

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: *Fourth Cycle, 44th Session*

TURKMENISTAN

I. BACKGROUND INFORMATION

Turkmenistan has been party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*) since 1998. Issues regarding asylum are governed by the Law of Asylum adopted in June 2017 and which superseded the 2012 Law on Refugees. There have been no amendments to the 2017 Law of Asylum to date.

Without any presence in Turkmenistan, UNHCR does not have direct access to asylum-seekers and refugees; however, based on data from partner UN agencies present in the country, Turkmenistan hosts 4,000 to 5,000 Afghan nationals who have lived in scattered communities since the 1990s, as well as approximately 500 Afghan students.

As of 1 January 2023, Turkmenistan hosts 13 mandate refugees of whom 9 are from Afghanistan, 3 from Azerbaijan and 1 from the Russian Federation

Together with government counterparts in Turkmenistan, UNHCR maintains joint workplans which outline activities through the year to protect and promote the rights of people forced to flee. The workplans include capacity building initiatives for local executive bodies, development of joint proposals to improve legislation related to refugee rights, capacity building of competent government authorities on emergency preparedness, response in case of mass influx of refugees, and other related activities for the protection of the rights of asylum-seekers, refugees and stateless persons.

As a country neighbouring Afghanistan, Turkmenistan is part of the 2022 Afghanistan Situation Regional Refugee Response Plan (RRP) alongside Afghanistan, Iran, Pakistan and Uzbekistan. The RRP seeks to support host governments to meet the needs of Afghans of varying statuses, including refugees, asylum-seekers and undocumented people, as well as host communities, and potential new arrivals. Even though there has been no mass influx of new arrivals from Afghanistan into the country, together with the Government of Turkmenistan, UNHCR and RRP partners in Turkmenistan – UN Children's Fund (UNICEF) and UN Population Fund (UNFPA) – are focusing on emergency preparedness activities while advocating for safe and unhindered access to territory, and prevention of *refoulement*.

UNHCR actively participates and contributes as a member of the Turkmenistan UN Country Team in the working groups on SDGs and UNSDCF to promote the rights of refugees, stateless persons, to advocate for legal identity for all, and to support the inclusion of persons in need of international protection and stateless persons in national programmes and policies.

Turkmenistan is the only country in Central Asia that has acceded to the *1954 Convention relating to the Status of Stateless Persons* (hereinafter, the *1954 Convention*), in December 2011, and to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*), in August 2012. The 2013 Law on Citizenship, which superseded the 1992 Law on Citizenship, regulates the naturalization procedure.

In July 2020, the Law on Civil Status Acts entered into force with the main purpose to prevent childhood statelessness. The new legislation provides that all children born in the

country – including those with undocumented parents – will have their births registered.

Stateless persons

Almost all stateless persons and persons with undetermined nationality in the country are citizens of the former Soviet Union or their descendants: some having resided in Turkmenistan before its independence, some who arrived after its independence in 1991, and some born in the country. Identified stateless persons generally speak either Russian or Turkmen and are well integrated into local communities, given their long residence and the common legacy of the former Soviet Union.

Since the launch of the global iBelong Campaign to End Statelessness, the Government of Turkmenistan has granted nationality to over 16,500 persons. In 2022 alone, Turkmenistan granted citizenship to a group of 1,530 stateless people comprised of 26 ethnicities, 57 percent of whom were women. However, UNHCR does not have an update of the number of stateless persons or those of undetermined nationality, despite regular requests to the Government for these statistics.

As of 1 January 2023, UNHCR's NGO partners provided information about at least 2,442 stateless persons and 2,085 persons of undetermined nationality living in Turkmenistan.

Recognized stateless persons are issued International Civil Aviation Organization (ICAO)-compliant ID and travel documents. All children in Turkmenistan, regardless of their legal status, have access to primary education and healthcare. According to Turkmen legislation, stateless persons have the right to state social assistance, including pensions and allowances, but they are not covered by medical insurance.

Refugees and asylum-seekers

As of 1 January 2023, Turkmenistan officially hosted 13 mandate refugees of whom nine are from Afghanistan, three from Azerbaijan, and one from the Russian Federation. These 13 individuals had been individually recognized under UNHCR's mandate before the agency departed the country in 2016.

There have not been any new asylum-seekers officially registered in Turkmenistan since 2005. There are no available official statistics related to asylum.

Turkmenistan has had a successful experience in facilitating durable solutions for refugees in the country in the past. In August 2005, due to a registration exercise, the Government awarded citizenship to 10,158 *prima facie* refugees of Turkmen ethnicity from Tajikistan and residence permits to 2,341 Tajik *prima facie* refugees of other ethnic backgrounds as well as to 709 Afghan *prima facie* refugees.

