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English only

Human Rights Council
Sixty-first session

Letter dated 10 March 2026 from the United Nations High Commissioner for Human Rights addressed to the President of the Human Rights Council

I have the honour to refer to resolution 60/2, adopted by the Human Rights Council on 6 October 2025, with respect to the situation of human rights in Afghanistan.

In that resolution, the Council decided to establish an ongoing independent investigative mechanism to collect, consolidate, preserve and analyse evidence of international crimes and the most serious violations of international law, including those that may also amount to violations and abuses of international human rights law, committed in Afghanistan, including against women and girls, and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law.

In light of the foregoing, I have the honour to convey to you the enclosed Terms of Reference for the Independent Investigative Mechanism for Afghanistan, which draw on the Secretariat's experience with comparable investigative mechanisms.

I would be grateful if you would bring the attached document to the attention of the Members of the Human Rights Council.

Please accept, Sir, the assurances of my highest consideration.

(Signed) Volker **Türk**
United Nations High Commissioner for Human Rights

Independent Investigative Mechanism for Afghanistan

Terms of Reference

1. On 6 October 2025, by its resolution 60/2 on the situation of human rights in Afghanistan, the Human Rights Council decided to establish an ongoing independent investigative mechanism for Afghanistan.

2. The Mechanism shall act in accordance with the following terms of reference, which have been developed pursuant to paragraph 29 of resolution 60/2, and approved by the Secretary-General.

I. Mandate

3. In its resolution 60/2, the Council provided that the Mechanism shall collect, consolidate, preserve and analyse evidence of international crimes and the most serious violations of international law, including those that may also amount to violations and abuses of international human rights law, committed in Afghanistan, including against women and girls, and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law.

4. For purposes of this mandate, the most serious international crimes and violations of international law are understood to primarily refer to the crime of genocide, crimes against humanity, war crimes and other serious violations of international human rights law and international humanitarian law, as defined in relevant sources of international law.

5. In carrying out its work, the Mechanism shall determine investigative priorities and strategies to best give effect to its mandate, based on an objective assessment of available resources and evidence.

6. The Mechanism shall be impartial, independent and credible and shall act in accordance with the present terms of reference, the Charter of the United Nations, relevant international law, including international human rights law, and United Nations rules, regulations and policies. It shall also take into account the good practices of comparable international accountability mechanisms.

A. Collection, consolidation, verification, analysis, and preservation of information, documentation and evidence.

1. Collection, consolidation and verification

7. The Mechanism shall collect, consolidate and verify information, documentation and evidence pertaining to international crimes and the most serious violations of international law committed in Afghanistan, including those that may also amount to violations and abuses of international human rights law, committed in Afghanistan, including against women and girls. In that regard, the Human Rights Council, in its resolution 60/2, decided that the Mechanism shall have the capacity to document and verify relevant information and evidence, including through field engagement and by cooperating with other entities, as appropriate. Accordingly, the Mechanism:

(a) Shall seek access to and make use of the information, documentation and evidence collected by the Special Rapporteur on the situation of human rights in Afghanistan (the “Special Rapporteur”) as well as the Office of the United Nations High Commissioner for Human Rights and other relevant offices, departments and entities of the United Nations system, in accordance with the United Nations rules, regulations and policies;

(b) Shall collect further information, documentation and evidence by receiving, procuring or obtaining it from such sources as deemed necessary and appropriate, including from relevant national authorities, international, regional or national organizations or institutions, non-governmental organizations, other non-State, corporate or private sector entities or other groups or individuals, either at its request or upon the initiative of those sources. The Mechanism may provide information and assistance to such sources, as appropriate and resources permitting, to optimize the identification and transfer to the Mechanism of relevant information, documentation and evidence, in line with the required standards;

(c) Shall further collect, as appropriate, additional information, documentation and evidence, including by conducting interviews with or taking statements from victims, witnesses or other individuals likely to provide relevant information, documentation or evidence; by receiving, procuring or obtaining physical evidence, photographic, video or other audiovisual imagery or material, digital or other electronic items and forensic material; and by bringing into its possession all such other tangible or intangible material likely to be of assistance in the discharge of its mandate;

(d) Shall verify the information, documentation and evidence received, as appropriate and necessary, including through field engagement and by cooperating with other entities, as appropriate;

(e) Shall develop, apply, and mainstream an intersectional approach with regard to gender, age, ethnicity, religion, disability, and others, across its collection, including gender and age disaggregated data.

