



UNHCR

United Nations High Commissioner for Refugees

Haut Commissariat des Nations Unies pour les réfugiés

Country Operations Plan 2007

KAZAKHSTAN

Executive Committee Summary

Country Operation Plan 2007 : KAZAKHSTAN

Part I: OVERVIEW

1. Protection and socio-economic operational environment.

Kazakhstan gained its independence in 1991. In political sphere, although the country appears to have a democratic system with a bicameral parliament and an executive president, in reality extensive powers are concentrated in the hands of the President Mr. N. Nazarbayev, who has been heading the country since its independence in 1991. President Nazarbayev was re-elected for a third 7-year term on 4 December 2005. Observers criticized that election fell short of a number of international standards. While Kazakhstan finally ratified the two 1966 Covenants on Human Rights in December 2005, the human rights situation still remains as a matter of a great concern. The judiciary is formally built on principles of division of power; however, in reality it does not enjoy any independence. There is a sizable private media sector but anyone venturing into an independent and critical coverage of the political issues faces intimidation and persecution. Similarly, political opposition is systematically oppressed.

The last several years of economic liberalization measures have propelled an impressive economic growth of the country (9% and more of GDP growth per annum for the last several years and 9.4% in 2005), driven to a large extent by Western investments in its vast energy sector and high oil prices in the world market. Currently the population is approximately 15 million. Unemployment by the end of 2005 reached 8.2%. The average monthly wage amounted to about 34,000 tenge (approximately US\$260/Euro217), about 20% up compare to the year before. The country aims to become one of the world 10 top oil exporters by 2012 by increasing oil output up to 100 million metric (110 short tons) annually. However, the Kazakh economy lacks transparency and is heavily dependent on exports of raw materials.

Given its huge size and achievements in economic sector, Kazakhstan assumes itself a role of leadership in the Central Asian region. Moreover, in 2006 Kazakhstan declared its strategy of becoming one of 50 most developed countries in the world. The Government's vital concerns are security, regional stability and its economic situation. As long as positive developments relating to these priorities for the Government cannot be observed, it is not likely that Kazakhstan will engage actively in democratic reform and the promotion of human rights.

Kazakhstan has developed a new Strategy of National Security for 2006-2010, which includes strengthening of co-operation among the Central Asian States for confrontation of modern threats such as terrorism and extremism.

After the breakdown of the Soviet Union, approximately 2.5-3 million Russian-speaking persons reportedly left the country. In order to maintain a steady population growth and demographic balance, bringing back the ethnic Kazakhs (*Oralman*) from other countries to their historical motherland has become a priority for the Government. This has produced visible results but with a number of reintegration difficulties.

The UNHCR presence in Kazakhstan was established in September 1995 to assist refugees and asylum-seekers under its mandate. Despite Kazakhstan's accession to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol in 1999, the institution of asylum is still a fragile concept in this country. It lacks a clear legislative basis and administrative structure. National refugee legislation has not yet been adopted. Only selective categories of refugees have access to

Refugee Status Determination Commission conducted by the Government of Kazakhstan. All asylum-seekers coming from the CIS as well as Chinese Uighurs do not have access to the state RSD procedure. UNHCR Office, therefore, deals with their asylum requests and provides protection to those recognized as refugees.

While Tajiks, Afghans, Uzbeks and Chinese Uighur refugees are concentrated mainly in urban areas of the Almaty region and the southern Kazakhstan, Chechen refugees are spread throughout Kazakhstan's 16 regions, also mostly in urban areas. In the context of fight against terrorism, separatism, religious extremism and illegal migration, refugees are often perceived as threat. This, combined with the lack of clear legislative basis, contributes to a precarious protection situation of most refugees and asylum-seekers in Kazakhstan. UNHCR therefore focuses its efforts on the cooperation with the governmental authorities and other relevant agencies to strengthen the asylum regime in the country by promoting adoption of the national refugee legislation, improving the existing state RSD procedure, ensure provision of legal support to refugees, raise awareness on refugee issues among the governmental authorities and local population.

At the end of 2005, the total number of refugees and asylum-seekers in Kazakhstan is estimated at 7,265 persons, including approximately 5,000 Chechens, 1,446 Tajiks, 760 Afghans and other refugees and/or asylum-seekers of various other nationalities, mainly Uzbeks and Chinese Uighurs. Apart from these persons, there are some 400,000 ethnic Kazakh returnees, of who over 45,644 persons are, in principle, of concern to UNHCR in view of their *de facto* statelessness during the procedure of naturalization. The capacity of the Government and non-governmental organizations working in the field of refugee protection is still limited and requires UNHCR expertise and support. Level of public awareness and tolerance towards refugees is generally low.

