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REFUGEES AND MIGRATION POLICY: BETWEEN INTERNATIONAL LAW AND NATIONAL PRACTICE KAZAKHSTAN AND GERMANY COMPARED

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The article compares Germany and Kazakhstan in implementing international refugee law under the 1951 Refugee Convention and its 1967 Protocol. It analyzes four areas: legal frameworks, asylum procedures, socio-economic integration, and accountability. Germany represents a mature, rights-based asylum system with strong judicial oversight and integration support, while Kazakhstan's framework is developing and relies on UNHCR cooperation. Despite capacity gaps, both uphold the principle of non-refoulement. The study concludes that Kazakhstan's progress depends on stronger legal review, transparency, and expanded refugee rights.

Keywords: International refugee law, Asylum policy, Germany, Kazakhstan, UNHCR, Non-refoulement, Integration

International refugee law originates from a multilateral framework established by the 1951 Refugee Convention and its 1967 Protocol. These instruments define who qualifies as a refugee, prohibit refoulement, the return of individuals to territories where they face persecution, and set out the socio-economic rights of persons under protection. By ratifying these treaties, states assume legal obligations to protect those fleeing persecution. Oversight is ensured through mechanisms such as UNHCR monitoring and, in Europe, judicial review by the European Court of Human Rights (ECHR) (UNHCR Global Trends Report 2024; European Court of Human Rights Annual Report 2024). Both Germany and Kazakhstan have ratified these conventions (Kazakhstan in 1998) and incorporated their provisions into national law, yet the effectiveness and depth of implementation differ significantly.

This article compares Germany and Kazakhstan as examples of two contrasting models of refugee policy: Germany as a mature, high-capacity asylum state within the European human rights system, and Kazakhstan as a developing state still institutionalizing its refugee protection framework. The comparison focuses on four dimensions: (1) legal framework and treaty implementation; (2) asylum procedures and access to protection; (3) socio-economic rights and integration; and (4) accountability, oversight, and outcomes. Each section juxtaposes both countries

directly to highlight how structural, legal, and political contexts shape their approaches to refugee protection.

1. Legal Framework and Treaty Implementation

While Germany embeds refugee rights within constitutional and EU law, Kazakhstan's framework is newer and less tested in courts. Germany's Basic Law (Article 16a) explicitly guarantees asylum to "politically persecuted persons." This constitutional right is reinforced by EU asylum directives and European human rights obligations (AIDA Country Report: Germany 2025). The ECHR ensures compliance, and in cases such as H.T. v. Germany (2024), the Court ruled against Germany for procedural shortcomings under Article 3 of the Convention (ECHR 2024). German courts regularly review asylum decisions, strengthening the domestic enforcement of international norms.

Kazakhstan, by contrast, ratified the 1951 Convention and 1967 Protocol and introduced its national Law on Refugees in 2009 (effective 2010). The law prohibits expulsion to danger zones, defines refugee status, and guarantees access to education and healthcare (UNHCR Kazakhstan Country Report 2025a). However, the system remains young and under-resourced. Judicial review of refugee decisions is limited, and enforcement often depends on international partners such as UNHCR, which supports judge training and policy alignment (UNHCR Regional Bureau for Central Asia 2024). Despite these gaps, Kazakhstan has shown a gradual improvement in aligning domestic law with treaty standards.

The divergence stems largely from institutional maturity and regional integration. Germany operates under EU legal pressure and enjoys robust institutional capacity, while Kazakhstan relies on a mix of state agencies and international organizations to implement obligations. Still, Kazakhstan's adherence to UNHCR recommendations and its 2023–2024 refugee strategy demonstrates a growing commitment to international norms (UNHCR Kazakhstan Operational Update 2024).

