



COUNTRY OPERATIONS PLAN

Executive Committee Summary

Country: Turkmenistan

Planning Year: 2005

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Country Operation Plan 2005 : TURKMENISTAN

(a) Context and Beneficiary Populations

Background:

Turkmenistan is one of the former Soviet Republics, which became an independent country in October 1991. Four years following this event, UNHCR established a presence in Turkmenistan. The main objective for the UNHCR presence at that time was to develop the capacity of the Government to deal with movements of populations and in particular with questions related to asylum seekers and refugees, including large influxes. This was imperative, since, at the time, there was no legislative and administrative framework to cope with refugee caseloads and influxes. Furthermore, within the framework of the CIS Conference, UNHCR also became involved in the establishment/development of NGO sector, with a view to identifying, and enhancing the capacity of potential implementing partners. Parallel to these efforts in the field of capacity building, UNHCR gradually involved itself more and more in its traditional Mandate activities in the field of international protection and assistance to refugees, as well as in the search for durable solutions.

Turkmenistan adopted a refugee law in mid 1997, acceded to the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol, and signed a Co-operation Agreement with UNHCR in 1998. During 2003, efforts continued to focus on encouraging the Government of Turkmenistan to develop its own refugee/asylum mechanisms and structures. Pending the full implementation of the refugee law, UNHCR continued to conduct refugee status determination, monitor the situation of refugees, and to promote durable solutions in their regard.

Turkmenistan became the first country to have its Neutral Status officially adopted by the UN General Assembly in 1995. In line with this policy, Turkmenistan has engaged in a constructive dialogue with all its neighbours, and has at the same time adopted a policy of non-interference in the affairs of other countries.

As regards internal policies, the democratisation process remained in an embryonic phase, with a government-controlled party dominating the political landscape.

Following the attempt on the life of the President of Turkmenistan in November 2002, a series of stringent new regulations governing the entry/stay of foreigners in Turkmenistan as well as a new anti-terrorism law were introduced. As a part of the whole package of security measures that was announced by the Government, Turkmenistan decided to establish a service to regulate the migration and registration of foreign citizens (including refugees and stateless persons) in Turkmenistan, and the State Service of Turkmenistan for Registration of Foreign Citizens was created in March 2003. Among other things, the Service is mandated to “accept and determine refugee status, and register refugees and forced migrants in the territory of Turkmenistan, and ensure their voluntary repatriation”. However, since its creation, the Service has been dealing only with visa and registration issues of foreigners and does not yet have the operational capacity to deal with refugee issues.

The Office used the creation of the new service dealing with foreigners, as an opportunity to propose to the Ministry of Foreign Affairs the inclusion of a special structure within this State Service, which would deal specifically with refugee issues. The Office referred in this regard, to the stipulations of the 1997 Law on Refugees of Turkmenistan, which provide for the creation of such a national refugee agency, and which have not yet been implemented.

Another important event in November 2003 was the introduction of a prescriptive new law on public associations, regulating the activities of all NGOs, which replaced an old one from 1991. The new procedures for registration/re-registration of NGOs require that the Statute, membership, finances and activities of all such entities be approved by the government. Moreover, it requires also that any international funds or grants to these associations, including humanitarian and technical assistance, must be recorded with the relevant state structures. UNHCR is monitoring the implementation of this law and its impact on the civil society and the implementation of refugee projects by implementing partners.

Against this background, UNHCR has still been able to continue to effectively promote and maintain basic safeguards for asylum seekers and refugees in Turkmenistan and to work jointly with the Government on achieving durable solutions for the various groups of refugees. However, continuing to ensure protection to refugees in the coming months/years will be an increasingly difficult task in view of the increasing restrictions on foreigners and Turkmen citizens, as well as on NGOs/civil society. In order to work in this changing political environment, and keeping in mind the Agenda for Protection, OCM Ashgabat reformulated its strategy to focus on the following in 2005:

