

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*

UZBEKISTAN

I. BACKGROUND INFORMATION

Uzbekistan is the only country in Central Asia and the Commonwealth of Independent States (CIS), which has not acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*). Furthermore, Uzbekistan has also not acceded to the *1954 Convention relating to the Status of Stateless Persons* nor the *1961 Convention on the Reduction of Statelessness* (the *1954 Convention* and the *1961 Convention*, respectively).

Uzbekistan is party to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and at the 2021 46th Session of the Human Rights Committee, the President of Uzbekistan expressed the intent to ratify the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

Uzbekistan does not have any comprehensive national legislation, structure, or mechanism in place for asylum-seekers and refugees. Provisions for granting “political asylum” are set out in the Constitution of the Republic of Uzbekistan (Article 93 para 22) and detailed in The Presidential Decree on the Approval of the Regulation on the Procedure for Granting Political Asylum (2017) and a subsequent Law on the Legal Status of Foreign Citizens and Stateless Persons (2021). The framework mentioned above is the only purported legal avenue to seek any type of asylum in the country. There is, however, no information available on the procedure or conditions for granting “political asylum” in Uzbekistan or the number of actual cases of asylum applicants or recognized refugees. A number of Afghan nationals willing to apply for “political asylum” reported contacting government authorities with such requests; however, their applications were not registered nor accepted. In the absence of national asylum legislation, the entry and stay of refugees and asylum-seekers in Uzbekistan is regulated by immigration laws.

The Cabinet of Minister’s Regulations of Civil Acts Registration was amended in 2018 to ensure universal birth registration, including that of children born to undocumented parents, thereby contributing to reducing the risk of childhood statelessness. A new edition of the Citizenship Law was adopted in March 2020, and amended in 2021, and one of its provisions confers citizenship to registered stateless people who were granted permanent residence in Uzbekistan before 1 January 2005. The authorities estimated that some 70,000 people would benefit from this new provision and eventually be recognized as citizens. Their children will also be eligible for citizenship through the same process. The new law includes other important provisions to prevent statelessness and simplified naturalization procedures. The country has no dedicated procedure specifically aimed at determining statelessness.

Despite the lack of an asylum system, Uzbekistan has a long tradition of generously granting access to its territory to people fleeing war and persecution and a longstanding partnership with UNHCR, which started over three decades ago. In 1993, UNHCR established its presence in response to the 1992-93 civil war in Tajikistan and conflicts in northern Afghanistan. A year later, UNHCR undertook registration and refugee status determination (RSD) for persons in need of international protection, facilitated voluntary repatriation of refugees from Tajikistan and Afghanistan, and assisted resettlement of most remaining refugees, mainly from Afghanistan, to third countries.

Since 2006, UNHCR remains with limited presence in Uzbekistan, and has continued its humanitarian activities based on the agreement between the Government of Uzbekistan and the UN Office through the United Nations Development Programme's Refugee Support Unit ("UNDP/RSU") in close cooperation with the UNHCR Office in Almaty, Kazakhstan. Starting from 2020, UNHCR and the Government of Uzbekistan, through the National Centre for Human Rights (the NCHR) are strengthening cooperation by setting up a yearly Workplan which includes capacity-building activities, and assessments and discussions related to improvement of the legislation on asylum, protection of refugees, and statelessness. In August 2022, together with the NCHR, UNHCR presented the findings of a legal analysis conducted to support Uzbekistan's considerations to accede to the *1951 Convention* and its *1967 Protocol*.

With strong support from the Government of Uzbekistan, UNHCR established in Termez the Regional Humanitarian Logistics Hub in October 2021 as part of its response to the Afghanistan emergency.

Refugees

As of 1 January 2022, Uzbekistan officially hosts six refugees, all of whom originate from Afghanistan and had been individually recognized under UNHCR's mandate before the agency departed the country in 2006. They are all-integrated into society and wish to remain in Uzbekistan due to their prolonged stay in the country and/or strong links with the country (mainly acquired through marriage).

On 20 August 2021, Uzbekistan returned 150 Afghan people to Afghanistan, based on an agreement with the Taliban. Uzbek government officials advised that they ensured the return was voluntary and that the returns were facilitated by both sides. However, there was no possibility to verify the voluntary character of the return as UN organizations on either side of the border did not have access to returnees.

Since August 2021, the borders of Uzbekistan are open only to holders of diplomatic, education and business visas; consequently, asylum-seekers do not have any other avenue for entering the country regularly except by obtaining one of these visas. In November 2021, the Government of Uzbekistan reported via mass media that 13,032 Afghan citizens were in the country on short-term visas, the majority holding business visas. UNHCR does not have official access to these Afghan citizens in Uzbekistan; however, given the ongoing situation in Afghanistan, UNHCR considers them to be in a refugee-like situation.

