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GUIDELINES ON THE TREATMENT OF CHECHEN INTERNALLY DISPLACED PERSONS (IDPs), ASYLUM SEEKERS & REFUGEES IN EUROPE

Revised March 2007

KEY CONCLUSIONS AND EXECUTIVE SUMMARY

1. The European Council on Refugees and Exiles (ECRE) is a network of 78 organisations in 30 European countries. In this paper ECRE has compiled the views of its member agencies, many of whom work with Chechen refugees, asylum seekers and internally displaced persons (IDPs) in European countries of asylum and in the Russian Federation.
2. These guidelines are a response to the high number of Chechen¹ refugees currently in Europe, the effects on Chechen refugees of the Dublin II Regulation² and the fact that some states are denying these refugees international protection on the grounds that they would be safe elsewhere in the Russian Federation (the 'internal flight/protection alternative'). They include the latest developments in the Chechen Republic (Chechnya) and the Russian Federation as well as information on the situation of Chechen asylum seekers and refugees in other European countries.
3. These guidelines concern the treatment and voluntary return of Chechen IDPs in the Russian Federation and Chechen asylum seekers and refugees in European countries, including EU Member States. They focus in particular on whether Chechens have effective access to

¹ This paper only relates to ethnic Chechens as it is understood that asylum seekers and refugees from the Russian Federation seeking asylum in Europe are primarily Chechen (see UNHCR Position regarding Asylum Seekers and Refugees from the Chechen Republic, Russian Federation, 22 October 2004).

² *Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national*, Office Journal of the European Union, 25 February 2003, L50/1 ('Dublin II').

the asylum procedure and on return policies as they affect Chechens. The guidelines concern the voluntary repatriation³ of Chechens who have refugee or subsidiary protection status, those with temporary protection status and those who are in the process of applying for protection, including those who have received a negative first decision and have appealed. They also concern the mandatory return of Chechens whose applications have failed, and those whose protection status has ceased or ended after they had effective access to the asylum system.

4. Since 2003 asylum seekers from the Russian Federation (presumed to be primarily of Chechen origin) have become one of the largest groups of asylum seekers in Europe and other industrialised countries.⁴
5. Reports from NGOs and international organisations continue to emphasise that Chechnya remains extremely unsafe and that violence and widespread human rights violations have spread to Ingushetia, Dagestan and Kabardino-Balkaria. Meanwhile Chechens face threats to their physical, material and legal safety in many other regions of the Russian Federation, particularly in large cities in Western Russia, where there are sizeable Chechen populations.
6. UNHCR has stated that all those Chechens whose place of permanent residence was the Chechen Republic prior to their seeking asylum abroad should be considered in need of international protection, unless there are serious grounds to consider that he or she is individually responsible for acts falling within the scope of Article 1F of the 1951 Convention relating to grounds for exclusion.⁵
7. ECRE is against the forced⁶ or mandatory⁷ return to the Russian Federation of any Chechen seeking international protection and against the promotion of voluntary repatriation to the Russian Federation as a durable solution as the requirement for safety and dignity cannot be met.
8. Throughout Europe the treatment of Chechens seeking protection varies considerably, with recognition rates in 2005 ranging from 0% in Slovakia to over 90% of applicants receiving refugee status in

³ See ECRE Position on Return paragraph 7-8 www.ecre.org

⁴ They were the largest group in 2003 and 2004 and the second largest group in 2005. Although the most recent statistics show a sharp drop in the number of Chechens seeking asylum in Europe in the first and second quarter of 2006, they are still the fourth largest group. See UNHCR: (<http://www.unhcr.ch/cgi-bin/texis/vtx/statistics/opendoc.pdf?tbl=STATISTICS&id=428da0db2>). For 2003 and 2004 see <http://www.unhcr.org/statistics.html>

⁵ *UNHCR Position regarding Asylum Seekers and Refugees from the Chechen Republic Russian Federation*. October 2004.

⁶ Forced return describes the return of persons who are required by law to leave but have not consented to do so and therefore might be subject to sanctions or force in the form of restraints in order to effect removal from a country. See ECRE Position on Returns para. 10 www.ecre.org

⁷ The term mandatory return is used for persons who no longer have a legal basis for remaining in the territory of a county for protection related reasons and are therefore required to leave by law. See ECRE Position on Returns paragraph 9. www.ecre.org

Austria,⁸ showing that for many Chechens, the outcome of the 'asylum lottery' will very much depend on the country in which they seek asylum.

