplomatic representation in Kabul has not proved a problem so far; the information provided by the UNHCR, NGOs and the media has been deemed sufficient.

FINLAND

1. See the enclosed statistics.

2 a) As to sex and age distribution, a reference is made to the enclosed statistics, point 1. The asylum applicants are Muslims by religion, mainly Sunnis. The applicants are educated people, and have, according to their own statement, worked as doctors, teachers, commissioned officers and civil servants for ministries or embassies. The applicants tell that they come from Kabul. As to their ethnic background, they are Tadzhiks, Hazaras or Pashtuns.

2 b) Afghans do not appeal to one factor only in their applications for asylum, but several different reasons are presented in one and the same application. There are former members of the PDPA (The People's Democratic Party of Afghanistan, Homeland Party/Hezb-i-Wata) among the applicants, and also civil servants and soldiers of the Najibullah regime, or close relatives to these, who are afraid of being subjected to persecution because of their own or their relatives' political opinions and former social status. The applicants have also appealed to their activities in a human rights organization. Educated women resist the violation of women's rights in Afghanistan. Women are not entitled to take up employment, and they dare not go out in Kabul. The applicants do not appeal to the situation of religious or ethnic minorities, but to the activities of Muslim extremists and Mujahed guerillas in general. The applicants' homes have been robbed and their properties confiscated. The applicants have been arrested, and money and food have been extorted from them. During the civil war, the applicants' relatives have died in bombardments, and their homes have been destroyed.

2 c) The applicants have told that they have left Kabul by bus, and crossed the border between Afghanistan and Pakistan in secret, walking past the checking points. In Pakistan they have contacted a tour operator who has acquired tickets and forged passports. The services may also include the arrangement of accommodation at stopping points during the journey, and bribery of border control authorities. A journey from Pakistan to the USA via Finland amounts, according to the applicants, to USD 5.000 - 6.000. The applicants have financed their journeys with their own savings, with the assistance from relatives and by selling their jewellery. Some of the applicants have left Afghanistan earlier, and stayed legally in third countries.

2 d) From Kabul, the applicants have, for instance, taken a bus to Jalalabad, and then continued to the border by car. They have crossed the border on foot by night, and taken a bus to Peshawar. From Peshawar the applicants have continued on the route Lahore/Islamabad/Karachi-(Kazakhstan-Kirgisia)-Moscow-Helsinki. The original aim may have been a journey to the United States or Great Britain, but the applicants have been stopped at the Helsinki-Vantaa airport because of forged passports, and in this connection they have applied for asylum. Some of the applicants have legally stayed in Iran, Russia or Poland for several years before entering Finland, and legally entered Finland as tourists from Poland or Russia. Those who have stayed in Iran have entered Finland legally or illegally via Ukraine/Russia. Otherwise, the applicants have stayed illegally in Pakistan, Russia and Ukraine for longer periods. They have presented original Afghan passports, forged Afghan, Polish and German passports, in their own or somebody else's name.

2 e) Besides passports, there are few documents to support the applications. As special documents can be mentioned an invitation of the Finland-Afghanistan Society to a seminar on human rights in Finland, the programme of this seminar, newspaper clips of this seminar and a videotape. A civil servant of the Embassy of Afghanistan presented a letter of the Ministry for Foreign Affairs to the effect that he had been discharged from the service of the representation. An applicant presented photos of the meetings of a human rights organization, the rules of the organization, a letter from the organization to the applicant and a doctor's statement on marks of torture. One or two applicants have presented a party card of the PDPA. The authenticity of the presented documents has not been established.

2 f) The applicants have applied for asylum at their entry into Finland or soon after that.

3. Ever since the Muslim extremists, Talebans, have taken the power in Kabul, public order has been improved, but human rights have been restricted. It is possible to be subjected to persecution. When examining the applications for asylum, all the matters presented by the applicants have been taken into account. Asylum has not been granted on the basis of the general situation in the country.

