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Turkmenistan

Note:

- The below analysis does not cover the laws/issues relating to the regime in respect of stateless persons (which we note that Turkmenistan is relatively more open to naturalizing stateless persons rather than refugees).

<p>Is there a refugee protection program?</p>	<p>Yes, the Refugee Law of 1997 (as amended in June 2017) governs the refugee protection program. Turkmenistan also acceded to the 1951 Geneva Convention and the 1967 New York Protocol in 1998.¹</p>					
<p>Who runs any available refugee protection program? Who determines which applicants qualify for refugee protection?</p>	<p><u>State-run Refugee Protection Program</u> As a matter of context, the United Nations High Commissioner for Refugees (“UNHCR”) has been responsible for refugee status determination (“RSD”) pursuant to a 1998 Cooperation Agreement with the Government of Turkmenistan,² until the transition of power to the state in 2009.³</p> <p>Upon the transferal of responsibility, Turkmenistan has developed a more comprehensive legal framework for refugee recognition. Currently, there are 5 steps in the process of attaining refugee status in Turkmenistan under Article 5(2) of the Refugee Law:⁴</p> <table border="1" data-bbox="623 1297 1417 1709"> <tr> <td data-bbox="623 1297 1417 1373">Step 1: Individuals to apply to the State Migration Service with a claim for refugee status</td> </tr> <tr> <td data-bbox="623 1373 1417 1484">Step 2: State Migration Service to provide a temporary certificate of registration of a claim for refugee status, and register the claimant as such on the day of application</td> </tr> <tr> <td data-bbox="623 1484 1417 1560">Step 3: The processing and deliberation of the claim for refugee status</td> </tr> <tr> <td data-bbox="623 1560 1417 1671">Step 4: The adoption of a decision to grant or refuse to grant refugee status and the corresponding notice to the claimant</td> </tr> <tr> <td data-bbox="623 1671 1417 1709">Step 5: The issuance of the refugee identity document</td> </tr> </table>	Step 1: Individuals to apply to the State Migration Service with a claim for refugee status	Step 2: State Migration Service to provide a temporary certificate of registration of a claim for refugee status, and register the claimant as such on the day of application	Step 3: The processing and deliberation of the claim for refugee status	Step 4: The adoption of a decision to grant or refuse to grant refugee status and the corresponding notice to the claimant	Step 5: The issuance of the refugee identity document
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¹ <https://migrants-refugees.va/country-profile/turkmenistan/>

² <https://www.unhcr.org/centralasia/en/unhcr-in-turkmenistan>

³ <https://www.state.gov/wp-content/uploads/2021/03/TURKMENISTAN-2020-HUMAN-RIGHTS-REPORT.pdf>, p.

⁴ <https://www.refworld.org/docid/3df087b41.html>, p.4

	<p>As a matter of law and on paper, Article 7(1) of the Refugee Law stipulates that individuals shall apply for refugee status at the agencies of State Migration Service,⁵ whereby the consideration of the claim for refugee status would be handled by the State Migration Service under Article 9(1).⁶ Ultimately, the claim must be approved by the Cabinet of Ministers of Turkmenistan under Article 9(4).⁷</p> <p>However, it remains unclear as to what exact government authorities run the RSD services <u>in practice</u>, given how the State Migration Service traditionally only handles foreigners’ visa, citizenship, and residence permit applications instead of refugee registration, as reflected in its official website.⁸ As explained below, the state has in essence abandoned its offering of RSD services.</p> <p><u>UNHCR Mandate Refugee Protection Program</u> Filling in the gap in RSD services, the UNHCR continues its RSD functions “in parallel” to the state,⁹ whereby individuals who are not found to be refugees by the state could have recourse to the UNHCR for a mandate refugee status instead.¹⁰</p>
<p>Is the refugee protection program functional? For example, how long does it take for decisions to be issued? What percentage of applications are granted?</p>	<p><u>State-run Refugee Protection Program</u> On paper, Article 9(1) of the Refugee Law notes that the consideration process as to approving or denying the refugee status would be made within a 3 month period, however, it can be extended to 1 year if necessary.¹¹ In addition, since the approval by the Cabinet of Ministers is also required under Article 9(4), there may be delays in the handing down of the eventual decision.¹²</p> <p>Notwithstanding the legislation, the very practice of RSD has been abandoned by the state authorities. Since the state’s assumption of responsibility from the UNHCR as to RSD functions in 2009, no refugee statuses were ever granted,¹³</p>