The legal, social and economic situation of Afghans in need of international protection in Uzbekistan remains unresolved and precarious, specifically considering the deterioration of the human rights situation in Afghanistan. Increased restrictions on the rights of women and girls in Afghanistan, including limitations on their freedom of movement, right to healthcare, education and access to livelihoods, mean that UNHCR considers that Afghan women and girls who have fled their country are likely to have international protection needs under the *1951 Convention*. Accordingly, UNHCR submits the status of Afghan women and girls in Uzbekistan, should be seriously considered by the Government of Uzbekistan.

Stateless persons

Statelessness in Uzbekistan has mainly been a result of the dissolution of the Soviet Union and the citizenship legislation which does not effectively prevent statelessness or facilitate reduction of statelessness. After Uzbekistan's independence in 1991, a number of people could not satisfy the criteria established by the Citizenship Law to prove their legal link to the country. In the absence of legal links to any other country, these individuals were granted permanent residence permits, which provided them with a temporary yet renewable legal

status.

As of 1 January 2023, the Government reported 27,389 stateless people residing in Uzbekistan. Only in the last two years, over 41,000 stateless or undocumented persons had their Uzbek nationality confirmed. Despite these figures, UNHCR believes that the true extent of statelessness may be greater in Uzbekistan, particularly given the lack of safeguards to effectively prevent statelessness in the Citizenship Law.

In mid-2019, the Government completed a countrywide mapping campaign that identified instances of unregistered births, marriages and deaths. As a result, more than 14,000 children were issued birth certificates.

II. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 3rd cycle UPR recommendations

Issue 1: Legal framework for the protection of refugees

Linked to the outstanding 3rd cycle UPR recommendation no. 101.37: “Ratify the 1951 Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons (Brazil)”.

The absence of national legislation concerning refugees continues to have a negative impact on persons in need of international protection. In particular, the following protection challenges have been observed:

1. As of August 2021, the borders of Uzbekistan are open only to holders of diplomatic, education and business visas and asylum-seekers do not have any other avenue to enter the country regularly except through obtaining one of above-mentioned visas. A number of Afghan citizens currently residing in Uzbekistan have contacted the UNHCR hotline number/email and other UN agencies present in Uzbekistan. Of those who contacted UNHCR, most of the issues reported relate to economic hardship, and a lack of access to legal employment, medical services and other rights. Visa issuance is a significant challenge, including technicalities of how to access visa renewal, and official costs involved – a business visa renewal fee is US\$120 per person, for three months, which is particularly difficult for large families. Those without valid visas cannot access education or medical services. Some Afghan nationals report running out of empty pages in their passports for visas, and in the absence of a functioning Afghan consulate are unable to renew their passports. Minors who have since turned 16 are expected to have their own passport and visa which requires them to return to Afghanistan. In 2022, there were no reports of Afghan citizens being deported to Afghanistan. However, considering the mentioned challenging circumstances for extension of visas, lack of official access to employment and income, some reported feeling forced to return to Afghanistan notwithstanding the existing threat to their lives due to persecution by the *de facto* Taliban authorities. In the absence of national asylum procedures, asylum-seekers do not have access to registration, documentation, or legal status, thus can only access basic needs based on their status as migrants under domestic immigration law provisions, limiting their access to rights, and potentially forcing some individuals to move irregularly to third countries. Also given the migrant status of asylum-seekers, there are no effective safeguards protecting them against possible refoulement.
2. While the six remaining mandate refugees are socially and culturally integrated in Uzbekistan, they do not have a secure legal status and as a result they cannot

access employment or public services such as healthcare, 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. No local integration prospects are available even for those refugees who are married to Uzbek nationals and who have children together with them. The Citizenship Law of Uzbekistan does not contain any provisions that considers the specific circumstances of refugees. The main requirement for the acquisition of Uzbek citizenship is a minimum five-year legal residence in Uzbekistan. Renunciation of foreign citizenship prior to an application for naturalization is another condition. Both criteria are impossible for refugees to fulfil, in general.

On 29 March 2017, the President of Uzbekistan issued a “Decree of the President of the Republic of Uzbekistan on the Approval of the Regulation on the Procedure for Granting Political Asylum in the Republic of Uzbekistan”. Even though this legislation does not refer to the provisions on asylum set out in the 1951 Convention, UNHCR interprets it as a positive sign that the Government is working towards establishing a legislative framework for asylum. In this regard, UNHCR stands ready to provide support to Uzbekistan in the development and enactment of legislation that would effectively implement the provisions of the 1951 Convention and its Protocol, in line with international standards.

Recommendations:

UNHCR recommends that the Government of Uzbekistan:

- (a) Accede to the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol*;
- (b) Seek the technical assistance of UNCHR in the development and implementation of a national legislative framework on asylum, in line with international standards;
- (c) As an interim measure, until the Government accedes to the *1951 Convention* and establishes an adequate national asylum system, immediately ensure implementation of the existing Presidential Decree on Political Asylum and register and document persons seeking international protection as asylum-seekers, in particular to enable Afghan citizens already in the country to legalize their stay, access essential rights and services, protecting them from possible refoulement;
- (d) Ensure that any Afghan citizen or other national seeking international protection is not forcibly returned to their country of origin, pending an assessment of their international protection needs and in accordance with Uzbekistan’s non-refoulement obligations under the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and customary international law;
- (e) Allow for access to territory, including at the borders, for all Afghan citizens or other nationals seeking international protection, and access to a process to assess international protection needs, in accordance with Uzbekistan’s non-refoulement obligations under the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and customary international law; and,
- (f) Provide the remaining six mandate refugees, who have been living the country for nearly twenty years, with access to naturalization.