9. ECRE urges European governments to ensure that Chechen asylum seekers can avail themselves of protection on their territory, through proper access to fair asylum procedures.
10. ECRE urges European States to adopt a full and inclusive interpretation of the 1951 Geneva Convention Relating to Refugees (hereinafter "the 1951 Convention") with regard to asylum seekers from Chechnya. Subsidiary and complementary forms of protection (hereinafter "subsidiary protection") should only be accorded to those Chechens who have been determined not to qualify as refugees under the 1951 Convention, but who nevertheless require international protection.
11. ECRE urges European states to ensure that all those accorded subsidiary protection enjoy the same rights as Convention refugees, in particular with regard to family unity and socio-economic rights and as a minimum should be granted those rights detailed in the Qualification Directive.⁹ Those Chechens who are not granted refugee status or a form of subsidiary protection should be afforded a legal status, which affords them their human rights and a dignified standard of living.
12. For Chechens in need of international protection a viable internal protection alternative is not currently available and, therefore, should not be invoked as a bar to granting asylum. Returning people on grounds of alleged availability of an internal protection alternative simply adds to the already substantial IDP problem in Russia.
13. ECRE urges Member States to support those new EU Member States receiving a disproportionately high number of asylum seekers from Chechnya by using the sovereignty clause and humanitarian clause of the Dublin II Regulation where appropriate to take over responsibility for asylum applications.
14. For traumatised refugees, adequate reception conditions are vital and Member States should ensure that funds are available for significantly improving reception conditions and to improve the identification and support of refugees suffering from trauma.¹⁰ This is particularly true in new Member States.

⁸ UNHCR Global Refugee Trends 2005. NGOs from Austria report that in 2006 the recognition rate of Chechen applicants was 81.8%. NGOs from the Slovak republic report that the recognition rate remained 0% in 2006. (ECRE NGO Survey 2006).

⁹ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

¹⁰ ECRE's Way Forward paper, "Towards Fair and Efficient Asylum Systems in Europe" provides more concrete suggestions for proposed burden and responsibility sharing instruments that could be developed to support new Member States (pages 31 and 32) and to increase practical co-operation for better and more equal refugee protection across EU Member States (pages 17 – 28).

15. ECRE urges EU Member States not to transfer Chechens to other Member States under the Dublin II Regulation unless they can ensure that they will have access to a fair and efficient asylum procedure. The risk of refoulement from some EU Member States¹¹ means that extreme care must be taken in such cases in order not to expose refugees to this risk in breach of States' obligations under Article 33 (2) of the 1951 Convention and Article 3 of the European Convention on Human Rights and Fundamental Freedoms (hereinafter ECHR) and the Convention Against Torture.
16. Other States beyond the external border of the enlarged EU¹² are struggling to cope with high numbers of Chechen refugees given their relatively new asylum systems, few financial resources and political tensions caused by the close proximity of and/or relationship with the Russian Federation. This is often whilst supporting other sizeable groups of IDPs and refugees from other conflicts in the region.¹³
17. While recognising the difficulties faced by these States,¹⁴ ECRE has serious concerns about access to asylum procedures for Chechen asylum seekers in Azerbaijan, the Republic of Belarus, Kazakstan and Ukraine and urges these governments to ensure that Chechen asylum seekers can avail themselves of protection on their territory.
18. While welcoming efforts undertaken by States in this region and acknowledging the financial limitations affecting many of them, ECRE is also concerned about conditions for refugees and asylum seekers and the ability of governments in Azerbaijan, Belarus, Georgia, Kazakstan, Moldova and Ukraine to accord refugees on their territory as a minimum those rights granted in the 1951 Convention concerning the Status of Refugees. Until these conditions are in place, ECRE would urge EU Member States as a minimum not to transfer Chechen asylum seekers or Chechens who have had their applications for asylum rejected to these countries.
19. In a spirit of responsibility sharing and solidarity, ECRE supports the resettlement of Chechen refugees from Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova and Ukraine to EU Member States, due to limited resources and/or relatively high numbers of refugees from Chechnya

¹¹ Including Slovakia (from information from Ukrainian NGOs in 2006) and some EU Member States due to limits on access to asylum procedures and in appeal possibilities for those transferred under Dublin II. See *ECRE/ Elena Summary Report on the Application of Dublin II in Europe*. www.ecre.org and *The Transfer of Chechen Asylum Seekers from Norway to Greece In Accordance with the Dublin Convention*, 2002). <http://www.noas.org/Dbase/pub/print/TheTransferofChechenAsyl.shtml> .

¹² Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Ukraine. (Please note: this paper will not look in detail at the situation in Kazakhstan as this country is outside the Council of Europe definition of Europe. For information on Kazakhstan see Norwegian Refugee Council, *Whose responsibility? Protection of Chechen internally displaced persons and refugees*, May 2005).

¹³ For example, see Parliamentary Assembly of the Council of Europe: *Refugees and displaced persons in Armenia, Azerbaijan and Georgia*. Doc. 10835. 6 February 2006.