2. Analysis

8. The Mechanism shall assess the information, documentation and evidence in its possession, on the basis of reliability and probative value, whether assessed alone or in conjunction with other material. In doing so, the Mechanism may draw upon, apply and take into account evidentiary and methodological standards and principles recognized in international criminal law, as relevant for the purposes of the assessment.

9. The Mechanism shall seek to identify lacunae in the information, documentation and evidence in its possession, assess the need for and practicability of obtaining relevant additional information, documentation and evidence, and take such steps, to the extent possible and as appropriate, to fill such lacunae.

3. Organization, preservation and storage

10. The Mechanism shall systematically record, organize, preserve and store all information, documentation and evidence in its possession, in accordance with international criminal law standards and the good practices of other comparable international accountability mechanisms. These functions shall be performed with a view to ensuring the broadest possible accessibility, utility and admissibility in fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over the most serious international crimes and violations of international law committed in Afghanistan.

11. The Mechanism shall make use of appropriate, specialized and the most up-to-date information technology systems consistent with United Nations standards, including electronic information and case management systems and databases, to systematically record, organize, preserve and store all relevant information, documentation and evidence in its possession. It shall, as appropriate and consistent with its mandate and functions, cooperate with other United Nations bodies for the sharing, common utilization or acquisition, as appropriate, of such information technology, information and case management and database tools and systems, with a view to achieving cost and operational efficiencies in the discharge of its mandate.

12. The Mechanism shall ensure an uninterrupted chain of custody of the information, documentation and evidence in its possession, as necessary for the implementation of its mandate.

13. The Mechanism shall from the outset of its activities ensure appropriate organization, preservation and archiving of all its information, documentation and evidence, whether in physical or electronic form, including through the development of appropriate procedures for the long-term storage of, and regulation of access to, its archives following the completion of its mandate.

B. Preparation of files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over those crimes, in accordance with international law

1. Preparation of files

14. On the basis of the information, documentation and evidence pertaining to international crimes and other serious violations of international law that it has collected, consolidated, preserved, and analysed, the Mechanism shall prepare files to facilitate and expedite fair and independent criminal proceedings related to those crimes. Resolution 60/2states that the Mechanism shall seek to identify, where possible, those individuals and entities allegedly responsible for international crimes and/or the most serious violations of international law, including those that may also amount to violations and abuses of international human rights law, with a view to ensuring that they are held accountable. The Mechanism shall focus on criminal conduct of persons deemed most responsible for the crimes, without any distinction based on their affiliation or official capacity. These files may also take the form of contextual and structural analyses, and profiles of relevant entities and individuals.

15. These files shall include all relevant information, documentation and evidence in the possession of the Mechanism, both inculpatory and exculpatory, pertaining to the specific modes of criminal liability, including the principle of command or superior responsibility established under international law.

16. The Mechanism shall seek to establish relevant connections between crimes and persons responsible, directly or indirectly, for such alleged crimes, focusing in particular on linkage evidence. It shall focus on evidence pertaining to mens rea and to specific modes of criminal liability, including the principle of command or superior responsibility established under international criminal law.

2. Sharing of information, documentation and evidence

17. The Mechanism shall share relevant information, documentation and evidence with competent investigative, prosecutorial or judicial authorities in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over those crimes. In that regard, resolution 60/2 provides that the Mechanism shall cooperate closely with ongoing and future investigations and relevant legal proceedings by national, regional or international courts and tribunals, including by sharing information, documentation and evidence for use in legal proceedings before the International Criminal Court or the International Court of Justice, or other legal proceedings.

18. Any other use or sharing of the information, documentation and evidence collected, preserved and stored by the Mechanism, may be determined by the Mechanism on a discretionary case-by-case basis, consistent with its mandate and these Terms of Reference, and respecting the principles of confidentiality, informed consent and protection of victims and witnesses; and in compliance with its established rules and procedures.

19. The Mechanism shall share information, documentation and evidence it determines appropriate, in accordance with relevant United Nations rules, regulations and policies, applicable international law, including international human rights law, and rules and standards and good practices of other comparable international accountability mechanisms. The Mechanism shall, among other factors, consider the confidentiality of the information, documentation or evidence, the informed consent expressed by sources and any protection concerns that may arise from the sharing or use of such information. Furthermore, information, documentation and evidence may be shared only with competent authorities, bodies or organizations that credibly ensure that any use of the information, documentation and evidence will be in accordance with international human rights law and standards, including the right to a fair trial before a tribunal with the capacity to ensure appropriate victim and witness protection. The Mechanism shall further comply with United Nations policy that information, documentation and evidence cannot be shared for use in criminal proceedings in which capital punishment could be imposed or carried out.

