

2006

Country Operations Plan

UNHCR Representation in the Federal Republic of Germany

This Country Operations Plan (COP) has been drafted in accordance with:

- a) IOM/82/2004-FOM/84/2004 of 17 December 2004 "Instructions and Guidelines to UNHCR Field and Headquarters on Reporting, Implementation and Planning: 2004- 2006",
- b) Europe Bureau Director's memo dated 12 January 2005 to the field covering inter alia Budgetary Guidance for the 2006 Planning Exercise
- c) Bureau for Europe's Strategic Framework (2005 to 2010)
- d) Bureau for Europe's 2006 Priorities
- e) Bureau Matrix (the strategic framework in relation to UNHCR's Global Strategic Objectives and the Agenda for Protection).
- f) Indicative Country Envelope

Part I: OVERVIEW

1. Protection and socio-economic operational environment

Germany hosts the third largest caseload worldwide. At present, the estimated number of persons of concern to UNHCR stands at 900.000. The number of asylum seekers submitting a refugee claim in Germany has continued to drop in the last three years.

Year	Asylum-seekers	Persons of concern	Decisions on first asylum applications	Decisions on asylum applications	Decisions total (incl. termination of status)
2002	71,127	1,100,000 (incl. Jewish quota refugees)	91,378	130,128	Approx. 132,600 (of that approx. 2,500 decisions on terminations)
2003	50,563	900,000 (excl. Jewish quota refugees)	70,129	93,885	103,794
2004	35,607	900,000	45,874	61,961	84,053

In 2004, the largest caseload of new asylum seekers originated from Turkey, Serbia and Montenegro, and the Russian Federation. The following reasons have been identified by UNHCR and its partners as principal grounds for the reduction in the number of asylum requests in Germany in recent times:

- Reduction in the number of countries producing hitherto sizeable refugee flows.
- Difficulties to reach German territory and difficulties to apply for asylum. Germany is surrounded by safe countries. The enlargement of the EU has turned Germany's eastern border into an internal EU border. Moreover, the effective readmission practices may deter certain persons to seek asylum in Germany.
- The speed and efficiency with which refugee status determination procedures are being conducted, has sometimes been to the detriment of the principal of fairness.

The 2006 Programme is being planned on the basis of four important assumptions that are anticipated to materialize in the foreseeable future:

1. The quality of RSD procedures leaves much to be desired, requiring UNHCR to take a more assertive stance in the future *vis à vis* the authorities. *Refoulement* of genuine refugees may become an issue of concern to UNHCR in 2006.
2. The total number of persons of concern will continue to decrease due to factors elaborated above as well as anticipated corrections in data to be announced by the authorities. On the assumption that the number of persons of concern to UNHCR will continue to decrease, the Representation has put its planning figure for the 2006 Programme at 850.000.
3. Return options for certain caseloads in Germany will become increasingly viable in the year 2006 and even more so in 2007.
4. The Government of Germany will remain an important donor to UNHCR and support to its goals and operations will continue unabated.

The 2006 Programme for Germany takes into consideration these assumptions as well as the strategic objectives of the Bureau for Europe for the period extending from 2004 to 2006. It has followed three themes identified by the Regional Bureau:

1. Strengthening Asylum
2. Promoting Solutions
3. Securing Support for UNHCR worldwide

Each theme has specific funds allocated to achieve its objectives. UNHCR does not provide assistance to asylum seekers and refugees in Germany. The Representation's operational budget is concentrating on legal assistance, protection and operational support. In 2004 and 2005, UNHCR focused its operational activities on improving the quality of protection, both at the domestic front, as well as the EU level. Significant efforts were made through training programmes to ensure that all stakeholders in Germany, including adjudicators, NGOs, civil servants, parliamentarians, judges, lawyers, border guards and police officers became familiar with principles of international refugee law.

2. Operational goals and potential for durable solutions

The following core objectives will continue to be pursued by the Representation in the foreseeable future.

- To ensure access to asylum and improve its quality.

The new Immigration Law, which took effect on 1 January 2005, addresses many long-standing problems, including the issue of victims of non-state agents of persecution and gender-related persecution. UNHCR will continue to offer its expertise to ensure that all those involved in adjudication and interpretation of the new law follow international standards.

The transposition of a total of eleven EU directives into national law is scheduled to take effect in the course of 2005. Negotiations are currently taking place to ensure that the highest standards to refugee protection are reflected in the Transposition Act. In 2006, efforts will concentrate on monitoring the implementation of the Transposition Act and preparation of remedial action. The Dublin II agreement is expected to increase UNHCR's intervention due to anticipated flaws in its application, especially as far as vulnerable refugees are concerned.

UNHCR has noted with concern the 'revocation practice' of the German authorities under which a significant number of refugees from Iraq and Afghanistan have seen their status revoked. Others have been notified in recent times that so-called revocation procedures have been initiated. Apart from the fact that this implies a loss of pertinent rights enshrined in the 1951 Convention, the consequences of the loss of refugee status are that persons still of concern to UNHCR may be deported by the authorities even though conditions for return are not yet conducive.