¹⁴ For example, see Parliamentary Assembly of the Council of Europe: *Refugees and displaced persons in Armenia, Azerbaijan and Georgia*. Doc. 10835. 6 February 2006.

in these countries. In the case of Azerbaijan, Belarus and Kazakhstan, ECRE supports the resettlement of Chechen refugees because of limited access to a legal status that provides a durable solution and protection from refoulement.¹⁵

20. ECRE would also encourage the allocation of more financial resources to Azerbaijan, Belarus, Georgia, Moldova, Kazakhstan and Ukraine to help governments ensure more effective protection and better conditions for refugees on their territories.¹⁶
21. The Russian Federation should respect the concept of internally displaced persons as defined in the 1998 United Nations Guiding Principles on Internal Displacement¹⁷ (hereinafter the 1998 UN Guiding Principles) and as recommended by the Council of Europe,¹⁸ and should ensure that all IDPs have access to rights as set out in those Guiding Principles.
22. ECRE opposes the promotion of return of IDPs to Chechnya or to other regions of the Russian Federation until conditions of safety and dignity can be upheld. Conditions must be in place to ensure that it is safe to return – physically, legally and materially.¹⁹ It is the duty of the Russian government with the support of the international community to ensure that these conditions are in place.
23. ECRE would strongly urge the Russian Federation to take active measures to halt the gross violations of human rights currently taking place in Chechnya and to take all possible measures to address the issue of discrimination towards Chechens within the Russian Federation.
24. This paper should be read in conjunction with the ECRE series “The Way Forward – Europe’s Role in the Global Refugee Protection System” (particularly the papers entitled: “Towards Fair and Efficient

¹⁵ For more information on ECRE’s position on resettlement, see ECRE, *The Way Forward. Europe’s Role in the Global Refugee Protection System. Towards a European Resettlement Programme*. www.ecre.org.

¹⁶ ECRE commends the recent allocation of €17.5 million for humanitarian aid to Chechen IDPs in Chechnya, Ingushetia and Dagestan, and Chechen refugees in Azerbaijan and Georgia by the European Commission and recognises the fact that the EU is the largest donor in the region. See: <http://www.reliefweb.int/rw/RWB.NSF/db900SID/LSGZ-6YMHFZ?OpenDocument&rc=4&cc=rus>. However, if this sum is the final amount of aid to be allocated to the region in 2007, it would be considerably less than the €26.0 million allocated in 2006 and the lowest sum awarded since 1999. For more information see: http://europa.eu.int/comm/echo/field/russia/index_en.htm.

¹⁷ *The UN Guiding Principles on Internal Displacement*, UN Document E/CN.4/1998/53/Add.2 (hereinafter the UN Guiding Principles) were developed by the UN Representative of the Secretary General on Internally Displaced Persons, Dr. Francis M. Deng. Although they do not constitute a binding instrument like a treaty, they reflect and are consistent with international human rights law and humanitarian law. For the full text see: http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html

¹⁸ Parliamentary Assembly of the Council of Europe, *Situation of refugees and displaced persons in the Russian Federation and some other CIS countries*, Recommendation 1667 (2004). <http://assembly.coe.int/Documents/AdoptedText/ta04/EREC1667.htm>

¹⁹ See the *ECRE Position on Returns*, paragraphs 25-27, for a detailed description of conditions that need to be in place to ensure physical, legal and material safety for returnees. www.ecre.org.

Asylum Systems in Europe”, “The Return of Asylum Seekers whose Applications have been Rejected in Europe” and “Towards a European Resettlement Programme”), ECRE’s Position on Return, the ECRE/Elena Report on the Application of the Dublin II Regulation in Europe and in light of other ECRE policy statements.²⁰

I INTERNALLY DISPLACED PERSONS (IDPs)²¹

Situation of Chechen IDPs in the Russian Federation

25. There are currently thought to be at least 150,000 people displaced within Chechnya and as many as 40,000 persons displaced in the Russian republics of Ingushetia and Dagestan.²² UNHCR confirms in a report from 2003²³ that ethnic Chechens traditionally do not live in areas outside the republics of the northern Caucasus and larger Western Russian cities, being reluctant to travel to areas where there is no resident Chechen community to support them.

Chechnya

26. Although there has been some improvement in the overall situation in Chechnya, namely a reduction in armed fighting and reconstruction in Grozny, NGOs continued to document the appalling security situation in Chechnya throughout 2006 and the atmosphere of impunity in the Republic.²⁴ The civilian population is at risk of violence and persecution from both the rebel groups and the Federal security forces.²⁵ The “Chechenisation” of the conflict has led to reports from NGOs that pro-Moscow Chechen forces under the command of Ramzan Kadyrov are responsible for many abuses, along with the Second Operational Bureau (ORB-2) of the North Caucasus Operative Department of the Chief Directorate of the Federal Ministry of the Interior in the Southern Federal District and that torture in the

²⁰ In particular, ECRE’s *Information Note on the Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status*; ECRE’s *Information Note on the Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted*, *Position on Refugee Children* (1996); *Position on Asylum Seeking and Refugee Women* (1997) and *Position on Complementary Protection* at www.ecre.org

²¹ For a summary of the situation for IDPs in the Russian Federation please also see the Global IDP database at:

<http://www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/wCountriesb/Russian+Federation>

²² Interagency Transitional Workplan for the North Caucasus 2007, Russian Federation. www.ochar.ru

²³ UNHCR *Paper on Asylum Seekers from the Russian Federation in the Context of the Situation in Chechnya*, February 2003.

