

Executive Committee Summary

Country Operations Plan 2003 : UZBEKISTAN

The reflection of the 11 September 2001 events on the political life of the Central Asian region and the already alarming situation in Afghanistan has, nevertheless, not shaken the principle stance of the Government of the Republic of Uzbekistan towards refugees staying in Uzbekistan or refugee-related issues in general. In view of its international obligations, the Government of Uzbekistan, at the same time, also undertook concrete measures to assist the UN Agencies present in this country with delivering humanitarian assistance to Uzbekistan and its onward transportation across the border to Afghanistan.

The Republic of Uzbekistan is neither a signatory to any international refugee instrument nor has it adopted any functioning national legislation for the protection of asylum seekers and refugees. The only references to the institution of asylum are contained in the Criminal Code of the Republic of Uzbekistan of 1994 (Art. 223 exempts asylum seekers from visa and registration obligations) and in the Constitution of Uzbekistan, which was adopted in 1992 (empowering the President of the Republic to grant asylum). However, since there is no asylum procedure, both provisions remain factually idle. In other words, Article 223 of the Criminal Code can not be invoked, as the Constitution foresees neither a right to apply for asylum nor a procedure to file an application.

Furthermore, the official policy of the Republic of Uzbekistan denies the presence of asylum seekers and refugees on its territory. The Ministry of Foreign Affairs has, in this context, repeatedly stated that the Republic of Uzbekistan has no reason to officially consider that there are refugees within the country and that the security forces are well equipped to prevent any refugees from entering Uzbek territory.

A significant development related to the dialogue between UNHCR and the Government of Uzbekistan on protection of the mandate refugees registered with UNHCR took place in August 1999. At that time a verbal agreement was reached between UNHCR and the Ministry of Foreign Affairs, whereby refugees recognised under the Mandate of UNHCR would not be subject to detention, arrest or refoulement, provided that UNHCR would share with the competent authorities the names and addresses of the mandate refugees on a regular basis. After the so-called "Gentlemen's Agreement" was reached, the situation of the mandate refugees improved significantly, in particular, the number of detentions and deportations decreased significantly.

(a) Context and Beneficiary Population

Working on the basis of a verbal agreement has proven to be quite difficult and labour intensive. UNHCR Uzbekistan has to register all asylum seekers and refugees, to carry out the Refugee Status Determination, and to intervene in all individual cases where asylum seekers and refugees are threatened with detention and deportation (in order to ensure that the Ministry of Foreign Affairs takes the matter up with the law enforcement authorities, since the verbal agreement does not provide for a strong enough legal basis for the latter to abide by it). A special mention should be given to the fact that asylum-seekers (i.e. persons who applied to UNHCR for refugee status) are not included in this verbal agreement and such state of things puts this particular group under constant risk of detention and deportation.

It is generally estimated that nearly 8,000 Afghans live on the territory of the Republic of Uzbekistan. The vast majority of them were, in one way or the other, affiliated with the former regime of President Najibullah and arrived in Uzbekistan either before 1992 (i.e., during the Najibullah regime in Afghanistan) in order to study in Uzbekistan under the Soviet student exchange programmes or immediately after the overthrow of the regime. Another significant group arrived after Taleban forces had captured the Mazar-i-Sharif area (bordering with Uzbekistan) in

August 1998. This group consisted mainly of persons connected to General Dostum. All these Afghans live in urban areas, mainly in Tashkent, the capital .

The number of Mandate Refugees registered with UNHCR increased from 2,579 persons in December 2001 to 2,671 persons in February 2002 and UNHCR Uzbekistan faces at present a backlog of about 1,227 cases pending determination. These numbers also include 589 of *prima facie* Afghan refugees as a result of changing protection concept in the aftermath of the 11 September 2001 events.

There is also an estimated number of 30,000 Tajik *prima facie* refugees in Uzbekistan, who left Tajikistan during the civil war. As the vast majority of them are of Uzbek ethnic origin and seemed to have successfully integrated into the Uzbek society, only a very small number has approached UNHCR Tashkent (mainly to request assistance with regard to repatriation). However, in the beginning of 2001 there were first indications of serious protection problems for a small group Tajik refugees, as the authorities started to strictly implement the new (May 2000) visa regime between Uzbekistan and Tajikistan. This resulted in indiscriminate deportations of persons originating from Tajikistan without regard to their potential refugee claims. UNHCR Uzbekistan still believes that this problem can be confined and a solution found in the course of 2002. Therefore, Tajik refugees do not figure as a group of refugees in need of particular attention in the COP 2003.

UNHCR's Role with regard to Asylum Seekers and Refugees in Uzbekistan

Since Uzbekistan does not have national or any other structures to deal with refugees, UNHCR will continue in the year 2003 to be the only entity providing RSD and international protection as well as support. In addition, UNHCR is assisting the most vulnerable asylum seekers and refugees (women, children and disabled) through its care and maintenance programme. The latter will be mainly implemented through utilizing local implementing partners (NGOs). As to the emergency programme, UNHCR will implement it directly through its offices in Tashkent and Termez in view of a relatively low capacity of the local implementing partners. Implementation of this programme will basically focus on facilitated repatriation of Afghan refugees, local procurement of a limited number of non-food items (NFIs), their temporary storage in Termez and further transportation of the internationally and locally procured NFIs up to the Uzbek-Afghan border.