Issue 2: Legal framework for the protection of stateless persons

Linked to 3rd cycle UPR recommendation no. 101.36: “Ratify both the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (Slovakia)”.

Whilst Uzbekistan hosts a large number of stateless people, it is not a party to the *1954 Convention* nor the *1961 Convention*. In addition, the current Citizenship Law of Uzbekistan does not contain adequate safeguards to prevent statelessness. The loss of citizenship can occur even if the person does not have any other nationality. The Commission on

Citizenship Issues headed by the President of Uzbekistan (the Commission) assesses and decides on individual applications of the six scenarios¹ stipulated in the Citizenship Law whereby citizenship can be lost, including residence abroad and non-registration at the Uzbek consulate for a period of seven years.

The decisions of the Commission on the loss of Uzbek citizenship continue to affect thousands of Uzbek nationals residing in the bordering countries and beyond. In the event of loss of citizenship, these individuals become stranded in foreign countries, unable to extend or obtain Uzbek passports or return to Uzbekistan. They are also unable to obtain statelessness status in their country of residence in the absence of written confirmation from Uzbek authorities that they are no longer considered Uzbek citizens, since responses to inquiries on their citizenship status are subject to long delays or are not answered by the Uzbek authorities. The elimination of provisions on the loss of citizenship due to prolonged residence abroad without consular registration would greatly alleviate issues of statelessness in the region. Moreover, loss and deprivation of nationality should only take place with full procedural guarantees in accordance with international standards, including the right to a fair hearing. It is essential that the decisions of the body concerned be binding on the executive power.²

UNHCR stands ready to collaborate with the Uzbek authorities to promote the necessary legislative changes that will help solve the situation of stateless persons in the country and reduce the risks of statelessness, including for Uzbek nationals who reside abroad.

Recommendation:

UNHCR recommends that the Government of Uzbekistan:

- (a) Accede to the *1954 Convention Relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*; and,
- (b) Seek the technical assistance of UNCHR in the development and implementation of a national legislative framework to ensure safeguards against statelessness.

Additional protection challenges

Issue 3: Statelessness determination procedures

Uzbekistan does not currently have statelessness determination procedures (SDPs). Persons are determined to be stateless through applications for residence permits or citizenship through a procedure not fully in compliance with international standards. The process is often complicated due to the requirement of certain documents, such as confirmation from the country of birth or former residence that the person is not a national of that country and, in some cases, bank certificates to prove solvency.

SDPs should be in place to effectively identify stateless persons and ensure that their rights are protected in accordance with the *1954 Convention*. The 2020 Law on Citizenship, in Article 3, states that stateless persons shall mean “persons who are not citizens of the Republic of Uzbekistan and who have no proof of possessing the citizenship 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*³, 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 Uzbekistan is that “having no proof of possessing another citizenship” is in practice

¹ Law of the Republic of Uzbekistan on Citizenship of the Republic of Uzbekistan, 13 March 2020, available at: <https://lex.uz/ru/docs/4824096> (English); <https://lex.uz/ru/docs/4761986> (Russian). Article 25. Grounds for the loss of citizenship of the Republic of Uzbekistan.

² Expert Meeting, Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality, Summary Conclusions Tunis, Tunisia, 31 October-1 November 2013, paragraph 26.

³ Art 1(1) of the 1954 Convention: Stateless person is someone who is not considered as a national by any State under the operation of its law.

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, persons who are citizens of another country may be recognized as stateless solely because they do not hold proof or documentation of their citizenship.

The absence of SDPs jeopardizes the legitimate stay in Uzbekistan of undocumented stateless persons. Unrecognized stateless persons may be at risk of mistreatment and may be denied access to basic services. SDPs should thus be established and implemented in line with international standards as soon as possible so as to permit stateless persons to acquire a secure legal residence, which will allow them to enjoy their basic rights and provide them with a clear path to naturalization in Uzbekistan.

Recommendations:

UNHCR recommends that the Government of Uzbekistan:

- (a) Develop and implement a statelessness determination procedure, in line with international standards; and,
- (b) Amend the national definition of a stateless person, in line with the *1954 Convention*.

Issue 4: Resumption of UNHCR’s work in the country

UNHCR is ready to resume its presence in Uzbekistan at its full capacity as soon as the Uzbek authorities extend their invitation. The protection of refugees and the reduction and prevention of statelessness would benefit from a closer relationship while ensuring the legitimate national interests of Uzbekistan.

Recommendation:

UNHCR recommends that the Government of Uzbekistan:

- (a) Invite UNHCR to resume its work in Uzbekistan and facilitate the Office’s activities in pursuance of its mandate on refugee protection as well as the prevention and reduction of statelessness.

UNHCR
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