²⁴ S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2005 – July 2006*, Memorial Human Rights Centre, Migration Rights Network, Moscow 2006, pages 8-19, Human Rights Watch, *Worse than a War: “Disappearances in Chechnya; A Crime Against Humanity”*, March 2005. <http://hrw.org/>

²⁵ Russian NGO Shadow Report on the Observances of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the Russian Federation for the period from 2001 to 2005. <http://www.ohchr.org/english/bodies/cat/cats37.htm>

Republic is "systemic".²⁶ The UN Committee Against Torture has expressed its concerns about the situation in Chechnya and the fact that the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has not yet been able to visit the Northern Caucasus.²⁷

27. NGOs have also expressed concerns that the "Chechenisation"²⁸ of the conflict, repercussions against those who have applied to the European Court of Human Rights and the continuing atmosphere of impunity in Chechnya now mean that those who have suffered torture and other inhumane and degrading treatment are now much less likely to report it to NGOs and other bodies. They prefer to keep quiet and pay bribes in the hope of having the bodies of their loved ones returned to them.²⁹

28. In short the situation has not changed significantly since October 2004 when UNHCR spoke of the grounds for "serious concern, due to targeted persecution including arbitrary detentions, widespread violence, insecurity and violations of human rights, as well as ongoing hostilities significantly affecting the civilian population and leading to continued forced displacement".³⁰ The UN Human Rights Committee has expressed deep concern about substantiated reports of human rights violations in the Chechen Republic, including extra-judicial killings, disappearances and torture including rape³¹ and has criticised Russia's federal anti-terrorism legislation³² for exempting law enforcement and military personnel from liability from harm caused during counter-terrorist operations.³³ The UN Committee Against Torture criticised the same legislation for a lack of safeguards for

²⁶ Human Rights Watch, *Widespread Torture in the Chechen Republic*, HRW Briefing Paper for the 37th Session of the UN Committee Against Torture, November 13th 2006.

²⁷ Concluding observations of the Committee Against Torture November 2006. CAT/C/RUS/CO/4

²⁸ The Kremlin policy of creating new power and administrative structures in Chechnya made up of ethnic Chechens. For a detailed analysis of the Chechenisation of the conflict and counter terrorism see "Counter Terrorism Operation" by the Russian Federation in the Northern Caucasus 1999-2006, a Brief overview by the Human Rights Center "Memorial" and Center "Demos": Submitted to the Eminent Jurists Panel in January 2007 in connection with high level public hearings on terrorism, counterterrorism and human rights in Russia. <http://www.memo.ru/hr/hotpoints/N-Caucas/dkeng.htm>

²⁹ For information on the situation for the relatives of those kidnapped or tortured see: *Russian NGO Shadow Report on the Observances of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the Russian Federation for the period from 2001 to 2005*. Page 122. <http://www.ohchr.org/english/bodies/cat/cats37.htm>.

³⁰ UNHCR Position regarding Asylum-Seekers and Refugees from the Chechen Republic, Russian Federation. UNHCR Geneva. 22 October 2004.

³¹ U.N. Human Rights Committee, *Concluding observations of the Human Rights Committee. Russian Federation* § 13, 06/11/2003, U.N.Doc.CCPR/CO/79/RUS.

³² Article 21 of the statute "On the Fight Against Terrorism" Federal'nyi zakon of July 25 1998, N130-FZ, Sobr. Zakonod. RF 1998 N 31 (as amended in 2002). Available in English at <http://www.legislationline.org/view.php?document=55618>.

³³ U.N. Human Rights Committee, *Concluding observations of the Human Rights Committee. Russian Federation* § 13, 06/11/2003, U.N.Doc.CCPR/CO/79/RUS.

detainees.³⁴ There have been numerous reports of rape and other forms of sexual violence against women and men.³⁵

29. On 24th February 2005 the European Court of Human Rights delivered judgments on the first six Chechen cases from six residents of Chechnya whose relatives died at the hands of Russian troops or who suffered as a result of Russian military action in 1999 and 2000. In each of the cases, the Court found Russia in violation of several key articles of the ECHR, including Article 2 (the right to life) and Article 3 (prohibition of torture). The Court, in particular, stressed in its judgments that the Russian authorities had failed to carry out adequate investigations into the circumstances of the deaths of the applicants' relatives' cases.³⁶ NGOs report that Russia's response to the European Court's judgments in these cases has not been swift or adequate in terms of the actions it has taken or proposes to take.³⁷ Similar cases have followed and there is now quite substantial case law against the Russian Federation from the Court.³⁸
30. After ten years of conflict there is a lack of housing for IDPs generally and Temporary Accommodation Points (TAPs) set up for returnees cannot cope with the number of people returning from closed temporary settlements in Ingushetia.³⁹ Conditions are terrible with a lack of the most basic amenities, such as water and food, and there are reports of "passport checks" leading to disappearances from the TAPs. Despite these hardships many IDPs feel they are safer in TAPs than outside them. Many more IDPs are registered in TAPs than live there in order to receive supplementary food supplies from the authorities. In 2006, Memorial warned of a campaign to close down TAPs which would have serious consequences for those living there as there is literally nowhere for them to go.⁴⁰