- (i) In line with the Goal 3 “Sharing burdens and responsibilities more equitably and building capacities to receive and protect refugees” of the Agenda for Protection, encourage the Government to operationalize the institutional framework for the implementation of the refugee law and continue efforts to sensitize and build the capacity of the State Service of Turkmenistan for Registration of Foreign Citizens and other competent Government agencies to work on asylum and refugee issues;
- (ii) Continue the registration process of all refugees and persons of concern with the eventual hand-over of these functions to the competent government structures, in accordance with the Goal 2 “Strengthening implementation of the 1951 Convention and 1967 Protocol” of the Agenda for Protection;
- (iii) In line with the Goal 5 “Redoubling the search for durable solutions” of the Agenda for Protection, continue to advocate with the Government for naturalisation of all the refugees who fulfil the criteria for applying for citizenship under its nationality law, and identify the most appropriate durable solutions to the refugees who do not qualify for naturalisation;
- (iv) Continue to advocate for building the capacity of the civil society/NGOs in dealing with refugee and humanitarian issues; and
- (v) Collaborate with the other UN organizations in implementing the UNDAF, in order to further strengthen its cooperation both with its sister agencies, and the Turkmen Government, in mainstreaming the concerns of refugees within the common development framework that the UN envisions for Turkmenistan.

The UNHCR Office will be fully involved in the ongoing training of the staff of the governmental refugee structure (i.e. the State Service for the Registration of Foreign Citizens), as well as with refugee status determination in an advisory capacity once the Government shall have developed its own eligibility procedures. The above-mentioned State Service will require UNHCR partial funding and technical assistance during the initial stages of its existence, both in 2005 and beyond.

After having been able to unblock the situation relating to a census/registration of all refugees in close cooperation with the national administration, it will start the registration on 1 October 2004 and continue this exercise in 2005.

This exercise is of utmost importance, since accurate data on refugees would permit the Office to properly tailor its activities in regard to the beneficiary population, particularly in the domain of naturalisation. Moreover, the participation of the Government will ensure its ownership in the process.

Beneficiary population:

The majority of the asylum seekers and refugees in Turkmenistan are from Tajikistan and Afghanistan. The Tajik refugees fled their country of origin at the time of the civil war in the early and mid 90s. Efforts are currently ongoing either to repatriate some of them voluntarily or, for the majority of them, to integrate locally. Afghan refugees also benefited from resettlement consideration, voluntary repatriation and local integration opportunities in 2003. These activities will continue in 2004. In addition, there are a limited number of asylum seekers of other nationalities, notably Azeris from Nagorno Karabakh, Armenians from Azerbaijan, Chechens and Iraqis. It should be noted that the majority of refugees in Turkmenistan are of Turkmen ethnicity, and residing in rural settlements in Lebap, Mary and Akhal Provinces, while the non-Turkmen refugees reside essentially in urban areas such as Ashgabat and Turkmenabat.

Tajiks: There are over 12,000 Tajik refugees living mainly in rural settlements. Most of them arrived in Turkmenistan between 1992 - 1995, fleeing the civil war in Tajikistan and are considered to be *prima facie* refugees. The durable solution for the majority of them is local integration.

The main protection needs of these refugees is the acquisition of citizenship. Although many fulfilled the legal requirements for Turkmen citizenship, none have been able to avail themselves of this option, due to the Government's reluctance to envisage this solution. The lack of citizenship increases their already vulnerable situation, and has also been an obstacle to the issuance of marriage and birth certificates, registration of property such as land, restricts access to higher education, employment, and, in certain instances, negatively impacted on the refugees' right to freedom of movement. The recently introduced stringent new procedures for foreigners in Turkmenistan with its insistence on all aliens being properly documented, also serves to exacerbate their precarious protection situation. OCM Ashgabat closely monitors developments in this regard, and has started to issue certificates to the undocumented *prima facie* refugees in the settlements, in order to protect them from possible *refoulement*.

Since 2002, the Office has started a naturalisation campaign for this population. OCM Ashgabat first identified the targeted groups. Second, through regular protection monitoring

missions to the field, the Office classified those refugees who were eligible for Turkmen citizenship. Third, based on the received information it prepared a Naturalisation Policy Paper and elaborated a strategy and Plan of Action to implement that policy. In a recent meeting with UNHCR, the Minister of Foreign Affairs expressed his government's willingness to consider refugee applications on case by case basis, for naturalisation. The Office is currently in the process of preparing over 100 cases to the authorities in 2004.