⁵ <https://www.refworld.org/docid/3df087b41.html>, p.5

⁶ <https://www.refworld.org/docid/3df087b41.html>, p.8

⁷ <https://www.refworld.org/docid/3df087b41.html>, p.9

⁸ <https://www.refworld.org/pdfid/415964b24.pdf>, p.2; <https://migration.gov.tm/en/>

⁹ <https://www.unhcr.org/centralasia/en/unhcr-in-turkmenistan>

¹⁰ [160480.pdf \(state.gov\)](https://www.state.gov/wp-content/uploads/2021/03/TURKMENISTAN-2020-HUMAN-RIGHTS-REPORT.pdf), p.17

¹¹ <https://www.refworld.org/docid/3df087b41.html>, p.8

¹² <https://www.refworld.org/docid/3df087b41.html>, p.9

¹³ <https://www.state.gov/wp-content/uploads/2021/03/TURKMENISTAN-2020-HUMAN-RIGHTS-REPORT.pdf>, p.16

	<p>and the RSD officials so trained by the UNHCR during the transition period were all reassigned - the RSD unit was zapped out in 2010.¹⁴ Hence, the protection program is effectively null.</p> <p><u>UNHCR Mandate Refugee Protection Program</u> The refugee protection program run by the UNHCR is still functional, but very few refugees have opted for Turkmenistan as their destination for seeking refugee protection. In fact, the number of refugees in Turkmenistan have been dwindling, either because they leave Turkmenistan or become naturalized as citizens – hence the number of refugees went from 60 in 2010,¹⁵ just when the RSD functions were passed over, to 21 in 2020.¹⁶</p> <p>Accordingly, there is no existing data as to the processing time and the percentage of applications being granted, given the very few refugees. In terms of general statistics for the UNHCR’s RSD procedures, applicants are expected to have their RSD interviews within 6 months from the date of their application for refugee status, and shall receive the corresponding RSD decision within 3 months after the RSD interview.¹⁷</p> <p>In passing, for existing UNHCR-mandate refugees, they must renew their UNHCR certificates with the government annually.¹⁸</p>
<p>Do refugees have a right to work? A right to education? A right to medical care?</p>	<p><u>Phase 1: Registration of claim for refugee status</u> Upon registration of the claim for refugee status, Article 8(1) of the Refugee Law states that the applicants would be entitled to:¹⁹</p> <ol style="list-style-type: none"> 1. Job placement according to the region of the allocated residence; 2. Preschool and general secondary school education on equal terms as the nationals; and 3. Uncompensated medical care services.

¹⁴https://lib.ohchr.org/HRBodies/UPR/Documents/Session16/TM/UNHCR_UPR_TKM_S16_2013_UNHCR_E.pdf, p.2

¹⁵[160480.pdf \(state.gov\)](https://www.state.gov/wp-content/uploads/sites/75/2021/06/UNHCR-Refugees_CA-ENG-2021-screen.pdf), p.17

¹⁶ https://www.unhcr.org/centralasia/wp-content/uploads/sites/75/2021/06/UNHCR-Refugees_CA-ENG-2021-screen.pdf

¹⁷ <https://www.unhcr.org/4317223c9.pdf>, pp.126, 175

¹⁸ <https://www.state.gov/wp-content/uploads/2021/03/TURKMENISTAN-2020-HUMAN-RIGHTS-REPORT.pdf>, p.17