2. Operational goals and potential for durable solutions.

While the Government of Kazakhstan has not shown any genuine commitment to adopt a comprehensive national legislation for protection of refugees, UNHCR Office in Kazakhstan has been operating in the conditions of the absence of the national refugee legislation. The RSD procedure, in principle, determines the refugee status according to the refugee definition as in the 1951 Convention and stipulated as such in the amended Law "On migration of population" of 27.03.2002, which contains no other provisions in relation to refugees. In the absence of clear regulations or law, the national RSD procedure is not accessible for asylum-seekers from the CIS countries, such as the Russian Federation and Uzbekistan, and Uighurs from China.

Despite the absence of national legislation on refugees in 2005 both UNHCR and its implementing partners have made considerable efforts to provide adequate protection to refugees from the Chechen Republic of Russian Federation. In agreement with the Government of Kazakhstan, UNHCR Office in Kazakhstan undertook a survey/census of Chechens who fled to Kazakhstan due to armed conflicts in Chechen Republic of the Russian Federation, hoping this would facilitate a joint registration (Government and UNHCR) of Chechen *prima facie* refugees at some point in the future (*AfP Goal 1, Objective 11*). In 2007, efforts will therefore continue to formalize the proposed framework for refugee protection into a definite legal framework for protection of persons of concern in the Republic of Kazakhstan. The existing Inter-Ministerial Group on Migration will be the key forum for this activity, with its work expanded into the asylum area. With regard to prospects of voluntary repatriation, the situation in Chechnya does not permit safe and dignified voluntary repatriation; nevertheless return would be facilitated to those who make an informed and voluntary decision to return to Chechnya.

With regard to the Afghan refugees, who have the access to the national RSD procedure, during 2005-2006 UNHCR has been facilitating the submission of groups of Afghan refugees for resettlement to Canada in view of the lack of prospects for local integration. An estimated number of 300-350 Afghan refugees will remain in the country. The focus for this group will be placed on negotiations with the

Government of Kazakhstan on prospects of local integration. Voluntary repatriation will be facilitated on individual basis.

The events in Andijan on 13 May 2005 triggered a steady flow of asylum seekers from Uzbekistan to Kazakhstan in 2005-2006. In line with its current policy of not allowing CIS citizens to the RSD procedures, the Government of Kazakhstan chose not to allow Uzbek asylum-seekers to its RSD procedure, which necessitated UNHCR to undertake the RSD responsibility for individual asylum question coming from Uzbekistan. The situation of Uzbeks in Kazakhstan remains not only precarious but may also further deteriorate. Therefore, UNCHR foresees that continued use of third country resettlement is not only a major protection tool, but also as the only realistic option of durable solution for Uzbek refugees.

Besides asylum-seekers from CIS countries, Uighurs from China have also been denied access to the national RSD procedure due to political concerns, which determine the Government's position on asylum-seekers coming from China. UNHCR has managed to ensure the protection of Chinese Uighurs in Kazakhstan through examination of their claims under the Office mandate, and the subsequent third country resettlement submissions with regard to those, whose protection could not be ensured locally and/or whose stay in the country is not wanted by the Kazakhstani authorities.

Based on the summary of beneficiary population groups and in accordance with the Global and CASWANAME strategic objectives for 2007-2009, UNHCR Kazakhstan has decided on the following overall goals and objectives for 2007.

1. To promote and support the Government in the development and adoption of the national refugee legislation (Global Strategic Objective 2, Regional Objective 1).
2. In partnership with the Government, international community, other relevant governments and actors, to identify and implement durable solutions (Global Strategic Objective 3, Regional Objective 3).
3. To address the situation of statelessness: prevention and solutions (Global Strategic Objective 2)
4. To ensure emergency preparedness to possible population movements (Regional Objective 4).

Objectives for Goal 1:

- 1.1 To reinforce protection against refoulement.
- 1.2 To improve access to and to strengthen the national RSD procedure.
- 1.3 To elaborate and implement a comprehensive strategy to address the identified institutional gaps in the national capacity.