20. When sharing evidence with a competent authority, body or organization, the Mechanism shall, among other procedures, provide, to the extent possible and as appropriate, certified copies of the original documentation or evidence. All original documentation or evidence shared by the Mechanism shall be duly returned, in its original state, to the Mechanism as soon as possible. The Mechanism shall also obtain sufficient assurance from the competent authority, body or organization that the documentation or evidence that it shared will not be disclosed to any other authority, body or organization without prior written authorization by the Mechanism.

II. Structure and composition

21. The Mechanism shall be headed by a person of high moral character and integrity, possessing the highest level of professional competence and extensive experience in the conduct of investigations and prosecution of serious crimes and other violations under international law. The person shall have extensive experience in international and/or national criminal justice and an in-depth knowledge of international criminal law, international human rights law and international humanitarian law. The Head shall have a proven record of independence and impartiality and possess a demonstrated, active commitment to upholding justice, accountability and human rights, with due consideration given to expertise in the areas of sexual and gender-based crimes and justice for children. The Head shall be appointed by the Secretary-General, upon consultation with the United Nations High Commissioner for Human Rights and the United Nations Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, for an initial period of two years, which shall be renewable, subject to the continuation of the mandate and funding.

22. The Head of the Mechanism shall develop, adopt and periodically review and update a strategy for the implementation of the mandate of the Mechanism, determine a workplan for the Mechanism and put in place procedures relating to the conduct of its work, including development of a gender strategy, children and youth strategy and a consultative strategy for engagement with stakeholders.

23. The Head shall seek to secure the resources necessary to establish a secretariat, composed of impartial and experienced professional and administrative staff, with expertise in the following areas, as required, *inter alia*: international criminal law; international human rights law; international humanitarian law; criminal investigation and prosecution, sexual and gender-based crimes; information systems management and application development; the security, storage, record management and preservation of information, documentation and evidence; open-source investigations; military matters; forensics, including, as necessary, digital forensics, forensic pathology and forensic imagery; sexual and gender-based crimes and violence; women's rights; children's rights, including crimes against and affecting children; victim and witness support and protection; information technology and cybersecurity expertise; and physical security and safety of staff members. The Head shall seek to optimize possible synergies with existing investigative mechanisms, including to ensure cost-efficient use of such resources.

24. In appointing members of the Mechanism's secretariat, due consideration shall be given to the representation of different legal traditions, geographic diversity, gender balance, regional expertise, in particular concerning Afghanistan, and relevant language skills.

25. The Head and the Mechanism's secretariat shall exercise their mandate and discharge their functions in full independence and with the utmost impartiality and shall not seek or accept instructions regarding the performance of their duties from any Government or external source. They shall maintain the highest standards of efficiency, competence and integrity in the discharge of their functions.

III. Standards and procedural requirements

26. The Mechanism shall adopt procedures and methods of work, in accordance with international criminal law standards, for collecting, consolidating, analysing, preserving and storing information and evidence, as well as for preparing files to facilitate and expedite fair and independent criminal proceedings. These procedures and methods of work shall be based on the highest possible standards, consistent with the Charter of the United Nations, United Nations rules, regulations, policies and good practices, relevant international law and standards, including international human rights law, notably the right to a fair trial and other due process provisions, as well as relevant jurisprudence, in order to ensure the broadest possible usability and admissibility of such evidence and material in national, regional or international courts or tribunals. In developing its procedures and methods of work, the Mechanism shall draw upon the good practices of other comparable international accountability mechanisms.

27. The Mechanism shall implement its mandate in a manner that protects and supports the sustainability of local civil-society actors conducting documentation activities.

28. The Mechanism shall adopt an inclusive, intersectional, and victim-centred and trauma-informed approach, integrating both gender and child rights considerations throughout its operations, as appropriate, and duly sensitive to further considerations of age, religion, ethnicity, disability and other relevant factors. It shall adopt procedures that are multidimensional, gender- and child-responsive and victim-centred, including methodologies that are responsive to the protection, participation, and psychosocial needs of victims, survivors and witnesses. It shall consult with victims, survivors, and affected communities, and their representatives, and civil society organizations, including women's groups, survivors and child protection networks, in implementing its mandate, and shall develop strategies to ensure their safe and meaningful participation as appropriate and mindful of the nature of its investigations.