³⁴ Concluding observations of the Committee Against Torture November 2006. CAT/C/RUS/CO/4

³⁵ E.g. Human Rights Watch, *Russia: E.U. Policy Should Address Human Rights*, March 19, 2004, available at <http://hrw.org/english/docs/2004/04/13/russia8427.htm> and The Medical Foundation, *Report: Rape and Other Torture in the Chechnya Conflict: Documented Evidence from Asylum Seekers Arriving in the United Kingdom*, April 2004

<http://www.torturecare.org.uk/publications/reportChech.htm>

³⁶ <http://www.echr.coe.int/Eng/Press/2004/Oct/HearingKhashiyev&AkayevavRussia141004.htm>.

This case was brought by Memorial Human Rights Centre Migrants Rights Network and the European Human Rights Advocacy Centre (EHRAC). See press release: www.londonmet.ac.uk/EHRAC

³⁷ Radio Free Liberty article, *Moscow confronted with more cases from the Caucasus*. January 23rd 2007. <http://www.rferl.org/featuresarticle/2007/01/ba4d5420-54be-4a29-a157-ebd88e84aca4.html>

³⁸ Of 41,510 applications lodged with the European Court during 2005, 21.2% were against Russia.

This constituted the highest number of applications. See EHRAC bulletin, Summer 2006, Issue 5.

www.londonmet.ac.uk/ehrac. See the EHRAC website for summaries of cases in English:

[http://www.londonmet.ac.uk/research-units/hrsj/ehrac/ehrac-litigation/case-](http://www.londonmet.ac.uk/research-units/hrsj/ehrac/ehrac-litigation/case-summaries/chechnya/home.cfm)

[summaries/chechnya/home.cfm](http://www.londonmet.ac.uk/research-units/hrsj/ehrac/ehrac-litigation/case-summaries/chechnya/home.cfm). Cases of interest include: Chitayev and Chitayev v Russia (violations of Article 3, 4, 5, 13 and 38); Bazorkina v Russia (no. 69481/01) 27/07/2006. (ECHR Judgement. Disappearance); Timishev v. Russia (Nos. 55762/00 and 55974/00), 13/12/2005. (ECHR judgement. Freedom of Movement).

³⁹ S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2003 - May 2004*, Memorial Human rights Centre, Migration Rights Network, Moscow 2004.

⁴⁰ S Gannushkina, "On the Situation of Residents of the Chechnya in the Russian Federation, July 2005 - July 2006", Moscow 2006. Pages 8-16

31. The system of awarding compensation for lost housing is at best described as inadequate.⁴¹
32. Large parts of the population still have no access to running water (including 40% of Grozny residents, who reportedly call fresh water "Polish" after the NGO that supplies it). Although health sector capacity increased in 2006, maternal and infant mortality rates are still two to four times higher in Ingushetia and Chechnya than in the rest of Russia; more than 80% of children live in conditions of social deprivation and need psychosocial rehabilitation; the incidence of TB, HIV and diabetes is increasing and the incidence of tuberculosis in Chechnya, for example, is ten times higher than the national average.⁴²
33. Despite the prolonged and recurring conflict in Chechnya, and well-documented human rights violations, the international community has virtually no presence in the region. The UN lowered its security rating for Chechnya from Phase V (evacuation) to phase IV (emergency operations) at the end of July 2006 and is taking administrative steps towards establishing a UN Office in Chechnya, which will hopefully improve this situation. However, a climate of violence continues to put aid workers at risk. Since 2004 at least six local aid workers have been abducted in the region with three being found dead and one still missing.⁴³
34. Meanwhile, changes to the law governing NGOs in the Russian Federation caused delays in the work of several international NGOs working in Chechnya and Ingushetia. The same legislation has caused severe concerns for Russian NGOs working on human rights issues in Chechnya, who up until the present day have been the main source of monitoring the situation there. The recent ruling by the Supreme Court of the Russian Federation to uphold a decision to close the Russian-Chechen Friendship society is of great concern.⁴⁴

Ingushetia

35. The resumption of the conflict in September 1999 led to the displacement of over 240,000 Chechen civilians, mainly into neighbouring Ingushetia, where they lived in rented accommodation and temporary settlements.⁴⁵ Shortly afterwards the Russian authorities, mainly through the Federal and Ingush Migration Service (MS) - started to urge Chechen IDPs to return to Chechnya and initiated a campaign to close down the temporary settlements. The

⁴¹ Ibid.

⁴² Inter-agency Transitional Workplan for the North Caucasus 2007, Russian Federation. www.ochar.ru. Page 3.

