

# **COUNTRY OPERATIONS PLAN**

**Country: Kazakhstan**

**Planning Year: 2002**

## Part I: Executive Summary

### **(a) Context and Beneficiary Population(s)**

Tense inter-ethnic relations, a weak economy with an unemployment rate that is said to have reached 40%; 43% of the population living below the poverty level; delicate situation in a fragile region; absence of a responsive asylum culture and effective institutions; absence of a national refugee law and imperfect nationality legislation are just some features of the young independent state of Kazakhstan. An only slowly developing interest in refugee matters at the decision-making level is perceivable, as the Government remains primarily concerned with economic development, national security and stability. Consequently, the necessary steps for the implementation of the 1951 Convention and the 1967 Protocol are only taken at a slow pace.

The delicate situation of Kazakhstan, in the neighbourhood of major powers and refugee producing countries; the authorities' preoccupation with national security considerations; the extremely difficult economic situation; the lack of co-ordination between governmental bodies concerned with refugees and migration; shortage of competent personnel in the asylum and migration field; the insufficiency in technical and financial resources; the high turn-over in governmental structures and officials dealing with refugees; the serious difficulties imposed by the arrival in the country of over 183,000 ethnic Kazakh "returnees"; the lack of UNHCR's funds to ensure meaningful involvement with the ethnic Kazakh "returnees" in the framework of the Office mandate over reduction of statelessness and the prevailing funding constraints are all major elements that have impacted on the conditions of asylum in this country. The above, coupled with the lack of UNHCR's permanent presence in the capital, Astana, where both the legislative and executive decision makers reside, makes it a major challenge for UNHCR to ensure the protection of refugees and other persons of concern to the Office in Kazakhstan - a country as vast as the whole of Western Europe.

The total number of refugees and asylum-seekers in Kazakhstan is estimated at some 20,500 persons, including 12,500 Chechens, 5,000 Tajiks, 2,500 Afghans, 350 Palestinians and some 150 refugees and/or asylum-seekers of various other nationalities, mainly Chinese Uighurs and nationals of some other countries in Africa and the Middle East. Apart from that, there are over 183,000 ethnic Kazakh returnees of whom some two-thirds are, in principle, of concern to the Office in view of their *de jure* or *de facto* statelessness. The capacities of the government to respond to the assistance and integration needs of this considerable number of persons are very limited.

The "return" and integration of ethnic Kazakhs is a major policy priority of the Government of Kazakhstan. The Government's policy of promotion of the return to Kazakhstan of ethnic Kazakhs was launched soon after independence without appropriate legislation and administrative structures being put in place. By the end of 2000, the total number of such ethnic Kazakh "returnees" had reached 183,652 persons. For many reasons, only about one-third of this number have so far been granted Kazakhstan citizenship. Despite financial constraints, UNHCR has been doing its utmost to promote admission to the Kazakhstan citizenship of ethnic Kazakh "returnees" through various activities not requiring investment of funds, including promotion of a revision of the nationality and other relevant legislation, legal/technical advice and meetings with various governmental bodies.

One of the important challenges for UNHCR has been the protection of Chechen refugees, particularly in view of the still prevailing stereotyped consideration of Chechens as "terrorists" and/or "religious extremists". As a matter of official policy, CIS citizens are not

admitted to the asylum procedure; the Minsk agreement, stipulating a visa-free regime in the CIS, being considered by the Kazakhstani Government as providing sufficient protection framework for them in the country. In a successful attempt to ensure the protection of Chechen refugees in Kazakhstan, UNHCR has agreed with the Kazakhstan authorities a pragmatic approach whereby Chechens are given *de facto* refugee treatment without being considered as refugees *de jure*. Additionally, at the initiative of UNHCR, a Working Group involving representatives from the concerned ministries and other governmental bodies as well as the Chechen Association "Vainakh" was created and has been meeting regularly to discuss the situation of Chechen refugees in the country and seek solutions to problems occurring in the course of their stay in Kazakhstan.

As with Chechens, Tajik refugees are neither considered *prima facie* refugees nor allowed into the individual status determination procedure. Being citizens of a CIS country, their stay in Kazakhstan is tolerated by the Kazakhstan authorities. Tajiks do not face major protection problems and their economic situation is slightly better than that of the Chechen refugees. Therefore, UNHCR involvement with them has been largely limited to the provision of basic medical assistance and facilitation of voluntary repatriation; the latter being the only possible durable solution for them, since the Kazakhstani authorities are not likely to allow their integration into the local society. By the end of March 2001, 1,040 Tajik refugees have been repatriated since the start of the repatriation operation from Kazakhstan in October 1999. It was projected that 1,000 persons would be repatriated in 2001. However, because of the prevailing serious financial constraints, only 263 persons may be repatriated in 2001 under the current budget (NB: additional funds were requested at the time of writing which would cover the repatriation of an additional 600 Tajiks this year).