2. Asylum Procedures and Access to Protection

While Germany's asylum process is formalized and legally supervised, Kazakhstan's system remains procedural but limited in accessibility. In Germany, the Federal Office for Migration and Refugees (BAMF) manages applications through a multi-stage process involving registration, decision-making, and appeals. In 2024, Germany received over 229,000 asylum applications, with roughly 44% of applicants granted protection (AIDA Asylum Statistics 2025). Appeals are frequent, and administrative courts play a decisive role in ensuring procedural fairness. Despite concerns about lengthy processing times and tighter border controls, the legal framework ensures access to remedies and external oversight (BAMF Annual Report 2024).

In Kazakhstan, applications can be submitted upon entry or within five days of arrival through the Department of Employment and Social Programs (UNHCR Kazakhstan Country Report 2025b). The procedure formally allows appeals, but

practical barriers limited legal aid, language issues, and administrative discretion, hinder access to protection. Many displaced persons, including Afghans and Ukrainians arriving after 2021, remain in “refugee-like situations” without formal recognition or rights (UNHCR Kazakhstan Update on Displacement 2024). According to national data, fewer than 1,000 refugees were officially registered in 2024, most from Afghanistan, Syria, and Ukraine (Kazakhstan Ministry of Labour and Social Protection 2024).

The contrast reflects different pressures and capacities. Germany’s mass inflows require extensive bureaucracy and judicial involvement, while Kazakhstan’s smaller caseload allows flexibility but exposes institutional fragility. Yet both systems reveal the tension between legal formality and administrative reality.

3. Socio-Economic Rights and Integration

While Germany offers refugees comprehensive social and economic integration, Kazakhstan provides more limited access to such rights. In Germany, recognized refugees receive healthcare, education, housing assistance, and integration programs, including language and vocational training (AIDA Country Report: Germany 2025). These measures are supported by national and EU funding, promoting inclusion and eventual naturalization (European Migration Network Integration Report 2024). The integration system is not without challenges, public resistance, and bureaucratic delays persist but overall, Germany demonstrates a strong welfare-based approach.

Kazakhstan’s approach remains narrower. Recognized refugees are entitled to basic education and emergency healthcare but are often excluded from broader social programs such as pensions or family allowances (UNHCR Kazakhstan Country Report 2025a). NGOs like the Red Crescent Society and Kazakhstani charitable foundations provide supplementary assistance, particularly for Afghan women and children. For instance, the 2023–2024 UNHCR–RCS partnership expanded local integration projects in Almaty and Shymkent, offering language classes and job placement initiatives (Global Compact on Refugees Progress Report 2024). Yet formal state support remains minimal, pushing many refugees into informal employment.

The disparity reflects both economic and political realities. Germany’s developed welfare system enables expansive integration measures, while Kazakhstan’s limited resources and smaller refugee population make gradual reform more feasible. Nonetheless, Kazakhstan’s growing collaboration with UNHCR and NGOs shows a shift toward more inclusive policy design (UNHCR Regional Report for Central Asia 2025).

4. Accountability, Oversight, and Outcomes

While Germany ensures accountability through a multi-tiered legal system, Kazakhstan’s oversight mechanisms remain weak but evolving. In Germany, asylum decisions are regularly reviewed by administrative and constitutional courts. The H.T. v. Germany ruling reaffirmed that procedural safeguards and non-refoulement

obligations are legally enforceable (ECHR 2024). Civil society organizations and media play an important role in monitoring asylum practices, ensuring transparency and democratic scrutiny (German Institute for Human Rights 2024).

In Kazakhstan, judicial oversight is limited and often supplemented by international actors. Few asylum seekers challenge rejections, and public access to migration statistics is scarce. UNHCR's 2024 monitoring report noted a gradual improvement in data transparency and government cooperation but highlighted gaps in appeals and enforcement (UNHCR Kazakhstan Monitoring Report 2024). A notable case in 2023 involved an Afghan applicant whose expulsion was overturned after UNHCR intervention, one of the few examples of successful accountability through external advocacy (UNHCR Kazakhstan Case Study 2024).

Thus, while Germany relies on domestic checks and balances, Kazakhstan's system depends on external monitoring and international engagement. Strengthening national legal aid, judicial independence, and data transparency would be key to enhancing oversight in Kazakhstan's asylum governance.