The applicant's or a relative's earlier activities in the PDPA, and a high post in the army or the State government during Najibullah's regime has been taken into account when assessing the need for asylum. No applicant has appealed solely to women's difficult situation and to their former activities to improve women's rights, but this has been taken into account as a cumulative factor speaking in favour of asylum. A visible work in a human rights organization abroad has also been considered to support the application. If the applicant's political activities and status have not been significant, and his/her difficulties in Afghanistan have mainly been due to the civil war, he/she has not been granted asylum.

The applicants have not appealed to the obligatory recruiting by Talebans, the implementation of sharia in general, the difficulties caused by marriages with Russians or the situation of religious minorities. The applicants have not been granted asylum because of their ethnic background.

4. The applicants have told that they come from Kabul. The possibility of internal flight has not been considered, as the political situation in the country is unstable and varies a lot.

5. No. See also point 3.

6. No.

7. Has not been applied.

8. All asylum seekers are interviewed.

9. As an alternative status, an applicant may be granted a residence permit because of need of protection or on grave humanitarian grounds. The permit is usually granted for one year, and it may be extended for another year. After two years, the person concerned may be granted a permanent residence permit. See the enclosed statistics, point 1.

10. Asylum applicants have not been returned to Afghanistan. Totally negative decisions have only been made in cases where the applicants can be returned to a third country. A family applying for asylum, having both the Afghan and Polish nationality, were given negative decisions on asylum and residence permit in 1995, on the ground that they were considered to have a possibility to return to Poland without well-founded fear for being subjected to persecution there.

11. Finland has no diplomatic representation in Kabul. The nearest Finnish mission is situated in Islamabad. Information is being collected on Afghanistan, and other countries, through the Ministry for Foreign Affairs, news agents, human rights organizations and reports by other Nordic countries, newspapers, literature and Internet.

FINLAND

ASYLYM APPLICANTS

	Total	1992	1994	1995	1996
Men	19	9	8	2	11
Women	11	1	8	1	3
- Minors					
accompanied (< 15 years)	6	1	3		2
- Minors					
unaccompanied (< 18 years)	1		1		
Total	30	4	9	3	14

ASYLUM DECISIONS

Conventions Status					
Men	2				2
Women	3				3
- Minors					
accompanied (< 15 years)	0				
- Minors					
unaccompanied (< 18 years)					
Status given in need for protection					
Men	6		2	1	3
Women	2		1		1
- Minors					
accompanied (< 15 years)	3		1		2
- Minors					
unaccompanied (< 18 years)					
Status given on humanitarian grounds					
Men	3		1	2	
Women	5		3	1	1
- Minors					
accompanied (< 15 years)				2	
- Minors					
unaccompanied (< 18 years)	2		1		1
Status given on other grounds					
Men					
Women					
Rejected					
Men	1			1	
Women				1	
- Minors					
accompanied (< 15 years)				3	
Annulment					
Men	2	1		1	
Women	0				
- Minors					
accompanied (< 15 years)					
- Minors					
unaccompanied (< 18 years)					
Total	25	1	7	7	10

UNITED KINGDOM

1. A statistical table is annexed.
2. Records are not kept in this format. The following descriptions are indicative but cannot be relied on to represent an overall majority of cases.
 - (a) An applicant may be a professional Pushtun male 25-30 years and/or his dependants, of relatively good education and social standing.
 - (b) Applications may be based on past association with the pre-92 regime, either in a position of political authority or connected with the military or security services (Khad); or relatives of someone so connected; or civilians fleeing the general state of civil war.
 - (c) Most claim to have left overland to Pakistan from Jalalabad to Peshawar or Kandahar to Quetta, or to Tajikistan from Mazar e Sharif. Most claim to have had the help of relatives, friends and/or paid agents, financed by family resources eg the sale of property. Amounts vary.
 - (d) Most claim to have travelled from Pakistan by air to London via another member state capital or Moscow; or from the Baltic states by land or air to Moscow, then overland or by air to the United Kingdom often via Prague and/or Warsaw. It is not often possible to verify these claims because;
 - (e) Most arrive without documentation. Some subsequently produce various Afghan documents of identity which cannot be authenticated. A minority arrive from third countries of which they are temporarily resident (eg serving in an Afghan Embassy) with Afghan passports.