While the 13 remaining mandate refugees are socially and culturally integrated, they do not have a secure legal status and as a result they cannot access employment and public services such as health care, which exacerbates their vulnerability. The mandate refugees without legal status are not allowed to engage in formal income-generating activities and are unable to support themselves. The Citizenship Law of Turkmenistan does not contain any provisions to take into account the specific circumstances of the mandate refugees. The main requirements for the acquisition of Turkmen citizenship are availability of a valid national passport and a minimum five-year legal residence in Turkmenistan. Renunciation of foreign citizenship prior to an application for naturalization is another condition. These criteria are generally impossible for mandate refugees to fulfil. Therefore, UNHCR has been advocating with government authorities to apply an amnesty on their legal status by granting them a waiver of the above-mentioned application requirements, which would enable these refugees to apply for citizenship.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 3rd cycle UPR recommendation no. 114.3: e.g. “Accelerate its efforts towards acceding and fully implementing the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness (Philippines);”

UNHCR wishes to commend the Government of Turkmenistan for the approved 2019 National Action Plan to End Statelessness, which aims at resolving existing cases of statelessness and putting in place adequate safeguards for the prevention of statelessness, including the establishment of statelessness determination procedures (SDPs). In 2021, a new Law on the Legal Status of Foreign Citizens was adopted enacting national SDPs in line with international standards.

In addition, at the High-Level Segment (HLS) on Statelessness at the UNHCR Executive Committee Meeting of October 2019, Turkmenistan pledged to resolve all identified cases of statelessness through granting of citizenship.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 3rd cycle UPR recommendations

Issue 1: Access to information on asylum

Linked to 3rd cycle UPR recommendation no. 114.44 “Provide access to international monitoring mechanisms in all places of detention in line with international standards (Belgium).”

UNHCR is particularly concerned that persons at border entry points, or persons detained for immigration offences, do not have access to information about asylum procedures, and do not have the opportunity to receive legal assistance regarding their potential asylum claims. Therefore, UNHCR recommends that the Government of Turkmenistan allow the International Committee of the Red Cross (ICRC) and UNHCR’s partner organizations to access detention centres to provide the asylum-seekers access to independent, qualified, and free legal advice and representation, and reduce the risk of *refoulement*.

Recommendation:

UNHCR recommends that the Government of Turkmenistan:

- (a) Ensure that referral and asylum procedures are enforced in practice, authorizing monitoring visits to the border regions and places of detention for the ICRC, United Nations agencies, partners, and human rights mechanisms; and,
- (b) Ensure that asylum-seekers, including detainees, have access to independent, qualified and free legal advice and representation, and that their protection needs are duly recognized and potential instances of *refoulement* are prevented.

Additional protection challenges

Issue 2: Access to territory and asylum procedures

Turkmenistan has closed its border with Afghanistan and allows entry to only those Afghans with valid passports and visas.

While the country has an asylum law, UNHCR notes with concern that no new asylum-seekers have been officially registered in Turkmenistan since 2005. With no access to

border areas in the country, UNHCR cannot verify instances of potential *refoulement* or whether adequate access to asylum is available, particularly at border entry points. The Government continues to exert strict control over borders and people's internal and external movement. UNHCR no longer has an office in Turkmenistan and relies on information provided to it by the country authorities, UN partner agencies, implementing partners and occasional contact from asylum-seekers or other stakeholders.

UNHCR has reiterated its readiness to assist the Government in developing fair and efficient asylum procedures that consider the Government's legitimate concerns related to national security. Since 2015, the Government has consistently participated in UNHCR's support initiatives to establish a referral mechanism for asylum-seekers at the borders and a sustainable refugee protection training mechanism for relevant government officials, including those working at the borders or on asylum issues. UNHCR encourages the Government to take advantage of these initiatives to establish a border management system that ensures effective access to the territory and to asylum procedures for those who may be in need of international protection while at the same time taking into account the concerns of national security and the threat of extremism.

In addition, since 2018 and with the exception of 2022, the Government of Turkmenistan has actively participated in the UNHCR initiative – Emergency Response Preparedness Workshop – during which participants learn refugee mass influx coordination techniques and registration, camp planning and management, specifically in the context of the worsening humanitarian situation in neighbouring Afghanistan.

Recommendation:

UNHCR recommends that the Government of Turkmenistan:

- (a) Ensure unrestricted access to the territory and asylum procedures for persons in need of international protection and ensure the prohibition against *refoulement* is respected in practice; and,
- (b) Establish fair and efficient asylum and referral procedures that are accessible at all border points, including at international airports and transit zones.