Conclusion

Both Germany and Kazakhstan uphold the principles of international refugee law but differ in capacity, enforcement, and institutional depth. Germany represents a consolidated system where constitutional guarantees, judicial review, and integration policies reinforce compliance. Kazakhstan, though constrained by resources, demonstrates incremental progress through legal reform, UNHCR collaboration, and regional partnerships.

Kazakhstan could benefit from adopting certain aspects of the German model, especially in strengthening judicial review and expanding social inclusion measures. However, reforms must align with national capacity and context rather than replicate external frameworks. Upholding refugee rights not only fulfills international commitments but also strengthens Kazakhstan's social stability and global standing. As displacement grows worldwide, closing the gap between legal obligation and practice will define how both Germany and Kazakhstan contribute to a more equitable system of refugee protection.

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БЕЖЕНЦЫ И МИГРАЦИОННАЯ ПОЛИТИКА: МЕЖДУ МЕЖДУНАРОДНЫМ ПРАВОМ И НАЦИОНАЛЬНОЙ ПРАКТИКОЙ (СРАВНИТЕЛЬНЫЙ АНАЛИЗ КАЗАХСТАНА И ГЕРМАНИИ)

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Статья сравнивает Германию и Казахстан в реализации международного права о беженцах в рамках Конвенции о статусе беженцев 1951 года и Протокола 1967 года. Анализ проводится по четырём направлениям: правовая база, процедуры предоставления убежища, социально-экономическая интеграция и подотчётность. Германия представляет зрелую систему предоставления убежища, основанную на правах человека, с развитым судебным контролем и программами интеграции, в то время как казахстанская система находится на стадии развития и опирается на сотрудничество с УВКБ ООН. Несмотря на различия в возможностях, обе страны придерживаются принципа невысылки (non-refoulement). В заключении отмечается, что дальнейший прогресс Казахстана зависит от укрепления судебного надзора, прозрачности и расширения прав беженцев.

Ключевые слова: международное право о беженцах, политика предоставления убежища, Германия, Казахстан, УВКБ ООН, принцип невысылки (non-refoulement), интеграция.

БОСҚЫНДАР ЖӘНЕ ҚӨШІ-ҚОН САЯСАТЫ: ХАЛЫҚАРАЛЫҚ ҚҰҚЫҚ ПЕН ҰЛТТЫҚ ТӘЖІРИБЕ АРАСЫНДАҒЫ САЛЫСТЫРМАЛЫ ТАЛДАУ (ҚАЗАҚСТАН ЖӘНЕ ГЕРМАНИЯ)

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Мақалада Германия мен Қазақстанның 1951 жылғы Босқындар мәртебесі туралы конвенциясы мен 1967 жылғы Хаттама шеңберіндегі халықаралық босқындар құқығын іске асыру тәжірибесі салыстырылады. Зерттеу төрт негізгі бағытты қамтиды: құқықтық негіз, баспана беру рәсімдері, әлеуметтік-экономикалық интеграция және есептілік тетіктері. Германия адам құқықтарына негізделген, солтық бақылауы мықты және интеграциялық қолдауы дамыған жүйені көрсетсе, Қазақстанның жүйесі алі де қалыптасу кезеңінде және БҰҰ Босқындар ісі жөніндегі Жогарғы комиссары басқармасымен (УВКБ) ынтымақтасына көбірек сүйенеді. Қуат пен ресурстардагы айырмашылықтарға қарамастан, екі ел де босқындарды қауіпті аймақтарға қайтармау (non-refoulement) қағидатын ұстанады. Зерттеу нәтижелері Қазақстандагы ілгерілеу заңдық бақылауды күшетуге, ашықтықты арттыруға және босқындардың құқықтарын кеңейтуге тәуелді екенін көрсетеді.

Кілт сөздер: халықаралық босқындар құқығы, баспана беру саясаты, Германия, Қазақстан, БҰҰ Босқындар ісі жөніндегі агенттігі (UNHCR), қайтармау қағидасы (non-refoulement), интеграция.