On 5 March 2026, the Polish Ombudsperson's Office followed up on several complaints lodged by Afghan and Pakistani nationals scheduled for deportation, some of whom were in detention, expressing concerns to the Border Guard that their removal could expose them to risks of persecution or serious harm. This concern was heightened by Pakistan's airstrikes on Kabul and two Afghan provinces on the night of 26-27 February 2026, as well as the declaration of an "open war" by the Pakistani Minister of Defense against the Afghan authorities. The Office of the Ombudsperson requested that the Border Guard assess whether the individuals concerned might qualify for residence on humanitarian grounds or for tolerated stay. It also called for the planned returns to be reconsidered and requested information on whether the Border Guard had accepted their applications for international protection, and whether CSO and legal counsel had been duly informed.

On 3 April 2026, the Ombudsperson expressed concern to the Commander of the Border Guard regarding the planned deportation of a group of Afghan nationals scheduled between 10 and 12 April. The Ombudsperson recalled UNHCR guidelines from September 2025, which call on states to allow civilians fleeing Afghanistan access to their territories, guarantee their right to seek asylum, and ensure respect for the principle of non-refoulement. The Ombudsperson noted that, since the publication of those guidelines, the already fragile situation in Afghanistan had further deteriorated due to the armed conflict between Afghanistan and Pakistan, and requested that the Commander of the Border Guard consider suspending the returns.

On 25 May 2026, in a letter to the Ministry of the Interior, the Ombudsperson raised concerns that it received the list of the 3 deported individuals, the location of the deportation, and information on CSO participation only after the return operation had already taken place, which prevented any effective action. The Ombudsperson also noted that it had still not been informed whether, and when, the foreigners' legal representatives were notified of the planned deportations.

The letter further pointed out that the discrepancy between the 9 Afghan nationals initially scheduled for return and the 3 ultimately deported resulted from interim measures issued by the ECtHR under Article 39 of the Rules of Court. According to findings by the Commissioner's Office, the Border Guard was aware of interim measures not only for the 6 individuals who remained in Poland, but also for at least 2 of the 3 people who were nevertheless deported. In one of these cases, the authorities proceeded with the deportation despite an ECtHR

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interim measure being granted, a fact that had been communicated to them before deportation activities began.

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