However, based on the current pace of the naturalisation campaign, it is imperative that the Office intensify its efforts in this regard throughout 2005 and beyond. In addition, it is foreseen, that some Tajik refugees will still avail themselves of voluntary repatriation, and they will be assisted by OCM Ashgabat to do so, in 2005.

Parallel to these activities, UNHCR continues to focus, together with the local authorities, on assistance projects facilitating the local integration of Tajik refugees within the existing surrounding communities. These projects include the construction and upgrading of schools and medical aid posts in rural settlements, organisation of health/hygiene/sanitation trainings for refugees and distribution of sanitary supplies for women and girls, vocational classes for young refugee adults, with special emphasis on women, summer schools for refugee children and the distribution of school uniforms.

Afghans: The Afghan refugee population of approximately 1,223 persons includes both 357 urban refugees and some 866 *prima facie* ethnic-Turkmen refugees, who came in 1994 via Iran without any documents, were accepted into the territory by Presidential Decree and settled mainly in rural areas. For the latter, local integration projects continue, in order to facilitate their permanent residence in Turkmenistan. While the main beneficiaries of these projects are refugees, the surrounding local population is also included. This ensures the successful local integration of the refugees, as their presence is not considered a burden but rather as a positive element for the entire community. For the urban refugees, the options of voluntary repatriation and resettlement were implemented in 2003 and will continue to be the focus in 2004 and in the years to come.

A total of 9 families/33 persons returned voluntarily to Afghanistan with the assistance of UNHCR in 2003. The repatriation trend, after reaching its peak in 2002, slowed down, mainly due to the precarious situation in Afghanistan, particularly in its northern provinces, from where the majority of Afghan refugees originate. It is expected that a total of 100 Afghans will repatriate in 2004, and that small numbers will continue return to Afghanistan in 2005.

In addition to repatriation and local integration, OCM Ashgabat continues its involvement in resettlement and looks for facilitated group resettlement of urban Afghan refugees.

Others: There is also a small caseload of mandate refugees from the Russian Federation (Chechnya), Azerbaijan (ethnic Armenians) and Iraq. The Office will continue to pursue the three durable solutions in their regard. For the majority of them, local integration does not seem to be a possibility given their ethnicity and nationality. Hence, the resettlement option will be a solution for this group. A Canadian resettlement selection mission interviewed 4 cases / 11 persons of ethnic Armenians or mixed ethnic Armenian/Azeris from Azerbaijan, and 9 persons were resettled to Canada in 2003. These activities will also continue in 2004 and 2005.

Iranian Political Emigrants/Refugees: There are currently approximately 90 persons/27 families of political emigrants from Iran, who are ethnic Turkmen and fled to Turkmenistan from Iran after 1983. They were granted a status known as "Politemigrants" by the then Soviet authorities, which was considered to be equivalent to the status of refugees. The Soviet Government initially provided them the necessary assistance through the National Red Crescent Society of Turkmenistan (NRSC). Some of them approached OCM Ashgabat from time to time seeking either financial assistance and/or resettlement to a third country based on their protection problems and/or lack of durable solution in Turkmenistan. The Office in the past took a position that these persons are not of concern to UNHCR since they were considered to be treated on par with nationals of Turkmenistan in many respects and therefore, were not in need of international protection. However, given that they were granted this status by the former Soviet Government, and that the quality of protection afforded by the present government to this group has dramatically deteriorated due to the political sensitivity of the issue in its bilateral relations with Iran, the Office has now determined that this group of persons fall within its mandate, and is currently exploring the possibility of group resettlement through HQ.

The pursuit of durable solutions:

OCM Ashgabat places its main emphasis on the option of local integration and naturalisation for those refugees who have ethnic and cultural links with this country and also have fulfilled the other legal qualifications for obtaining the citizenship of Turkmenistan. However, the Office will continue to facilitate voluntary repatriation for all those refugees who wish to do so. As noted above, the Office will explore resettlement for those refugees, for whom repatriation and local integration options are not feasible.