Another important challenge for UNHCR is to ensure the protection of Chinese Uighur refugees. Their situation has always been fragile and thus requires constant and vigilant UNHCR intervention with the authorities at various levels. Members of this category have never been, and are not likely to be, allowed into the asylum procedure; the reason for that being mainly related to national security. However UNHCR has managed to ensure their protection through the determination of their claims under the Office mandate, with third country resettlement being sought for those whose protection could not be ensured by other means and/or whose stay in the country is not wanted by the authorities. However, the situation of Uighurs significantly deteriorated in October 2000 following an incident that took place in Almaty and it has required enormous efforts by UNHCR to obtain the release of arrested refugees. The situation of this category of persons remains fragile. Hence, UNHCR envisages resorting to more extensive use of third country resettlement as a means to ensure the protection of Chinese Uighur refugees.

From the institutional perspective, the "Agency for Migration and Demography" has been functioning as an independent governmental body, at ministerial level, responsible for refugee and migration matters. However, the "return" of ethnic Kazakhs to their motherland (described above) remains one of the Government's major priorities, and the activities of the "Agency for Migration and Demography" have been geared largely towards this issue. Except for the efforts invested in the draft "Law on Refugees" and the promotion of its adoption, as well as the work of the Refugee Status Determination Commission, which has been operational so far only in the city of Almaty, refugee matters have not been the main focus of the Agency's activities.

In the absence of a national refugee law, there is no solid legal basis for the operation of the Refugee Status Determination Commission. It is yet to become the case that executive bodies as well as the judiciary apply the provisions of the 1951 Convention directly in accordance with para 3, Art. 4 of the Constitution of Kazakhstan, which not only stipulates priority of international treaties of Kazakhstan over the country's national legislation, but also the direct application of the given treaty's provision in the country. The Commission determines

refugee status on the basis of the “Law on Population Migration”, which contains no other refugee law provision, but a refugee definition. The Commission is still young and lacks the necessary expertise and skills. Much is being done by UNHCR to fill these gaps and ensure the proper application of the international protection standards throughout the status determination process. However, given that refugee matters are not among the Government's first priorities, the Commission lacks the necessary funding and its work depends therefore to a large extent on UNHCR's financial and technical support. The scope of operations of the Status Determination Commission is geographically limited to the city of Almaty. Hence, access to the asylum procedure by asylum-seekers residing outside Almaty remains problematic. Furthermore, for reasons related to politics and/or national security considerations, citizens of China as well as CIS countries are not allowed into the national asylum procedure. Hence, Afghans constitute some 98% of the caseload dealt with by the Refugee Commission.

The prevailing lack of understanding and insufficient expertise in the refugee field, coupled with the very high turn-over rate of personnel and structures dealing with refugees, make it imperative that refugee law training seminars/workshops for government officials and technical assistance to various governmental structures remain of the highest priority for UNHCR in Kazakhstan

In 2001 some important activities such as the voluntary repatriation of Tajik refugees, the provision of housing for the most vulnerable refugee families and the provision of food and warm clothing for needy Chechen refugee women and children residing in the northern regions of Kazakhstan, have been affected by the funding problems facing UNHCR at large. UNHCR will do its utmost to avoid a similar situation in 2002, inter alia, through local fund-raising efforts.

The proper implementation of programs in 2002 will be ensured through partnership with the Government of Kazakhstan and the relevant UN agencies. UNHCR will implement its programs in partnership with a number of NGOs, including the Kazakhstani Red Crescent and Red Cross Society (**KRC**), the Cultural Centre for Chechen and Ingush Peoples (“**Vainakh**” **Association**), the Kazakhstani Bureau for Human Rights and Rule of Law (**BHR**), the Kazakhstani Refugee Legal Support (**KRELS**), the Children's Fund of Kazakhstan (**CFK**), Afghan Zemlyachestvo, Counterpart Consortium (**CC**) and the Centre for Conflict Management (**CCM**).

