

**Statement by Ms. Erika Feller**  
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**Regional Conference on Refugee Protection and International Migration in Central Asia**  
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Excellencies, ladies and gentlemen,

Allow me to warmly thank the Government of Kazakhstan, and in particular Minister Baymaganbetov, for hosting and welcoming us to this two day conference on refugee protection and international migration. Kazakhstan is a particularly appropriate host for this Conference, given its strategic location, its importance as a destination for mixed movements into and through the region, and the responsible role it is playing in developing and managing its own asylum system. We are grateful to the Government for the fine cooperation we enjoy with the Kazakh authorities in this regard.

The challenges presented by mixed movements are best addressed through partnership, as this Conference amply demonstrates. It is the fifth and final in a series of regional stakeholder meetings focusing in particular on the challenges for states, and the international responsibilities at issue, in the management of mixed asylum and migration flows organized under a project generously funded by the European Commission and the US Department of State, BPRM. It is established practice for UNHCR to co-organise these conferences together with IOM and it is a sincere pleasure to share this podium with Laura Thomson, IOM's Deputy Director General. We have benefited strongly, as well, from being able to prepare this conference in cooperation with two other strong partners: the Organization for Security and Co-operation in Europe (OSCE) and the UN Regional Centre for Preventive Diplomacy for Central Asia (UNRCCA).

The OSCE provides an important forum for regional exchange and cooperation on security-related issues as well as migration management. The OSCE, together with IOM, has been particularly active in the region to combat human trafficking and to draw attention to the gender aspects of migration in Central Asia. The relevance and timeliness of our discussion is confirmed by the presence of strong delegations from Central Asian countries as well as many neighbouring countries, regional organisations and civil society.

Our other partner, the UNRCCA, plays an important role in assisting Central Asian Governments to build capacities in peaceful conflict prevention. UNRCCA's focus on addressing cross-border threats from terrorism, organized crime and drug trafficking, have a direct impact on and interrelationship with the protection of persons of concern to UNHCR.

*UNHCR AND MIXED MOVEMENTS*

Let me begin by placing UNHCR's mandate interests and role in relation to mixed movements in context.

UNHCR has a mandate responsibility to work with states to assist and protect refugees and others who cannot return home without facing serious risks. We also have a specific mandate for stateless persons. UNHCR is not a migration management agency. Nor do we seek to become one. This being said, and unavoidably, refugees, asylum-seekers and sometimes even stateless persons are a component of, travelling as part of, broader population movements. They will often be travelling side by side with labour migrants, persons moving to rejoin family members, victims of trafficking and others. They may even have had to resort to the same smuggling networks. Ensuring the protection of persons of concern in the context of these larger movements is a particular challenge, and cannot be pursued in isolation of the other considerations at issue, which will include importantly the need for States to maintain the security of their borders, as well as ensuring respect for the dignity and needs of

migrants in difficulty. In addition, migration frameworks are increasingly being used by States and by refugees themselves to access livelihood opportunities and find solutions for their situation.

Protection of refugees must be embedded in a more comprehensive framework, which is the reason UNHCR launched several years ago its 10-Point Plan of Action on Refugee Protection and Mixed Migration. The goal of the 10-Point Plan is to help structure State responses to mixed flows to ensure: (1) that people who need protection receive it; (2) that those who do not need international protection are assisted to return home; and (3) that all people are treated with dignity while appropriate solutions are found. This Plan has been the common thread for all the earlier conferences in this series which I have just mentioned and it is our hope that our meeting here in Kazakhstan will lead, as have the other four, to follow up activities which build integrally upon the ten action areas of the Plan.

### *HISTORICAL PERSPECTIVE ON AND CURRENT PATTERNS OF MOBILITY IN CENTRAL ASIA*

Comprehensive arrangements will only be effective if they are tailored to the particularities of the situation in countries and regions. Significant population movements are well known in this region, even in recent history. The large movements resulting from the far reaching political and social changes that accompanied the dissolution of the Soviet Union are one such instance. They are not only important from a historical perspective but are part of a long history of complex and multi-layered population movements which continue to challenge the region today.