Issue 3: Naturalization of Mandate Refugees registered with UNHCR

As of 1 January 2023, Turkmenistan hosts 13 refugees, individually recognized under UNHCR's mandate before the organization departed from the country in 2005. While the mandate refugees are socially and culturally well integrated, they do not have a secure legal status and as a result they cannot access employment and public services such as health care, which exacerbates their vulnerability. The mandate refugees without legal status in Turkmenistan are not allowed to engage in formal income-generating activities and are unable to support themselves. The Citizenship Law of Turkmenistan does not contain any provisions to take account of the specific circumstances of refugees. The main requirements for the acquisition of Turkmen citizenship are the availability of a valid national passport and a minimum five-year legal residence in Turkmenistan. Renunciation of foreign citizenship prior to an application for naturalization is another condition. All these criteria are impossible for refugees to fulfil in general. Therefore, UNHCR has been advocating with government authorities to apply an amnesty on their legal status by granting them a waiver of the above-mentioned application requirements, which would enable these refugees to apply for citizenship.

Recommendation:

UNHCR recommends that the Government of Turkmenistan:

- a) Facilitate access to naturalization for mandate refugees in Turkmenistan, including by providing a waiver on standard application requirements.

Issue 4: Implementation of the 1954 Convention

The 2013 Law on Citizenship, in Article 8, states that stateless persons shall mean “persons who are not citizens of Turkmenistan and who do not have proof of their belonging to the nationality of any foreign state.” This definition is not in line with the definition of a stateless person contained in Article 1 of the *1954 Convention*, which is also considered to be a part of customary international law and as such binding on all States. The challenge with the definition adopted by Turkmenistan is that “having no proof of their belonging to the nationality of another state” is in practice interpreted by the authorities as “having proof of not possessing any other citizenship”, which shifts the burden of proof and may result in stateless persons not being recognized as such. In addition, the persons who are citizens of another country may be recognized as stateless solely because they do not hold proof or documentation of their citizenship.

Recommendation:

UNHCR recommends that the Government of Turkmenistan:

- (a) Amend the national definition of a stateless person in line with the definition contained in Article 1 of the *1954 Convention relating to the Status of Stateless Persons*.

Issue 5: Statistics on statelessness

For over a decade Turkmenistan has made consistent progress in reducing and preventing statelessness on its territory. As of December 2022, cases of 16,500 people known to be stateless since 2014 were resolved. With stateless people continuously being identified, the true number is believed to be higher. A majority of stateless people in Turkmenistan are ex-citizens of the former Soviet Union or their descendants who have not yet acquired or confirmed citizenship of the independent States. Others are born stateless or became stateless due to gaps in nationality laws (e.g. children born in Turkmenistan will not be granted citizenship if they cannot acquire nationality of another state; children of Turkmen citizens born outside the country are not granted Turkmen citizenship even in situations when they cannot acquire nationality of another state), international migration, and mixed marriages.

Despite Turkmenistan conferring citizenship to a significant number of stateless people in recent years, UNHCR is unable to predict whether or when statelessness can be eradicated in the country. Statistics and information on the situation of stateless populations can be gathered using a range of methods, including analyses of civil registration data, population censuses, targeted surveys and studies. The results of the 2022 census will constitute an opportunity to clarify the figures. UNHCR should be able to assess the remaining scope and nature of statelessness and its possible eradication once the Government shares relevant data from this census.

Recommendation:

UNHCR recommends that the Government of Turkmenistan:

- (a) Improve data collection on the number of stateless people and people of undetermined nationality living in Turkmenistan; and,
- (b) Regularly share information with UNHCR on the current number of stateless people registered in the country.

Issue 5: Naturalization of stateless people

Most stateless people in Turkmenistan have been living in the country for many years. The Turkmen legislation does not provide for exemptions or facilitated naturalization procedures for stateless persons, which means the latter must meet general requirements and undergo naturalization on common grounds, which is impossible in most cases. For instance, the Law on Citizenship provides for reducing the period of permanent residence required for

naturalization in Turkmenistan or abolition of this requirement on common grounds that are not related to the stateless status. This provision is not in line with the provisions of 32 of the *1954 Convention*.

Recommendation:

UNHCR recommends that the Government of Turkmenistan:

- (a) Simplify the requirements for naturalization of stateless persons; and,
- (b) Facilitate naturalization for stateless people who qualify for citizenship under the Law on Citizenship.

UNHCR
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