¹⁹ <https://www.refworld.org/docid/3df087b41.html>, p.6

	<p><u>Phase 2: Approval of refugee status</u></p> <p>Upon the grant of refugee status, Article 15 of the Refugee Law states that refugees would be entitled to:²⁰</p> <ol style="list-style-type: none"> 1. Employment on equal terms as foreign citizens and stateless persons, to which farming lands may be given to refugees by provincial authorities.²¹ Refugees, as with foreign citizens and stateless persons, would be able to work without a work permit under Article 6(4) of the Migration Law (2012)²² – however, they cannot be engaged in the positions or labor activities that are restricted to citizens under Article 7 of the Legal Status of Foreign Citizens Law (2011);²³ 2. Receive preschool and general secondary education on an equal basis with nationals, to which the UNHCR also offers language classes and vocational training for the youth;²⁴ and 3. Use medical care as with foreign citizens and stateless persons, which would be on equal terms as citizens under Article 9 of the Legal Status of Foreign Citizens Law.²⁵
<p>Are those seeking refugee protection free to live freely or forced to reside in camps?</p>	<p>Refugees in Turkmenistan are free to choose the place of residence from the list of settlements (to be provided by the local agencies of state power or local administration agencies under Article 18(10) of the Refugee Law) under Article 15(2)(ii) or reside with relatives, provided that they give consent under Article 15(2) (iii) of the Refugee Law.²⁶ As of 2015, 25 out of 26 refugees are situated in urban regions and the other is situated in rural regions of Turkmenistan.²⁷</p>
<p>Does a grant of refugee protection result in a pathway to permanent status? In other words, can a refugee eventually become a citizen? Is there another form of legal permanent</p>	<p>Pursuant to Article 15(2)(xiii) of the Refugee Law,²⁸ refugees are entitled to acquire citizenship pursuant to existing legislation as to citizenship, which is collectively made up of the Citizenship Law of Turkmenistan (2013), the Constitution of Turkmenistan and the relevant normative legal acts. The latter two essentially accord with the former law.</p>

²⁰ <https://www.refworld.org/docid/3df087b41.html>, p.15

²¹ <https://reliefweb.int/report/tajikistan/over-10000-tajik-refugees-become-citizens-turkmenistan>

²² <https://www.mfa.gov.tm/ru/articles/79>

²³ [Law on legal status of foreign citizens in Turkmenistan_eng.pdf \(unece.org\)](#), p.3

²⁴ <https://reliefweb.int/report/tajikistan/over-10000-tajik-refugees-become-citizens-turkmenistan>

²⁵ [Law on legal status of foreign citizens in Turkmenistan_eng.pdf \(unece.org\)](#), p.3

²⁶ <https://www.refworld.org/docid/3df087b41.html>, pp.15, 22

²⁷ [Global Trends 2015.pdf \(acnur.org\)](#), Table 19, p.97

²⁸ <https://www.refworld.org/docid/3df087b41.html>, p.16

<p>status available for people with refugee status?</p>	<p>Pivotaly, under Article 12 of the Citizenship Law,²⁹ a refugee may be admitted to citizenship upon satisfying the following conditions in that he/she has:-</p> <ol style="list-style-type: none"> 1. Reached 18 years of age; 2. Submitted a written application for citizenship; 3. Undertaken to observe and respect the Constitution and laws of Turkmenistan; 4. A good grasp of Turkmen Turkic, within the limits necessary for communication; 5. Legitimate sources of subsistence; and 6. Permanently resided in Turkmenistan for the past 5 years, to which the permanent residence will not be interrupted if the individual left Turkmenistan for 3 months or less within 1 year – however, this period of permanent residence may be reduced or the requirement in of itself will be inapplicable to refugees under Article 12(2)(vi). <p>Refugees shall submit their applications to the State Migration Service pursuant to Article 28(1),³⁰ whereby the period of consideration of the application would be limited to 6 months under Article 31.³¹ The President of Turkmenistan is the decision-maker as to admitting refugees as citizens under Article 24(2)(i),³² and shall issue Presidential decrees for admitting citizens under Article 30.³³ In passing, however, refugees must abandon their original citizenship as Turkmenistan does not recognize dual citizenship under Article 5(2).³⁴</p> <p>To put the law in context, “Turkmenization” policies are state-sponsored to reinforce the Turkmen culture. Hence, from 2005 to 2020, Turkmen citizenship has been generously granted to nearly 23,000 refugees and stateless persons, though the majority of grants were given to stateless persons instead.³⁵ However, the citizenship grants are allegedly ethnically-based, whereby Afghans are often denied citizenship as opposed to Tajiks.³⁶</p>
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²⁹ <https://www.mfa.gov.tm/ru/articles/74>