With regard to the kind of protection and assistance to be provided under the care and maintenance programme, UNHCR Uzbekistan envisages for the year 2003 a two-pronged approach:

Encourage the Government of Uzbekistan to adopt a national protection mechanism for asylum seekers and refugees and to assist in the design of a national asylum system:

The first step into this direction would be the formalisation of the above-mentioned verbal agreement (“Gentlemen’s Agreement”) that could be a strong indication of the Government’s will to change its attitude to refugees and asylum seekers. The second step would be the adoption of a refugee/asylum legislation in accordance with international norms and standards. In this context it would be of utter importance if UNHCR could convince the Government to sign the 1951 Convention and 1967 Protocol.

Find durable solutions for the refugees in Uzbekistan:

In this context, it has to be noted that as per the Refugee Profile Survey, which was finalized in Uzbekistan in February 2002, only one third of the registered mandate refugees are planning to return to Afghanistan within the period of 2002-2003. The main reason that prevents other refugees from taking a firm decision to repatriate is the fragile security situation in Afghanistan coupled with uncertainty about employment opportunities, availability of health and educational services for themselves and their families. However, the Republic of Uzbekistan is not willing to accept refugees and, therefore, refuses to allow for any local integration (even for refugees who are married to Uzbek citizens). Hence, facilitated repatriation and resettlement remain – for the time being - the only viable options in terms of Uzbekistan.

Facilitated Repatriation

As in the year 2002, the main objectives of the Facilitated Repatriation (emergency programme) in 2003 are transportation of returnees to the Uzbek-Afghan border and, where possible, organization of vocational courses to update the knowledge of returnees, for instance, with educational background (e.g. former teachers) to facilitate their speedy integration in their home country as well as rehabilitation of the education sector. UNHCR Uzbekistan will apply all its efforts to ensure that refugees are returning in safety and dignity to already safe areas in Afghanistan. Based on the lessons learnt in 2002, a detailed 2003 repatriation plan will be updated to include necessary elements (transportation, information campaign, assistance to the most vulnerable etc.) in order to ensure effectiveness of the repatriation process as such.

Emergency and Conflict Prevention

In terms of responding to an emergency situation, the Afghan crisis absorbed much, if not to say all, of the attention and available resources of the international and UN organizations present in Uzbekistan that were previously linked mainly to the Ferghana Valley as the area of potential conflict or invasion from the side of the armed Uzbek opposition groups. Although humanitarian assistance for Afghanistan is on the rise, it is, nevertheless, believed that the Ferghana Valley should not be discounted from the agenda of the conflict prevention activities in the year 2003. Those activities will be addressed in the framework of the 2003 care and maintenance project and will bear a limited character in comparison with the previous years and do not figure as a separate theme of the present COP.

UNHCR Uzbekistan's Regional Role

Through its swift response to the emergency situation in Afghanistan at the end of 2001, UNHCR Uzbekistan again confirmed its capacity to organize regional and large-scale cross-border assistance. Since the time of the establishment of UNHCR's presence in Uzbekistan, the offices in Tashkent and Termez have been providing a vital logistical support initially for Tajikistan and northern Afghanistan, and later for the entire region, due to geographical advantages of Uzbekistan in Central Asia and its relatively well developed infrastructure. Furthermore, UNHCR Tashkent had for years to play the role of a regional office/support centre, and, although, this function was discontinued in 2000, it still provides informally a number of services to the offices in the region. As for Tajikistan, it still remains isolated and logistically dependent on Uzbekistan. The 2001 emergency stockpiling exercise clearly showed the ability of Termez to enhance (and if necessary to shrink) its facilities in order to accommodate and transport the growing number of non-food items and office equipment (e.g. furniture, telecom equipment, cars etc.) to Tajikistan, Turkmenistan and northern Afghanistan. In addition, in 2002 UNHCR will make a limited contribution to the project of ODCCP and other international agencies to rehabilitate the facilities of the Hairaton bridge and provide training to border guards and customs officials that will increase carrying capacity of the above border crossing point. As an expected result, it will facilitate repatriation of Afghan returnees and ease the movement of NFIs across the border to Afghanistan in 2003.

Bearing the above in mind, UNHCR Uzbekistan will in 2003 continue to provide all possible logistical support to the UNHCR offices in Central Asia and Afghanistan as well as assist with its experienced staff with regard to training and troubleshooting in Central Asian region.

(b) Selected Programme Goals and Objectives

Name of Beneficiary Population: Afghan Mandate Refugees.	
Main Goal: Provide international protection including RSD until an appropriate asylum system is established in Uzbekistan.	
Principal Objectives	Related Outputs
<ul style="list-style-type: none">• Provide RSD to all asylum seekers in accordance with UNHCR standards.	<ul style="list-style-type: none">• Free access of asylum seekers to RSD is ensured.• Appeal possibility is granted to all rejected cases.
<ul style="list-style-type: none">• Provide International Protection to mandate and <i>prima facie Afghan</i> refugees;	<ul style="list-style-type: none">• The "gentlemen's agreement" with Ministry of Foreign Affairs holds and is increasingly respected by the law enforcement bodies.• Mandate refugees benefit from the International Human Rights instruments signed by Uzbekistan.
<ul style="list-style-type: none">• Provide care and maintenance assistance to the refugees in need.	<ul style="list-style-type: none">• All refugees in need have equal access to UNHCR's care and maintenance activities;• Vulnerable categories of mandate refugees (e.g. women, handicapped, elderly, etc.) receive appropriate assistance.