Promotion, advocacy and capacity building:

UNHCR Turkmenistan continues to play an essential role in training, capacity building and the promotion of refugee law, through local and regional initiatives, with particular emphasis on the implementation of the Agenda for Protection. In addition to quarterly round tables/workshops for Implementing Partners on refugee protection and programming, including the prevention of SGBV, OCM Ashgabat organised and participated in a series of trainings for IPs and the competent government authorities. This included lectures on human rights, humanitarian law and refugee law, on border management and on UNHCR's mandate, to the students of the Military Institute, a week-long human rights course, which was organised jointly with OSCE for government officials, as well as a series of trainings on migration-related legislation for the representatives from consular, border, security and customs service, and law enforcement agencies in all 5 provinces of the country. It is planned to continue these activities in 2004 and 2005.

Information centres on International Law, Human Rights and Humanitarian Law at the Police Academy, the Ministry for Foreign Affairs, at the National Institute for Democracy and Human Rights, and at the Turkmen State University, which were established with UNHCR funding, will continue to receive UNHCR support, including information materials on international human rights and humanitarian law, refugee law and technical assistance, since the centres provide access to and, serve to raise awareness on, the principles of refugee protection among the decision makers and those who influence the decision making process.

UNHCR also foresees the facilitation of the participation of Turkmen officials to the relevant sessions of the Standing Committee and the Executive Committee, as well as other workshops and seminars overseas, which would enhance their awareness of international principles in relation to refugee protection.

Constraints:

The main constraint has been the prohibitive new law on public associations, together with the new Presidential Decree forcing international organizations and international donors to channel all funds for associations through the Ministry of Justice shows the government's desire to control not only the Turkmen public associations, but also the international organizations, and other international donors.

UNHCR's capacity-building activities will be deeply affected by the new law, and the possible difficulties that NGOs might face while trying to register. The new law, and the restrictions it imposes on the work of public associations, is likely to undo at least part of the achievements of previous capacity-building efforts by restricting further the already weak power of the civil society and the NGO sector in the country. One of the central objectives of the work of UNHCR in Turkmenistan is to strengthen the Turkmen civil society, and assist NGOs in developing the skills which will later allow them to deal with refugee issues without the help of UNHCR. As a result of the introduction of the new law on public association, the civil society and NGOs in Turkmenistan, and their freedom of operation, will be severely constricted, as the number of "authorized" actors will be limited to those that the government approves of.

Another serious constraint has been the non-implementation of the refugee law, since the objective of encouraging the Government to develop its own full-fledged structure to implement the national refugee law did not materialise. The State Service of Turkmenistan for Registration of Foreign Citizens, which was created in March 2003, is a positive development, since is mandated to deal with refugees. However, since its creation, the Service has been dealing only with visa and registration issues of foreigners and does not yet have the operational capacity to deal with refugee issues.

Finally, UNHCR's activities in Turkmenistan are negatively affected by the constant change in leadership, both at the national and local levels.

Strategy/objectives for 2005:

UNHCR remains committed to its strategy of phasing out its assistance activities in regard to the local integration of Tajik and Afghan refugees, within a broad UNDAF framework. However, the implementation of this strategy has been constrained by several factors: (i) the lack of a national asylum procedure; (ii) the difficulties in obtaining the naturalisation of some 12,000 locally integrating refugees, which would certainly require UNHCR's continued involvement; (iii) the absence of an effective NGO/civil society sector that could be relied on to eventually assume protection/assistance activities in regard to refugees and asylum seekers in the country, and whose development has been considerably hampered by the new stringent regulations governing the registration and functioning of public associations; (iv) the continuous insecurity in areas of Afghanistan bordering Turkmenistan, notably the northern provinces, with the resultant implications regarding possible new arrivals; and, finally, (v) the

lack of readiness of other UN agencies to ensure the continuum between humanitarian assistance and longer-term development.