⁴³ Inter-agency Transitional Workplan for the North Caucasus, 2007. Russian Federation. Page 7-8:

⁴⁴ http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4364

⁴⁵ Tullio Santini, "North Caucasus: upholding IDPs' right to "voluntary" return", *Forced Migration Review*, 21 September 2004, pp 53-54.

last temporary settlement was closed in June 2004.⁴⁶ Some of those who left the settlements moved to Compact Accommodation Points (CAPs), small settlements set up with the help of international organisations. According to official figures at the end of 2005 there were 21,989 IDPs from Chechnya in Ingushetia. Unofficial figures put the number at closer to 38,000.⁴⁷

36. The situation in Ingushetia became generally tenser in 2006 with many reports of abductions. Memorial have gone so far as to say that the level of violence and arbitrary rule in Ingushetia is approaching the level of lawlessness in Chechnya.⁴⁸

37. Those living in CAPs often have difficulty getting registered with the offices of the Ministry for Interior Affairs, suffer passport checks and special operations involving armed troops. After one such operation at a CAP, Aslamek Khatuyev was killed. He was the brother of Sultan Khatuyev whose relatives had sent a complaint to the European Court of Human Rights after he was abducted in Ingushetia.

38. In 2006 large numbers of IDPs left Ingushetia to return to Chechnya in 2006 after what OCHA calls a "vigorous campaign" conducted by the Chechen government over the summer.⁴⁹ Promises of compensation for destroyed housing were the final incentive for many to return.

39. Under these conditions return from Ingushetia cannot be considered to be voluntary.

Other regions of the Russian Federation

40. Violence has spread to Dagestan and Kabardino-Balkaria.⁵⁰ In other regions of the Russian Federation, NGOs and international bodies have documented growing racism and xenophobia, in particular against those from the Caucasus.⁵¹ A tide of "anti-Chechen feeling"⁵² has developed in many parts of the Russian Federation and worsened after

⁴⁶ S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2003 - May 2004*, Memorial Human rights Centre, Migration Rights Network, Moscow 2004, pages 26 - 31 and; Tullio Santini, "North Caucasus: upholding IDPs' right to "voluntary" return", *Forced Migration Review*, 21 September 2004, pp 53-54.

⁴⁷ S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2005 - June 2006*, Memorial Human rights Centre, Migration Rights Network, Moscow 2006, page 19.

⁴⁸ S Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2005 - June 2006*, Memorial Human rights Centre, Migration Rights Network, Moscow 2006, page 43.

⁴⁹ Inter-agency Transitional Workplan for the North Caucasus, 2007. Russian Federation. Page 11.

⁵⁰ See: *Russian NGO Shadow Report on the Observances of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the Russian Federation for the period from 2001 to 2005*. Pages 141 - 145 deal more extensively with the situation in Kabardino-Balkaria.

⁵¹ See: Amnesty International, *Dokumenty! Discrimination on grounds of race in the Russian Federation* (AI Index: EUR46/001/2003); S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2003 - May 2004*, Memorial Human rights Centre, Migration Rights Network, Moscow 2004, pages 9-13.

⁵² *UNHCR Paper on Asylum Seekers from the Russian Federation in the Context of the Situation in Chechnya*, February 2003.

the October 2002 hostage crisis in Moscow, the bombings on the Moscow underground in 2004 and the hostage crisis in Beslan in September 2004. A restaurant brawl in Kondopoga in August 2006 spiralled into large demonstrations from the public demanding that Chechens and other people from the Caucasus be expelled from the region⁵³ and a recent study by the Russian analytical centre Levada⁵⁴ showed that 70% of Russians would not want someone from the North Caucasus as a neighbour.

41. It is of great concern that federal and national legislation relating to migrants and IDPs is not systematically enforced throughout the Russian Federation and that regional and local authorities adopt their own regulations, which are in contradiction with national laws and do not meet with international standards.⁵⁵ This has a particularly damaging affect on IDPs and other vulnerable groups.
42. The practice of state authorities in applying unpublished normative acts and secret orders and instructions towards those from the Chechen Republic has become a serious problem making it more difficult for IDPs to live legally outside Chechnya and has restricted their freedom of movement.⁵⁶ Examples of illegal restrictions on the rights and freedoms of Chechen IDPs include: numerous refusals to register Chechens at their place of stay or residence for more than 90 days; refusals to change the 1974 Soviet-type passports for new passports for citizens of the Russian Federation at IDPs' place of temporary registration or their "factual" place of residence (rather than the place where they are permanently registered); requests for Chechen IDPs to prove that they are citizens of the Russian Federation; requests for a document confirming details of past registrations on the territory of the Russian Federation.⁵⁷

Protection Concerns for IDPs in the Russian Federation

43. All those who have been displaced as a result of the first and second conflicts in Chechnya qualify as being internally displaced according to the definition in the UN Guiding Principles.⁵⁸

⁵³ Radio Free Europe: <http://www.rferl.org/featuresarticle/2006/09/6cc862f-be02-4054-957b-d0872dc41157.html>

⁵⁴ <http://www.levada.ru/>

⁵⁵ *Parliamentary Assembly of the Council of Europe, Situation of refugees and displaced persons in the Russian Federation and some other CIS countries, Recommendation 1667 (2004).*

[Http://assembly.coe.int/Documents/AdoptedText/ta04/EREC1667.htm](http://assembly.coe.int/Documents/AdoptedText/ta04/EREC1667.htm)

⁵⁶ Margarita Petrosyan, *Guiding Principles on the Issue of Internal Displacement and the Domestic Legal System of the Russian Federation: A Comparative Analysis*. 2004.