Objectives for Goal 2:

- 2.1 To strengthen the legal aspects of local integration and access to naturalization.
- 2.2 To ensure local integration/naturalisation for the remainder of the Afghan and Tajik refugees.
- 2.3 To ensure the Government continues to provide complementary form of protection to the Chechen refugees and to support local integration and voluntary repatriation whenever requested.
- 2.4 To use resettlement as a durable solution on protection grounds for individual Uzbek and Uighur cases.
- 2.5 To advocate for the better legal environment for increasing the self-sustainability of the persons of concern with focus on those with special needs.

Objectives for Goal 3:

- 3.1 To discuss with the Government strategies to prevent statelessness of ethnic Kazakh returnees.

Objectives for Goal 4:

- 4.1 To monitor and analyse regularly the developments in the neighbouring potential refugee-producing states and the situation at the border with respect to factors that can cause population movement.

4.2 To prepare to a possible emergency in order to support the Government in receiving asylum-seekers and to facilitate the management of emergencies in the region through contingency planning and involving to the extent possible the governmental agencies concerned, other partners and to update it regularly based on the analysis of the information.

In line with the strategy of Kazakhstan on developing a migration strategy, announced by the President in 2006, UNHCR will work with the Committee on Migration and the Parliament on inclusion of the refugee legislation in the agenda based on its preparatory work in 2006 on the revision of the draft of the Refugee law, for its possible adoption in 2007-8. Concurrently with this process, or following in its steps, UNHCR will work on the adoption of the broader legal framework for protection of persons of concern. The successful adoption of the relevant legislation will be followed by the implementation phase, which will require training, support, and monitoring.

Due to the lack of registration for them in the country, Chinese Uighurs recognized by UNHCR will be referred for resettlement on protection grounds.

Depending on the development of the protection situation of Chechens, UNHCR may have to resort to resettlement for some from this group as well, particularly those who would be at risk of deportation.

In accordance with the Action Plan for cessation of Tajik *prima facie* refugees, the Office will be promoting local integration/naturalization of residual Tajiks for a limited period after cessation of their *prima facie* refugee status.

Following the assessment of possible situation of statelessness of ethnic Kazakhs, who return to Kazakhstan both under quota set by the Government and on their own, the Office plans to conduct in 2006, negotiations with the Government will be initiated to discuss strategies to prevent and address the statelessness issue based on the assessment results.

Part II: COMPREHENSIVE NEEDS AND PARTNERSHIP

1. Outcomes of joint planning and management of identified gaps.

Absence of specific refugee-related national legislation, which could reflect the obligations of the Government to implement the 1951 Convention, ineffective mechanism and procedures for RSD, lack of access to current RSD procedures for asylum seekers from CIS and China, and lack of effective protection and durable solutions for mandate refugees impinge upon and shape the program activities of the UNHCR Office in Kazakhstan.

The 2007 Country Operations Plan will continue putting efforts to achieve the long-term objective of the separate national refugee law and at the same time trying to reach an agreement with the Government to reflect certain refugee-related provisions in other laws. The programme places a strong emphasis on partnership with the Government of Kazakhstan both through the inter-ministerial working group on migration, with its expanded responsibility for asylum issues, directly with the separate governmental bodies including the Ministry of Foreign Affairs, Ministry of Interior, Ministry of Labour and Social Protection, Committee on Migration (CoM) and General Prosecutor's office, and Office of the Ombudsman.

While admitting that Kazakhstan undertook a number of steps to be compliant with international principles in the area of refugee protection, the capacity of the authorities dealing with asylum (Committee on Migration, the Ministry of Interior including the migration police) requires improvement to be able to deal with a range of protection issues under the 1951 Convention and the 1967 Protocol.

In 2006-2007 UNHCR Kazakhstan will be implementing an EU-funded project aimed at improving migration and asylum management system in line with international standards by promoting the respect for the rule of law in general and the rights of asylum-seekers and refugees in particular through building the capacity of the Government to deal with refugee and migration related issues. The project covers four countries: Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan, with centralised co-ordination support from UNHCR Kazakhstan. The project is based on the analysis of the current legal frameworks, gaps and capacities of the Central Asian countries in receiving and protecting asylum-seekers and refugees and will be implemented during 18 months.

The work with the main UN agencies – UNDP, UNICEF, UNAIDS, UNFPA, WHO, UNIFEM, etc. – is coordinated through UNDAF process as well as the UN Country Team and thematic groups. Closer collaboration will be pursued with regard to the issues of HIV, reproductive health, gender-based violence to the extent possible, although the resources of the three major agencies like UNDP, UNICEF and UNFPA are focused in one of the geographic regions – South Kazakhstan together with the advocacy at the national level. Co-operation with UNDP will be continued within the border management (BOMCA) project. UNHCR will continue co-operating with IOM.