³⁰ <https://www.mfa.gov.tm/ru/articles/74>

³¹ <https://www.mfa.gov.tm/ru/articles/74>

³² <https://www.mfa.gov.tm/ru/articles/74>

³³ <https://www.mfa.gov.tm/ru/articles/74>

³⁴ <https://www.mfa.gov.tm/ru/articles/74>

³⁵ <https://www.unhcr.org/asia/news/press/2020/8/5f328cb04/unhcr-welcomes-turkmenistans-new-law-to-ensure-universal-birth-registration.html>

³⁶ <https://borgenproject.org/about-refugees-in-turkmenistan/>

<p>Does the country offer temporary protections available other than refugee status? If so, what are they?</p>	<p><u>Complementary Protection</u> Complementary protection may be granted under Article 11(1) of the Refugee Law if:³⁷⁻</p> <ol style="list-style-type: none"> 1. The applicant's refugee status was refused due to the absence of recognized grounds, but he/she ought not be expelled on humanitarian grounds; or 2. The applicant directly applies for complementary protection. <p>The protection so granted would last for one year, though extendable to one additional year if the conditions persist and so approved by the State Migration Service, pursuant to Article 11(3).³⁸ During the stay, individuals entitled to complementary protection are required to stay in the places of temporary residence on the list of settlements (albeit undefined), as arranged by the State Migration Service agencies. All procedures and the consideration of the claim would be undertaken by the State Migration Service, subject to the eventual approval by the Cabinet of Ministers under Article 9(4) of the Refugee Law.³⁹</p> <p><u>Temporary Protection</u> Temporary protection is generally granted in times of mass influx of individuals into Turkmenistan, whereby the State Migration Service agencies would handle the registration and provision of certificates of registration of an individual granted temporary protection, all of which are to be completed within 3 months, under Article 12 of the Refugee Law.⁴⁰ During the 3 month limbo period, the individuals would be settled in temporary accommodation facilities as reception centres near the state border. The protection so granted would last for 3 months, though extendable to one additional year under Article 12(7).⁴¹</p> <p>The approval of temporary protection and any extension of protection would be made by the Cabinet of Ministers upon the recommendations of relevant government agencies (albeit unclear as to what government agencies this eludes to) under Article 12(2).⁴²</p> <p>During their stay, they may file a claim for refugee status or complementary protection. If upon expiration of the</p>
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³⁷ <https://www.refworld.org/docid/3df087b41.html>, pp.11

³⁸ <https://www.refworld.org/docid/3df087b41.html>, p.11

³⁹ <https://www.refworld.org/docid/3df087b41.html>, p.9

⁴⁰ <https://www.refworld.org/docid/3df087b41.html>, p.12

⁴¹ <https://www.refworld.org/docid/3df087b41.html>, p.13

⁴² <https://www.refworld.org/docid/3df087b41.html>, p.12

	<p>temporary protection, the protected individuals are still unable to return to their countries (be it of his/her nationality or of his/her former habitual residence) or leave to another safe country, their claims for refugee status or complementary protection will be processed under Article 12(3).⁴³</p> <p>Given the current predicament in Afghanistan, it is likely that mass numbers of Afghan refugees would flock into Turkmenistan – hence temporary protection may likely be of importance.</p>
<p>What, if any, penalties are there for people without status or people who are denied refugee protection?</p>	<p>For individuals who are denied refugee status (or complementary protection), they are allowed to appeal to a local court within 1 month from the date of notice of the denial. If the court dismisses the appeal, the individuals must leave Turkmenistan within 10 working days under Article 14(3) of the Refugee Law.⁴⁴ However, if it is impossible to return or expel individuals, the said persons may apply for temporary residence in Turkmenistan under Article 14(4) of the Refugee Law.⁴⁵</p> <p>As for penalties, the breach of Article 14(3) would entail “liability in accordance with the procedure established under legislation of Turkmenistan” (Article 21, Refugee Law).⁴⁶ Contextually, Turkmenistan has a civil law legal system, with an entrenched hierarchy of laws, whereby Codes would take precedence over Ordinary Laws, to which the latter covers all the aforementioned laws. Working under this context, while it is unclear as to what the referential “legislation” was, the Code that likely applies is the Administrative Offences Code (2013).⁴⁷</p> <p>Equally, while the exact penalties triggered for breaching the Refugee Law are unclear, the most relevant administrative penalty would be expulsion from Turkmenistan and temporary restriction of entry into Turkmenistan, which specifically targets foreign citizens and stateless citizens, under Article 48 of the Administrative Offences Code.⁴⁸</p>
<p>What organizations exist in-country that can help</p>	<p>As mentioned above, the UNHCR runs parallel RSD functions and protects refugee rights.</p>