Reunification with (even core) family members recognized as Convention Refugees in Germany is in general subject to sufficient income and living space. Requests for family unification by recognized refugees from Afghanistan and Iraq have been handled restrictively throughout 2004. Referring to the forthcoming opportunities to return to Afghanistan and Iraq in the near future, most Aliens Authorities have of late requests from these two countries.

The capacity and quality of procedural and legal counseling services provided by NGOs and lawyers is still inadequate and not available in all Federal States ('Laender'). Due to the lack of procedural and legal counseling, except during the airport procedure, many asylum seekers cannot properly follow the RSD proceedings, which may lead to the rejection on mere formal grounds or an unnecessarily protracted handling of asylum applications.

- To address the asylum-migration nexus.

Several initiatives have been taken aimed at addressing the challenge of protecting asylum seekers who are mixed with migrants. The Minister of the Interior of Germany has presented a more generic plan, which has yet to be reviewed by the Government's coalition partner. The authorities clearly regard the issue of mixed flows as an important matter that warranting more attention. UNHCR is concerned that the protection of genuine asylum seekers could be compromised due to measures aimed at restricting migrants from coming to Germany.

- To improve the position of UNHCR as partner for solutions.

The Coalition Agreement of 16 October 2002 between SPD and Bündnis 90/Grüne stipulated that the Federal Ministry of the Interior in co-operation with UNHCR could receive up to 500 refugees per year from other countries to solve individual humanitarian cases. It is hoped that concrete progress in the implementation of this resettlement quota can be achieved in the Federal Republic of Germany as soon as possible. UNHCR is willing to discuss further questions with all those involved or interested.

The German authorities have confirmed an interest in UNHCR's objectives to pursue durable solutions with rigor and determination. During a recent visit, on 28 April 2004, Ms H. Wiczorek-Zeul, Minister of Economic Co-operation and Development advised the High Commissioner of the Governments' interest in the 4 R's strategy (repatriation, reintegration, rehabilitation and reconstruction). The Representation anticipates an increase in requests for information on the prospect for voluntary repatriation to Afghanistan and Iraq.

- To improve the position of women and children.

According to the German Asylum Procedural Act, minor refugees between 16 and 18 years are treated in German RSD procedures like adult asylum seekers. In particular, they are included in accelerated procedures, e.g. the airport procedure. This treatment does not take into proper consideration the minors' state of development and special needs. As a rule, no guardians are nominated for separated children/unaccompanied minors aged 16 to 18 and they are accommodated in regular reception centers without any special care. In age-disputed cases, the age assessment is often done without appropriate expertise.

The Representation will devote some of its operational budget to improve the position of female asylum seekers and refugees in Germany. The HC's policy objectives including the participation and empowerment of refugee women and the prevention of and response to SGBV will be pursued with rigor. The implementation of the 2005 Immigration Act, which explicitly recognizes persecution on account of gender, will be closely monitored.

- To enhance UNHCR's advocacy tasks.

Asylum and migration is an important as well as highly sensitive subject on the domestic political agenda in Germany. By lobbying for the idea of international refugee protection as well as for stable financing of humanitarian relief programmes, UNHCR is in a very competitive situation with other organizations and groups. Thus, a clear-cut communication strategy is key to meet overall UNHCR's goals. Effective media relations as well as continuing parliamentary lobbying and sustainable partnership building are integrated parts of an external relations strategy to support UNHCR's overall goal. It serves to strengthen its profile as an organization which is mandated by the international community to protect and to assist refugees as well as to search for durable solutions. The use of PI as a protection tool is also indispensable to remain a relevant player. Fighting xenophobia remains a major challenge and needs a communication approach to groups such as teachers and academics.

Germany is not only one of the biggest receiving countries of refugees worldwide, but also an important donor, ranking eighth on the list of major contributors to UNHCR's annual budget. The German authorities almost doubled their support for UNHCR in 2001. Since then, German funding has remained on a high level. The German core contribution (un-earmarked funds) has been relatively stable over the last years, with a

level around EUR 5 million. In addition, PSFR activities in Germany are resulting in an average annual contribution of some EUR 1,5 million. The cooperation with our PSFR partner in Germany as well with HQ is playing an important role in the Representation's daily work.

With regard to the relationship between UNHCR and the German authorities, it is worth noting that, over time, not least through a physical presence in Berlin, increasing awareness has been raised on the plight of persons of concerns to UNHCR worldwide. Aside from high profile emergencies such as the Afghan situation and the former Yugoslavia, the German authorities have consistently offered support to major refugee crisis in the world, in particular in Africa. This favorable stance needs to be nurtured, if UNHCR wishes to benefit from the on-going German support.

- To enhance EU harmonization efforts.

The Representation seeks to enhance the role of the 1951 Convention in the transposition of EU law into the German system and in the context of the future EU harmonization process.

The transposition and subsequent practical implementation of instruments adopted at the EU level during the first phase of harmonization of asylum law provides an opportunity to bring the German legal situation and asylum system better in line with the standards of the 1951 Convention.

Germany plays a central role in EU harmonization of asylum law. UNHCR's key objective in the Country Operations Plan focuses on influencing policy makers with a view to promote favourable positions in the course of future harmonization efforts. In particular, those aspects in which the EU instruments adopted so far fall short of the standards provided for in the 1951 Convention need to be taken up with interlocutors with a view to address them in the second harmonization phase.