A strong feature of contemporary migratory movements to and through the region are their economic roots. A growing disparity in economic and social development between the five Central Asian republics, as well as comparable disparities internally within countries, is a key driver of many of these movements. Geographic proximity, relatively low-cost travel, visa-free regimes, common language and historical legacies within the CIS region also work to encourage mobility.

The increased frequency of, and focus on, labour migration must not, though, create a perception that there are no longer refugees or other forcibly displaced persons in this region. Increasing irregular migration and trafficking in persons threaten to overshadow refugee protection as a priority for national governments. Too often, refugees are equated with migrants in an irregular situation, and viewed negatively by the general public or in the media.

There is a need to correct this perception. Countries in Central Asia are generously hosting some 10 000 asylum-seekers and refugees from outside the immediate region. Forced displacement situations also continue to be a reality within the region. Although no longer taking place on such a large scale as in the past, and often for shorter periods of time, political instability and inter-ethnic tensions continue to force people to leave their homes, as the situation in southern Kyrgyzstan last year demonstrated. UNHCR and others present here today were called on by the Government to assist the thousands of internally displaced and approximately 75 000 refugees who fled to neighbouring Uzbekistan. The people and the Government of the Republic of Uzbekistan openly demonstrated their readiness and their capacity to contribute to the solution of a major humanitarian crisis. In light of reports of a recent increase in extremist movements and terrorist threats in the region, it cannot be excluded that conflict and forced displacement will continue to occur in Central Asia.

In addition to displacement caused by traditional conflict and security issues, major environmental problems - such as desertification, soil degradation and deforestation - create a heightened risk of natural disasters. According to estimates by the European Commission Humanitarian Aid Office (ECHO), natural disasters have affected almost 10 percent of the population in the region over the last decade. As a result, entire communities have found themselves deprived of traditional forms of subsistence. This, in turn, can trigger population movements. The extent to which such movements are forced or chosen is variable and often difficult to determine.

Finally, it is important to draw attention to the number of refugees, stateless persons, returnees and others affected by past displacement situations who leave their current host countries because they are unable to sustain themselves there. These persons move alongside labour migrants within and through the region, using the same travel routes and means of transport.

Against this background, we would draw out of this complex mix of issues, three questions which we suggest merit serious discussion at this meeting:

1. First, how to strike the right and proper balance between protecting national security and managing borders on the one hand, and enabling refugees to find the protection they need on the other? Where is this balance to be found?
2. Second, how can effectively functioning asylum systems contribute to this objective? And
3. What contribution can better integration of refugees and other persons of concern to UNHCR make also to meeting this objective? In particular what is the link between integration prospects and irregular movements in the region?

#### *1. PROTECTION SENSITIVE ENTRY SYSTEMS (BORDERS, SECURITY AND PROTECTION)*

Turning to the first issue, it depends upon the reconciliation of refugee protection with the sovereign right of States to control access to their territory and take measures to ensure national security. In general, people who form part of mixed movements have no malicious intentions. Many are vulnerable and at risk, regardless of their status under international or national law. They may, for example, be in need of urgent medical care, or be survivors of sexual violence or other trauma experienced at home or during their journey. The vulnerability of persons on the move is, of course, not an argument against vigilance, particularly in an era where the threat of terrorism is real and present. However, this in turn is not an argument for allowing asylum systems to be overly driven and indiscriminately by security concerns, at the expense of all other relevant considerations.

Mixed movements, by definition, involve different people with different needs. This calls for differentiated responses. The tools proposed in the 10-Point Plan can assist in this regard, including with early identification of people who may constitute a security risk.

The recently adopted Border Management Strategy in Tajikistan, as well as its implementation plan, is a welcome good practice example of the inclusion of refugee protection considerations within a broader migration strategy. The strategy, which was drafted in collaboration with IOM and other international organizations, provides important safeguards relating to human rights and the protection of refugees and asylum-seekers.