(f) Over 90% of applications are made on arrival.

3. We maintain the view that there is always a possibility that specific individuals may be at risk of persecution and that the political and military situation in Afghanistan is not stable. We have not accepted that there is any specific collective category at risk of persecution under the terms of the 1951 United Nations Convention.

Claims of political activity relating to, or other association with (eg study in Russia), former regimes and their military and judicial systems are scrutinised carefully, taking account of any difficulty an individual encountered before leaving Afghanistan. Relatives' applications are considered on the basis of whether there is any reason to believe that they have been or would be singled out.

Our experience is that most Sikhs and Hindus left Afghanistan before the Taliban took over and their accounts are based on harassment due to relative prosperity, rather than religion per se.

4. The unsettled military situation continues to preclude an internal flight alternative, in our view.
5. There have been no judgements of principle in United Kingdom courts to date.
6. Those for whom there is evidence of lawful residence in a host country are considered to be returnable to that country. Those claiming a fear of remaining in refugee villages are expected to have sought assistance from UNHCR.

7. These scenarios have not arisen. We would invoke Article 1(f) of the Convention as necessary. See 9 and 10 below.
8. All applicants are interviewed, to establish the facts and - in the absence of reliable documentation - to ensure they are not nationals from other countries posing as Afghans. This procedure is under review.
9. Most (see Annex) unsuccessful applicants are granted "exceptional leave" to enter or remain in the United Kingdom for an initial period of 12 months. On expiry, that leave may be renewed for two further periods of three years after which indefinite leave to remain may be granted.
10. No Afghans have been repatriated from the United Kingdom since 1993.

In the twelve months to 1 April 1997, eleven Afghans have been removed to a third country; three to Germany, two to Austria, and one each to Belgium, France, Luxembourg, Netherlands, Sweden and Switzerland.

11. There is no United Kingdom representative in Kabul. The situation in Afghanistan is monitored by the British High Commission, Islamabad.

Decisions⁽¹⁾ on applications⁽²⁾ received for asylum in the United Kingdom from nationals of Afghanistan, excluding dependants, 1990 to 1996

	1990	1991	1992	1993	1994	1995	1996
Asylum applications ⁽³⁾	175	210	270	315	325	580	675
Decisions ⁽³⁾⁽⁴⁾	60	50	205	130	20	750	490
- Recognised as a refugee and granted asylum	10	5	10	*	5	15	25
- Not recognised as a refugee but granted exceptional leave to remain ⁽⁴⁾	45	60	205	85	*	695	415
Total refused	5	5	10	25	10	40	50
- Refused asylum and ELR after full consideration	5	*	10	10	5	15	5
- Refused on non-compliance grounds ⁽⁵⁾	..	-	-	*	5	*	*
- Refused on safe third country grounds ⁽⁶⁾	..	*	*	10	5	25	40
Removals ⁽⁷⁾	..	..	5	10	10	10	10
- port	..	..	5	10	10	10	10
- third country	..	..	..	5	5	10	5
- substantive	..	..	..	*	5	5	*
- in country	..	..	-	-	-	*	*

(1) Provisional figures rounded to the nearest 5 with * = 1 or 2 and '..' = not available.

(2) Figures exclude information on applications made overseas.

(3) Decisions do not necessarily relate to applications made in same year.

(4) Usually granted for a year in the first instance, subject then to further review.

(5) Paragraph 340 of Immigration Rules, for failure to provide evidence to support the asylum claim within a reasonable period, including failure to respond to invitation to interview to establish identity.

(6) Refused on the grounds that the applicant had arrived from a safe third country.

(7) Removal figures for 1996 show position for January to November. They are provisional, and subject to revision.