⁴³ <https://www.refworld.org/docid/3df087b41.html>, p.12

⁴⁴ <https://www.refworld.org/docid/3df087b41.html>, p.15

⁴⁵ <https://www.refworld.org/docid/3df087b41.html>, p.15

⁴⁶ <https://www.refworld.org/docid/3df087b41.html>, pp. 15, 24

⁴⁷ [UPDATE: A Research Guide to the Turkmenistan Legal System - GlobalLex \(nyulawglobal.org\)](https://www.nyulawglobal.org/UPDATE-A-Research-Guide-to-the-Turkmenistan-Legal-System)

⁴⁸ <https://minjust.gov.tm/mcenter-single-ru/1>

<p>displaced people seek available protections? What other organizations in the country may be able to help displaced people access services and rights, even if their mission is not to specifically work with refugees and displaced people?</p>	<p>Bosfor, a youth NGO, has established a mobile legal clinic with the UNHCR and the Organization for Security and Co-operation in Europe to provide legal assistance to refugees.⁴⁹</p> <p>Keyik Okara, a local NGO that promotes socioeconomic development, provides legal, medical and social assistance to refugees. In particular, it offers legal support in coordinating the refugees' applications for citizenship and explaining local integration laws, as well as medical support in referring refugees to health care institutions and covering the corresponding expenses.⁵⁰</p>
<p>Is there other information that might be valuable for displaced people arriving in that country to know?</p>	<p><u>Economic circumstances:</u> Turkmenistan may not be ideal economically – the figures of its population living under the poverty line and being unemployed, particularly during the pandemic, were covered up. NGOs estimated that 21.8% of Turkmen lived below the national poverty line in 2018.⁵¹ In particular, Turkmenistan is still undergoing a food crisis, which was exacerbated by the pandemic – with massive shortages of subsidized food and the drastic hike in market prices, refugees may face the same issue of food insecurity in Turkmenistan, not to mention how the existing food rationing system for citizens is already failing.⁵²</p> <p><u>Cultural assimilation:</u> While Afghan refugees would largely speak Dari and Pashto, Turkmen Turkic, as Turkmenistan's official language, is spoken by certain Afghan minority groups as a third official language. Besides, since the majority of Afghan refugees who flee to Turkmenistan are ethnic Turkmen, there are no reports of hostility towards refugees from locals.⁵³ In fact, in 2020, 70% of refugees in Turkmenistan originated from Afghanistan.⁵⁴</p> <p><u>Political stability:</u> Turkmenistan is known to be a notoriously repressive state whereby freedoms of assembly, media, religion, and even movement are strictly monitored, if not stripped.⁵⁵ Given the state's hypersensitivity to social movements and political dissent, it is advised that refugees do</p>

⁴⁹ <http://en.bosfor.info/2017/10/22/pr2/>

⁵⁰ <https://keikokara.com.tm/en/2021/06/07/refugees-and-stateless-persons/>

⁵¹ <https://www.unescap.org/sites/default/files/2018.11.20%20Turkmenistan%20Country%20Brief.%20FINAL.pdf>,

p.1

⁵² <https://www.hrw.org/news/2020/09/23/turkmenistan-denial-inaction-worsen-food-crisis>

⁵³ <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5459&file=EnglishTranslation>, p.2

⁵⁴ <https://www.unhcr.org/refugee-statistics/download?url=Izv9fP>

⁵⁵ <https://www.hrw.org/world-report/2021/country-chapters/turkmenistan>

Turkmenistan

	not break the law lest their refugee status be terminated as they may be deemed to have threatened state security or public order under Article 13(3) of the Refugee Law. ⁵⁶
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⁵⁶ <https://www.refworld.org/docid/3df087b41.html>, p.14