#### *2. ESTABLISHING FUNCTIONING ASYLUM SYSTEMS*

The second question I raised related to how to enhance the effectiveness of asylum procedures in the region. Almost all Central Asian countries have ratified the Refugee Convention and have established asylum systems. This is a very welcome commitment and contribution of Central Asia to the international protection regime. It is also recognition of the fact that asylum systems that work properly are an effective way for States to regulate who should and who should not be making a claim to their assistance and support. Third country nationals are registered through such systems, their stories are exposed to detailed consideration, and those who have been involved in serious crimes will be put into appropriate response processes. In addition, functioning systems carry with them the promise of greater international burden sharing than states might, without such systems, be able to call upon. Resettlement, for example, is a solution which can only flow from decisions on refugee status credibly taken.

A properly functioning asylum system is, by its very nature, humanitarian, peaceful and non-political. Asylum provides a structured framework for protection and assistance to those who are fleeing serious threats to their life or physical security which do not flow from the fair and proper operation of the law in their own country. The granting of asylum is not as such an indictment of another State; it is rather the recognition that the individual concerned is in need of international protection, according to principles of international refugee law.

Setting up the systems which safeguard the institution of asylum is, though, never without its challenges for States. In this region, security has been one. Security is not only relevant to matters such as border control. It is also very important when it comes to the asylum process, and related matters such as extradition or expulsion. This fact is recognized in the 1951 Convention which contains specific provisions to ensure that individuals who pose security risks to a host country are disentitled from the benefits of refugee protection. The Convention also provides for the *non-refoulement* protection to be lifted from someone who poses a clear and objective threat to national security. These are of course very serious conclusions to reach and in each such case there has to be first a careful assessment on an individual basis. There can be no unchallengeable presumption of security risk, based for example on discriminatory criteria such as nationality.

On a related point, asylum systems need to take a balanced approach to extradition, avoiding any tendency for bilateral and regional agreements on extradition to take precedence over refugee protection obligations. Relevant instruments, such as the Minsk Convention (1993 Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters), do not usually allow exemptions from extradition, even where an individual is at potential risk of persecution in the country of return. Further, an individual included on a “wanted list” and alleged by any of the State parties to have committed criminal acts is prevented from registering or applying for refugee status in any CIS State. Such unqualified provisions, in UNHCR’s understanding, may well be, in their implementation and even in their letter, at odds with internationally recognized principles of refugee protection, including the principle of *non-refoulement* – the cornerstone of the refugee protection regime.

Moving to issues of greater detail, some systems in the region need, in our view, re-thinking when it comes to how they actually operate. There are instances where administrative or bureaucratic requirements work to prevent people from registering their asylum claims. These include, for example, strict time limits within which an asylum application must be made regardless of unavoidable impediments in this regard. Although in principle asylum-seekers have the right to challenge negative refugee status determinations in court, in practice appeal procedures can be difficult to access for potential applicants. For this reason, the generally low recognition rates currently seen throughout the region do give cause for concern. One explanation might be limited access to up-to-date country of origin information in the Russian language. UNHCR has created a Russian language website containing country of origin information. However, we appreciate that more capacity building and training is needed, as indeed Governments themselves in the region have flagged to us.

Finally, there is also a need for better awareness about the specific needs of women and children - both as regards their participation in the asylum-procedure, as well as particular risks of persecution faced by these groups – so as to better identify and address their protection needs.

### 3. *INTEGRATION*

The third set of challenges lies in the area of integration of refugees, returnees and stateless persons into local communities. Integration is one of the best safeguards against the building up of socially marginalised groups, the unrest that this can lead to, and the xenophobia which can be so disruptive to, even destructive of, social fabrics. Integration also ensures that the potential of people to be solidly contributing members of their adoptive communities is able to be realised to the benefit of these communities. More broadly, local integration can be a key factor in reducing regional instability and tensions between States caused by irregular population movements which are encouraged by poor integration prospects and on which human smuggling and trafficking rings profit.