⁵⁷ For more information on documentation and residence registration see paragraphs 45 – 50.

⁵⁸ "... persons or groups of persons forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border,". Paragraph 2, 1998 UN Guiding Principles.

44. The concept of an internally displaced person as defined in the UN Guiding Principles is not reflected in Russian legislation. In the Russian Federation, the Federal Law "On Forced Migrants"⁵⁹ regulates a similar status for forcibly displaced persons.⁶⁰ Forced migrant status is meant to facilitate the integration of displaced persons in their new place of residence through benefits and legal guarantees for those who have had to forcibly leave their place of habitual residence.
45. Forced Migrant status is limited, however, to those who leave their place of permanent residence on the territory of one region⁶¹ of the Russian Federation and move to the territory of another.⁶² This means that those displaced within Chechnya itself cannot, under the current law, qualify for forced migrant status and the benefits that this status entails. This status is also not currently applied to those who have left their place of habitual residence because of mass violations of human rights, public disorder, military action or if the life or health of a person is at risk.
46. The majority of those awarded forced migrant status are those not seen as victims of ethnic or political discrimination. It is not granted to those whose displacement from permanent residency is due to the operations of the federal security forces or the armed forces, which in fact have shown a striking lack of respect for humanitarian law principles, as have the insurgent groups themselves.⁶³ In addition to problematic legal restrictions, human rights groups and NGOs have highlighted discriminatory practices in granting forced migrant status.⁶⁴ According to statistics from the Ministry, only 89 IDPs from Chechnya were granted forced migrant status in Ingushetia from September 1999 to December 2002. This practice is contrary to Principle 4 of the 1998 UN Guiding Principles, which says that there should be no discrimination in according IDPs their rights.
47. The proper application of the 1998 UN Guiding Principles would not allow for the discrimination currently shown with respect to the Chechen civil population fleeing the conflict and would require that they were granted the necessary protection.

Recommendations

⁵⁹ From 1993 and amended in 1995 and 2000.

⁶⁰ Law "On Forced Migrants", Article 1.1 "A forced migrant shall be a citizen of the Russian Federation, who was forced to leave his/her place of permanent residence due to violence committed against him/her or members of his/her family or persecution in other forms, or due to a real danger of being subject to persecution for reasons of race, nationality, religion, language or membership of some particular social group or political opinion following hostile campaigns with regard to individual persons or groups of persons, mass violations of public order".

⁶¹ The Russian Federation is split into areas referred to as "subjects" of the Russian Federation in Russian law.

⁶² Article 1.2

⁶³ Committee on Migration, Refugees and Population. *Situation of refugees and displaced persons in the Russian Federation and some other CIS countries. Doc.10118* 25 March 2004.

⁶⁴ This was done through a letter to the State Duma, see S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2001 - May 2002*, Memorial Human rights Centre, Migration Rights Network, Moscow 2002, pages 57-60. for more information.

48. ECRE urges the Russian Federation to ensure that the rights of internally displaced persons as defined in the 1998 United Nations Guiding Principles on Internal Displacement and as recommended by the Council of Europe, are fully respected.⁶⁵ This includes people displaced as a consequence of indiscriminate military actions carried out by police and/or armed forces as well as those carried out by rebel groups.
49. The Russian government should ensure all IDPs on its territory have equal access to their rights as set out in the 1998 UN Guiding Principles on Internal Displacement.

Legal Status (Documentation and Registration or "Propiska"⁶⁶)

50. Guiding Principle 20 from the 1998 UN Guiding Principles clearly states that all IDPs should be issued with the documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates.
51. IDPs from Chechnya have limited access to documentation.⁶⁷ They have problems renewing internal passports or getting a new internal passport issued to replace the Soviet-style passport. In many cases Chechen IDPs have been forced to travel to Chechnya, where their lives could be at risk, to renew them.⁶⁸
52. All those living or staying in the Russian Federation need to be registered at a temporary or permanent address. For Russian citizens this registration is stamped in their internal passport. An inability to register properly in a given location prevents a person from living legally on the territory of the Russian Federation, from participating in the labour market, accessing social and civil rights and from being admitted to public services such as the health service or educational

⁶⁵ Ibid

⁶⁶ The 1993 "Law on Freedom of Movement" within the Russian Federation established a two-tier system of registration of individuals: "temporary registration" and "permanent registration" whereby citizens notify the local authorities of their place of, stay and residence respectively. See Parliamentary Assembly of the Council of Europe, *Situation of refugees and displaced persons in the Russian Federation and some other CIS countries*, Recommendation 1667 (2004).
[Http://assembly.coe.int/Documents/AdoptedText/ta04/EREC1667.htm](http://assembly.coe.int/Documents/AdoptedText/ta04/EREC1667.htm)

