

CCBE Statement on the situation in Afghanistan and the need to guarantee the fundamental rights of all persons requesting international protection at EU borders

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The Council of Bars and Law Societies of Europe (CCBE) represents the bars and law societies of 45 countries, and through them more than 1 million European lawyers.

The defence of the rule of law, the protection of the fundamental and human rights and freedoms, including the right of access to justice and protection of the client, and the protection of the democratic values inextricably associated with such rights are one of the main missions of the CCBE. Through the work of its Migration Committee, the CCBE monitors European and national developments on migration issues and focuses its work on the protection of migrants' and asylum seekers' fundamental rights, including the right to legal assistance.

With regard to the alarming situation in Afghanistan and the fate of all Afghans - particularly women, those working in the justice sector, and human rights defenders - the CCBE wishes to reaffirm its commitment to the right to asylum, as well as the right for Afghans to leave their country, and travel to another country safely which notably underpins the need to ensure fair proceedings at EU borders. The CCBE therefore calls on the EU authorities and its Member States to take all the necessary measures to enable the evacuation and reception of the people most at risk in Afghanistan, including lawyers. Furthermore, it urges the relevant authorities to guarantee refugees' access to the right to asylum. In this regard, the CCBE recalls that the right to apply for international protection in the European Union and at its frontiers is a fundamental right guaranteed by Article 18 of the Charter of Fundamental Rights of the European Union and by European Union law through its asylum acquis.

In addition to this, the CCBE wishes to express its serious concern about the lack of respect for procedural safeguards and access to a lawyer in asylum and migration procedures at EU borders, notably with regard to the current situation at the Belarusian border with Latvia and Poland where it has been reported that a group of 32 migrants, including Afghans were being kept without any possibility to ask for asylum, in clear violation of their fundamental rights, including their right to legal assistance and their right to apply for asylum.

Whilst it must be recognised that there can undoubtedly be very significant pressures being placed on some EU Member States and their authorities, there is no entitlement as a matter of EU law for one Member State acting autonomously to violate EU law in this regard. Moreover, the CCBE recalls that the need to guarantee legal assistance to all persons requesting international protection in the EU must be guaranteed at all times.

The CCBE urges therefore the EU authorities as well as the national authorities of the Member States to ensure the adequate provision of material and effective human resources so as to duly guarantee the effective application of procedural safeguards and the effective application in practice of fundamental rights which all persons arriving at the borders are entitled to, including the right to access a lawyer and legal aid if required.