Countries in Central Asia have significant experience in helping people to overcome the traumatising consequences of forced displacement, providing them with support to build a new home or to re-establish themselves in their old homes. These past examples show that core conditions for successful integration, or re-integration, include (amongst other things) the provision of a secure legal and social status, the opportunity to seek employment and become self-reliant, and access to education, health care and other services.

One best practice example that comes to mind is the return of large numbers of *Orolmans* (ethnic Kazakhs) to Kazakhstan, which has been taking place since the 1990s. To facilitate their re-integration, the Government of Kazakhstan has adopted a specific legal framework providing for a set of integration measures including payment of special allowances and compensations, guaranteed free medical service, access to free secondary education, and the provision of social assistance.

The dissolution of the former Soviet Union in 1991 left many millions of people in need of a new nationality. The integration of stateless persons created an immense challenge for the newly independent States of Central Asia. And yet, a significant number of people have been granted citizenship by the five Central Asian Republics and concrete steps have been taken by governments to resolve the difficult issues involved. Just as an aside, one of the more memorable experiences I have had in this region was the privilege of participating in a conferring of citizenship ceremony in a small town outside Bishkek, Kyrgyzstan, some years ago. The beneficiaries were ethnic Kyrgyz originally from Tajikistan, and their joy in receiving their first Kyrgyz passport overcame all language barriers. It was infectious. As moving was their pride and their determination to live up to their responsibilities as new Kyrgyz citizens.

Our background paper refers to a number of such successful initiatives which deserve review. This is because the prospects for integration of some other groups of stateless persons are not so positive, for a range of reasons. These include legal gaps, complex procedures for obtaining nationality, or differences between national legislation and international standards.

Some stateless persons in Central Asia continue to face a range of practical difficulties, such as restricted freedom of movement, obstacles to obtaining marriage or birth certificates, and limited access to education, healthcare, social welfare and legal employment opportunities. Due to their lack of documentation, stateless persons are often at a higher risk of detention. Situations where statelessness is combined with other factors - such as poverty, conflict, inter-ethnic tensions or human rights violations- are of particular concern and can result in displacement. For in the absence of legal protection, many stateless persons may opt, or be forced, to move elsewhere.

The prospects for local integration and naturalization of groups of refugees, such as long-staying Afghan refugees, are also not so certain. Many are already well-adapted, educated and skilled. Given the opportunity to acquire a more secure legal status and wholly participate in the social and economic life of their host communities, UNHCR believes these groups could make an important contribution to their countries of residence. In view of their close links with host communities, naturalization could also be considered, at least for some groups.

In 2009, a Regional Conference on Prevention and Reduction of Statelessness and the Protection of Stateless Persons in Central Asia was organized by UNHCR together with the OSCE and the Government of Turkmenistan. That Regional Conference adopted a plan on how the remaining gaps relating to statelessness in the region could be best addressed. We have made these recommendations available to you, and I would urge you to use this Conference to further discuss ways in which we can move forward on the issue of statelessness in the region.

## *CONCLUSION*

2011 is the 60<sup>th</sup> anniversary of the Refugee Convention, and the 50<sup>th</sup> anniversary of the Convention on the Reduction of Statelessness. I am hopeful that the outcomes of this Conference will provide a basis for the Governments of the Central Asian region, with the support of other stakeholders, to further

develop mechanisms for cooperation with regard to refugee protection and international migration. This would be an important and positive development in this anniversary year.

Some of the recommendations coming out of this Conference could be transformed into voluntary State pledges, to be made at the key event in the commemorations calendar, the Ministerial Meeting to be held on 7 - 8 December this year. The pledging process allows States to identify issues and challenges of concern to them and to promote realistic ways to respond. Equally, the outcomes from this Conference could be used to inform the development of the Ministerial Declaration which will be adopted at the Ministerial Conference.

The formal outcome of this Conference, the “Almaty Declaration”, will provide a basis for this engagement. However, this Conference and any outcomes can only be the starting point. UNHCR is committed to work with governments on a follow up action plan, in this anniversary year and beyond.

Thank you for your attention.