In light of the foregoing, UNHCR will be compelled to remain engaged in its activities with respect to the refugees in Turkmenistan, until the situation of these persons is regularised. The Office has adopted a long-term two-pronged approach: (i) conducting an intensive effort to obtain naturalisation for those refugees who qualify. In view of the fact that the vast majority of the refugees in this country, notably those of Turkmen ethnicity, would be eligible for this solution, it is hoped that by the end of 2005, the majority of the refugees would be successfully and permanently integrated in Turkmen society. Further, (ii) UNHCR has also intensified its efforts to persuade the competent Turkmen authorities to establish a national asylum procedure within the State Service for the Registration of Foreign Citizens. These two approaches will enable UNHCR to eventually disengage from its assistance functions, and to focus on more traditional protection/advocacy and capacity building tasks, in the future.

The Office has every interest in assuring the Government of its continued commitment to the welfare of refugees in this country. As noted earlier, given the uncertain political situation in the country, it will be of utmost importance for OCM Ashgabat to be able to offer some sort of assistance in return for an improved refugee protection regime. It would be difficult and short-sighted for UNHCR to cut project activities just as the Government is asked to naturalise large numbers of refugees, by the Office. UNHCR has shifted from the “bailout” approach that it had hitherto employed towards local settlement, to a policy of “the provision of incentives” to persuade the Turkmen Government to implement the naturalisation of these persons. The termination or downsizing of the local integration project would be extremely ill-judged, since it would be perceived by the Government as an “abandonment” of the population by UNHCR. This perception would also have far-reaching consequences on UNHCR core mandate activities, since it will also be an impediment to the eventual hand-over of asylum procedures to a national refugee structure in Turkmenistan, as advocated by the Office.

Finally, the UNHCR presence in Turkmenistan will also become crucial not just for refugee protection but also for early-warning purposes. As noted earlier, restrictive new regulations have been adopted by the Government in regard to the entry/stay of foreigners in this country, anti-terrorism, forced relocation, etc. These laws would have a far-reaching and possibly negative effect on the situation of refugees and asylum seekers wishing to enter, or, living in, Turkmenistan. The new regulations, especially those relating to internal relocation, could also generate IDPs, linked to a possible outflow of refugees from the country.

(b) Selected Programmes Goals and Objectives

Name of Beneficiary Population/Theme: Local integration of refugees	
Main Goal(s):	
<ul style="list-style-type: none"> Local integration and naturalisation of eligible refugees 	
Principal Objectives	Related Outputs
<ul style="list-style-type: none"> Refugees obtain Turkmen nationality; Procedure established for naturalisation of aliens, including refugees. 	<ul style="list-style-type: none"> Framework supporting local integration of refugees established; Refugees have access to naturalisation procedure.

Name of Beneficiary Population/Theme: Care and maintenance for refugees in Turkmenistan	
Main Goal(s):	
<ul style="list-style-type: none"> Care and maintenance, repatriation and resettlement for refugees in Turkmenistan 	
Principal Objectives	Related Outputs
<ul style="list-style-type: none"> The rights of refugees and asylum - seekers are respected, and they are provided with effective protection; Refugees return voluntarily to their place of origin in safety and dignity; Refugees in need of resettlement have access to this solution. 	<ul style="list-style-type: none"> Effective RSD procedures for refugees (UNHCR or Government); Voluntary repatriation movements facilitated; Successful UNHCR interventions on detention cases; Resettlement facilitated on an individual/group basis.

Name of Beneficiary Population/Theme: Capacity-building in Turkmenistan	
Main Goal(s):	
<ul style="list-style-type: none"> Building the capacity of national refugee mechanisms 	
Principal Objectives	Related Outputs
<ul style="list-style-type: none"> The refugee and nationality laws are being implemented. Asylum procedure is in place, to which refugees will have access. 	<ul style="list-style-type: none"> Material and technical assistance to national/ local administration provided; The State Service for the Registration of Foreign Citizens is fully functional and has the operational capacity to deal with refugee issues.
<ul style="list-style-type: none"> The national capacity of local NGOs in the field of refugee protection and assistance is maintained and developed. 	<ul style="list-style-type: none"> Training and technical assistance to local NGOs working in the field of refugee protection and assistance.