UNHCR will continue to promote refugee law and assist the Government in developing a framework for the protection of refugees and asylum-seekers consistent with international standards, thus ensuring that Kazakhstan fulfils its obligations as party to the 1951 Convention and the 1967 Protocol. Furthermore, in view of the Office policy priorities identified in the framework of the recent prioritisation exercise, and in accordance with the parameters defined therein, UNHCR will engage, subject to availability of additional funds, in core mandate activities aiming to reduce statelessness among the ethnic Kazakh "returnees" and promote Kazakhstan's accession to the 1954 and 1961 Statelessness Conventions.

## Selected Programme Goals and Objectives

Name of Beneficiary Population/Theme:	Chechen, Afghan, Tajik and other refugees in Kazakhstan
Main Goal(s):	To ensure the protection and well being of refugees in Kazakhstan
<b>Principal Objectives</b>	<b>Related Outputs</b>
<ul style="list-style-type: none"> <li>• To meet the survival needs of Chechen, Afghan, Tajik and other urban refugees in Kazakhstan, thereby ensuring cost effective use of the limited programme resources;</li> <li>• To ensure the protection of refugees and asylum-seekers in Kazakhstan;</li> <li>• To promote the establishment of appropriate legal framework and responsive asylum culture in Kazakhstan;</li> </ul>	<ul style="list-style-type: none"> <li>• Emergency and primary medical care, life saving/life sustaining assistance, vocational training and language classes for the most needy refugee children;</li> <li>• Surveys of the refugee needs and regular monitoring of programme delivery by the UNV specialist, programme and protection staff;</li> <li>• Small income generation projects for refugee women;</li> <li>• Interventions and regular meetings with the authorities as needed and appropriate;</li> <li>• The provision of legal support/services to refugees and asylum-seekers.</li> <li>• Technical support and advice to governmental bodies and NGOs dealing with refugees and asylum-seekers;</li> <li>• Active participation in the work of the WG on DIKMP as well as the WG on Chechen refugees to ensure co-ordination with and between governmental structures;</li> <li>• Third country resettlement, both as a protection means and a durable solution, for refugees whose protection cannot be ensured by other means;</li> <li>• Lobbying for the adoption of national refugee legislation consistent with international standards;</li> <li>• Promote the creation of a fair and effective national asylum procedure;</li> <li>• Refugee law training seminars, workshops and round-tables for government officials, legislators, judiciary, NGOs operating in the asylum field as well as academic institutions and school teachers;</li> <li>• The provision of technical support and on the job training for governmental and non-governmental structures dealing with refugees;</li> <li>• PI campaigns aiming at sensitising the public at large to the plight of refugees.</li> </ul>

Name of Beneficiary Population/Theme: Tajik refugees in Kazakhstan	
Main Goal(s): To ensure durable solutions for Tajik refugees	
<b>Principal Objectives</b>	<b>Related Outputs</b>
<ul style="list-style-type: none"> <li>To ensure the voluntary repatriation in safety and with dignity of 1,000 Tajik refugees.</li> </ul>	<ul style="list-style-type: none"> <li>Conduct sensitisation campaigns; collect necessary data; provide air tickets and repatriation cash grants;</li> <li>protection of repatriating refugees during the repatriation process up to departure from Kazakhstan;</li> <li>timely programme delivery and co-ordination with related bodies</li> </ul>

Name of Beneficiary Population/Theme: Ethnic Kazakh returnees	
Main Goal(s): To reduce statelessness among ethnic Kazakh returnees	
<b>Principal Objectives</b>	<b>Related Outputs</b>
<ul style="list-style-type: none"> <li>To promote acquisition of Kazakhstan citizenship by ethnic Kazakh "returnees";</li> <li>To promote accession of Kazakhstan to the 1954 and 1961 Statelessness Conventions.</li> </ul>	<ul style="list-style-type: none"> <li>Conduct a survey, jointly with the National Commission on Human Rights, AMD and BHR, to determine the reasons preventing acquisition of Kazakhstani citizenship;</li> <li>Conduct an analysis of the nationality and other relevant legislation and propose amendments thereto;</li> <li>Provide technical assistance to the relevant governmental structures and NGOs;</li> <li>Subject to agreement from the concerned government, mediate between the authorities of Kazakhstan and other relevant states to ensure release from previous nationalities and timely acquisition of Kazakhstani citizenship;</li> <li>Organise training seminars and workshops on statelessness for governmental officials, legislators, judiciary, NGOs and law academic institutions;</li> <li>Provide information accession packages;</li> <li>Conduct PI campaigns.</li> </ul>