29. The Mechanism shall seek to obtain from victims, survivors, witnesses and any other sources their informed consent for it to share relevant information, documentation and evidence with competent investigative, prosecutorial and judicial authorities. The consent, whether whole or partial, or lack thereof, shall be duly recorded and respected by the Mechanism.

30. The Mechanism shall take appropriate measures to respect and ensure respect for the privacy, interests and personal circumstances of victims, survivors and witnesses, including in light of their age, sex, sexual orientation, gender identity and health and, taking into account the nature of the crime, in particular where it implicates sexual and gender-based violence, gender persecution, or violence against children. The Mechanism shall adopt appropriate procedures and methods of work for the protection of victims, survivors and witnesses, taking all feasible steps within its means to protect their safety and security, during the course and as a result of such cooperation.

31. The Mechanism shall assist in referring vulnerable victims, survivors and witnesses who cooperate with the Mechanism, in particular children, women, individuals with diverse sexual orientation or gender identity, and victims, survivors and witnesses of sexual and gender-based violence, torture or other cruel, inhuman or degrading treatment or punishment, to relevant bodies so that they are provided with appropriate medical, psychosocial or other support as necessary and available.

32. The Mechanism shall determine and record the confidentiality classification of all information, documentation and evidence obtained or produced by it, including its work products and analyses, in line with the United Nations policies on information sensitivity, classification and handling.

33. The Mechanism shall define appropriate methodologies for the transfer of information, documentation and evidence to external parties, giving due consideration to the requirements of appropriate respect for the scope of the consent expressed by sources of information, documentation and evidence, appropriate protection of confidentiality and security of victims, survivors witnesses and such sources, consistent with the rights of due process and fair trial, as well as the requirements pertaining to the security of the information, documentation and evidence transferred.

34. The Mechanism shall adopt procedures and methods of work regarding engagement and management of sources, contacts and interviews with witnesses, witness protection and support, informed consent management, sharing, cooperation agreements, chain of custody issues, data protection, security, information management and case management and archiving, which shall conform to the highest international standards and be drawn upon the good practices of other comparable international accountability mechanisms. The Mechanism shall ensure that all processing of personal data is consistent with relevant United Nations rules, regulations and practices, including policies on information sensitivity, classification and handling, and data protection and privacy.

IV. Cooperation and complementarity

35. In its resolution 60/2, the Human Rights Council called upon all States, and encouraged civil society, business enterprises and other relevant stakeholders, to cooperate fully with the Mechanism so that it may effectively fulfil its mandate and, in particular, to provide it with any relevant information or documentation they may possess or come to possess, or any other form of assistance pertaining to their respective mandate.

36. Resolution 60/2 stipulates that the Mechanism shall work in complementarity with, and without risk of prejudice to, competent and robust existing national and international processes.

37. The Mechanism shall have the authority to conclude agreements, on behalf of the United Nations, with any State, organization or entity for the implementation of its mandate. Such authority shall be exercised in accordance with the rules and practices applicable to the conclusion of agreements by the United Nations, including, where applicable, established United Nations procedures and practices with regard to the conclusion of treaties and international agreements.

38. The Mechanism shall develop, in its procedures and methods of work, modalities for cooperation with States and other organizations and entities.

39. The Mechanism shall cooperate with States, including through mutual arrangements on legal assistance, where necessary and appropriate, or through ad hoc arrangements concluded for these purposes, in particular to conduct investigative activities on the territory of a State, or to receive from States any relevant information, documentation or evidence that they may possess pertaining to the mandate of the Mechanism, subject to such limitations or conditions that the conveying State may attach, in whole or in part, to the information, documentation or evidence in question.

40. The Mechanism may, at its discretion and in line with applicable United Nations rules and regulations, receive funds, equipment and services, including expert personnel, from States or international or regional organizations, in support of the implementation of its mandate.

41. In line with the request of the Human Rights Council, in its resolution 60/2, that the United Nations system as a whole fully cooperate with the Mechanism, the United Nations and all its programmes, funds and offices shall, within their respective mandates, fully

cooperate with the Mechanism and promptly respond to its requests, including for access to information and documentation.