UNHCR will try to explore possibilities of integrating its beneficiary groups to the projects of other UN agencies (UNDP).

After the violent events in Andizhan in May 2005 neighbouring Kyrgyzstan faced an influx of about 500 Uzbek citizens, who sought asylum in the country. Since May 2005 UNHCR Kazakhstan receives a steady flow of Uzbek asylum-seekers and the threat of outbreaks of protest against the current regime as estimated as moderate to high. Given the unstable situation in neighbouring Uzbekistan and Kyrgyzstan coupled with the closure of UNHCR in Uzbekistan emergency preparedness to possible population movements including early warning becomes one of the priority objectives. A contingency plan was developed in 2005 and at the time of COP submission stipulated for two scenarios of population movement. Based on the analysis of situation in the neighbouring countries and borders, the plan will be regularly updated involving to the extent possible the Ministry of Emergencies, Ministry of Labour and Social Protection, Ministry of the Interior, Border Control service of the National Security Committee and other agencies dealing with emergencies (the Red Crescent Society of Kazakhstan). Initial consultations with the Ministry of Foreign Affairs in March-April 2006 were positively taken by the Ministry, which indicates that Kazakhstan may become a potential asylum country. UNHCR will continue bilateral discussions with the agencies concerned to ensure the plan is operational according to the changes in the situation. Furthermore, taking into account the stable situation, good infrastructure, including communication, Kazakhstan has a potential to accommodate a logistical cell to support the management of emergency situations in other countries of the region.

The 2007 Country Operations Plan (COP) is based on the baseline standards and indicators across the mandated activities of UNHCR. The UNHCR approach of involving all the stakeholders in the elaboration of the programme was applied in consultative and participatory ways. Together with the implementing partners, a comprehensive operational review of the Kazakhstan programme was undertaken in October 2005 and February 2006 at workshops, which brought together UNHCR, partners and some Government representatives. The operational goals and objectives were reviewed in detail, with a focus on the qualitative changes. The COP was finalised based on the outcomes of two workshops, which indicated priority objectives and activities. During the course of the year a number of meetings was held with different groups of refugees in Almaty and some regions outside Almaty.

The identified priorities aim to achieve the minimum standards of treatment of refugees through provision of: i) legal assistance and protection to refugees and asylum-seekers; ii) temporary health assistance at the primary health care level while trying to reach an agreement with the Ministry of Health to include refugees into the national scheme of health service; iii) financial assistance to the

most vulnerable refugee families including in exceptional cases asylum-seeker families; iv) educational activities with the focus on informal education for children not enrolled in schooling while ensuring the access to public primary and secondary education; v) income-generation activities and skills training to promote self-reliance. In programme implementation, efforts will be made to apply to the extent possible the community approach, which is, however, limited by the fact that the biggest refugee population – Chechens – is spread all over the country. In implementation of these activities UNHCR will co-operate with the Red Crescent Society of Kazakhstan, Bureau of Human Rights and the Rule of Law, Association of the cultural development of the Chechen and Ingoosh people “Vainah”, Public Fund for Support of Afghan Diaspora and the Centre for Studies of Population Problems.

UNHCR will try to employ an Age and Gender Diversity Mainstreaming instrument in order to make sure equitable distribution of assistance and make sure that men and women, boys and girls have are treated equally. AGDM will be based on the existing project arrangements and will involve implementing partners and cover all beneficiary groups.

2. Comprehensive needs and contributions.

Based on the needs assessment of beneficiary population the projected funding requirements for 2007 programme amount to USD672,570. This figure represents all essential needs as determined by UNHCR, partners and refugee groups based on the selected standards and indicators especially taking into consideration an increased number of Uzbek refugees, whose situation is different from other refugees in the sense that they do not have local contacts or support. Compare to 2005 activities, the unmet need gap amounts to US\$120,000 for 2007 programme in the area of social support, health care, education and legal protection. Out of the total budget, the NGO partners projected that their in-kind contributions would make US\$132,570.

Needs-based budget for the country operation:	Total (all figures in US\$):	672,570
of which, estimated:	UNHCR:	420,000
	Operational partners:	0
	Implementing partners (in-kind):	132,570
	Unmet needs:	120,000