42. The Mechanism will cooperate with relevant international and regional organizations, as well as non-governmental organizations, as appropriate and necessary for the implementation of its mandate.

V. Location and premises

43. The Secretary-General shall determine the seat of the Mechanism, taking into account security, efficiency, cooperation with other relevant organizations and entities, cost-effectiveness and any other relevant considerations, including possible synergies with existing investigative mechanisms.

44. The Head of the Mechanism may establish field presences, as appropriate and necessary, taking into account the location of crime sites and of key information, documentation and evidence, accessibility to victims, survivors and witnesses, proximity to national, regional or international courts and tribunals exercising jurisdiction over crimes within the mandate of the Mechanism, available resources, and any other relevant considerations.

VI. Privileges and immunities

45. The Mechanism and its personnel, records, archives, property and assets shall enjoy the privileges and immunities, exemptions and facilities provided for in the Convention on the Privileges and Immunities of the United Nations of 13 February 1946.

VII. Relationship with the Special Rapporteur on the situation of human rights in Afghanistan

46 The Human Rights Council, in its resolution 60/2, decided that the Mechanism shall build on the work and findings of the Special Rapporteur and, to this end, be able to make use of relevant information collected by the Special Rapporteur, with the consent of information providers as appropriate, and continue to collect evidence. Pursuant to resolution 60/2, the mandate of the Special Rapporteur to document and preserve information relating to human rights violations and abuses as outlined by the Human Rights Council in its resolution 51/20 and subsequent resolutions on Afghanistan will continue and remain valid until the Mechanism is operational and the information collected can be safely preserved and, to the extent possible, transmitted to the Mechanism for its use.

47. The Head of the Mechanism and the Special Rapporteur shall determine modalities that ensure seamless transfer of relevant information held by the Special Rapporteur to the Mechanism.

48. For the period of parallel activity pursuant to their respective mandates, the Mechanism and the Special Rapporteur shall pursue close cooperation and coordination with each other to ensure fullest operational harmonization and continuity, effective sharing of information, documentation and evidence in line with international standards on an ongoing basis. The Mechanism will seek to establish a framework for cooperation and coordination in this regard with the Special Rapporteur.

VIII. Coordination with other investigative mechanisms

49. The Human Rights Council, in its resolution 60/2, decided that the Mechanism shall benefit from the experience of, and possible synergies with, existing investigative mechanisms, with no prejudice to their work and optimize possible synergies with existing investigative mechanisms, including to ensure cost-efficient use of the Mechanism’s

resources. In this regard, the Mechanism will coordinate with existing investigative mechanisms as well as other United Nations accountability bodies to identify and cooperate on possible synergies. This will be done with a view to drawing upon good practices, ensuring efficient use of resources, reducing costs, and harmonization of activities and methods of work across the United Nations. Such engagement may include, but is not limited to, the harmonization of procedures, functions, resources, infrastructure and equipment. All engagements shall be undertaken with full respect for the confidentiality obligations applicable to each entity.

IX. Reporting

50. Pursuant to Human Rights Council resolution 60/2, the Mechanism shall submit, on an annual basis, a report on its main activities to the Human Rights Council as of its sixty-fourth session, in an enhanced interactive dialogue, and to the General Assembly as of its eighty-second session. In doing so, the Mechanism shall preserve the confidential nature of its substantive work.

X. Funding

51. The Human Rights Council, in its resolution 60/2, decided that the Mechanism shall incrementally advance its work based on funding made available.

52. The Mechanism shall be funded through assessed contributions. In addition, a trust fund to receive complementary voluntary contributions will be established, as requested by the Human Rights Council in its resolution 60/2.

XI. Commencement of operations

53. The Secretary-General shall determine, in consultation with the Head of the Mechanism, the date on which the Mechanism is deemed to be operational.

XII. Completion of mandate

54. Upon the completion of its mandate, the information, documentation and evidence collected, consolidated, analysed and preserved by the Mechanism shall be transferred to the Office of the United Nations High Commissioner for Human Rights. Further to applicable United Nations rules, regulations, policies and procedures, appropriate information, documentation and evidence from the archives of the Mechanism may be shared with external parties, subject to the full respect for the undertakings given by the Mechanism to States, victims, survivors, witnesses or other sources of information, as well as other compelling interests requiring ongoing protection.