⁶⁷ In Russia the internal passport gives people access to many social and other rights, such as health care, education and social allowances and it is extremely difficult to live in Russia without one. Officially called the "Passport of the Citizen of the Russian Federation" the internal passport is the main identification document of Russian citizens on the territory of the Russian Federation. For more information on the replacement of USSR passports see: UNHCR Moscow, *Information Note on the Replacement of USSR passports in the Russian Federation*, January 2004. For more information on how a lack of a passport restricts citizens' rights in the Russian Federation see a ruling by the ECHR, SMIRNOVA v. RUSSIA (46133/99) [2003] ECHR 397 (24 July 2003), <http://www.worldlii.org/eu/cases/ECHR/2003/397.html>

⁶⁸ See S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2003 - May 2004*, Memorial Human rights Centre, Migration Rights Network, Moscow 2004.

facilities.⁶⁹ According to the Code on Administrative Violations in the Russian Federation, a lack of registration on the territory of the Russian Federation can also result in a monetary fine and a person without registration can be detained.

53. Although the system of "propiska" or "authorising" residence registration has formally been abolished in favour of the current "informative" system of residence registration, it is still in evidence in the administrative regulations and practice in many regions of the Russian Federation.⁷⁰ This has a particularly negative effect upon the most vulnerable part of the population: refugees, asylum seekers and internally displaced persons seeking protection and stability.⁷¹
54. According to the Council of Europe and NGOs, Chechens are often seen as undesirable by landlords, neighbours and those responsible for issuing or checking registration. This has meant that Chechens have more difficulties in residing legally outside Chechnya, especially in Moscow and other big urban centres as well as in North-Caucasian republics (e.g. North Ossetia-Alania). In other places, like in North-West Caucasus, the desire to protect the local labour market and to control the internal flow of migrants has resulted in many restrictive practices.⁷² Meanwhile, UNHCR has said that it is "virtually impossible" for Chechens to register in Moscow and that there are serious barriers to registration in St Petersburg and many other large cities in Western Russia.
55. Restrictive practice in awarding residence registration to Chechens mean that IDPs from Chechnya are denied access to medical treatment (Volgograd) and access to pre-school institutions (Moscow). Since 1st January 2005 child allowances have ceased to be paid to Chechens at their actual place of residence and pensions are only granted to those without residence registration if they left Chechnya before 1997.⁷³
56. Although it is true that other specific groups in the Russian Federation have suffered a systematic denial of their rights,⁷⁴ and that ethnic Russian citizens may also be deprived of their rights in Russia under certain circumstances, this does not mean that the discriminatory way

⁶⁹ Parliamentary Assembly of the Council of Europe, Situation of refugees and displaced persons in the Russian Federation and some other CIS countries, Recommendation 1667 (2004).

⁷⁰ This has been further complicated by the recent introduction of the new Housing Code from 01.03.2005, according to which the authorities can now "authorise" who moves into and lives in state property (see Article 70).

⁷¹ For an analysis of the "propiska" regimes in light of States' international obligations, see Council of Europe, Parliamentary Assembly, the Propiska System Applied to Migrants, Asylum Seekers and Refugees in Council of Europe Member States: Effects and Remedies, 12 October 2001, <http://assembly.coe.int/Documents/WorkingDocs/docs01/EDOC9262.htm>

⁷² Committee on Migration, Refugees and Population. *Situation of refugees and displaced persons in the Russian Federation and some other CIS countries. Doc.10118* 25 March 2004.

⁷³ Rather than the place where they are registered with the authorities.

⁷⁴ E.g. the Meskhetian Turks in Krasnodar Krai. See the Russian Federation section of the ECRE Country Report, 2005.

that Chechen IDPs are treated in the Russian Federation applies "generally" in the country. ECRE believes that this argument should not be invoked to support an internal protection alternative by other European States.⁷⁵

Recommendations

57. ECRE urges the Russian Federation to ensure that the practice of authorising residence registration or "propiska" is abolished in practice in accordance with the Council of Europe Parliamentary Assembly Recommendation 1544 (2001).⁷⁶
58. An IDP's place of residence registration should not affect their ability to access their rights, including all socio-economic state benefits or allowances and their right to claim for compensation for lost housing.
59. IDPs from Chechnya should be able to replace their passports at their factual place of residence without being required to return to Chechnya or other regions where they fear for their safety.

Voluntary nature of return of IDPs

60. According to Principle 15 of the 1998 UN Guiding Principles, all IDPs have the right to be protected against forcible return or internal resettlement to any place where their life, safety, liberty or health would be at risk.
61. Guiding Principle 28 of the 1998 UN Guiding Principles states that the competent authorities have the primary duty to establish conditions, which allow IDPs to return voluntarily to their homes or places of habitual residence or to resettle internally to another part of the country. To date the Russian authorities have not offered internal resettlement as a viable option for Chechen IDPs.
62. The Russian government has declared its respect for the need to preserve the voluntary nature of return of IDPs to Chechnya and Article 7.2 (5) of the Law on Forced Migrants imposes upon local executive bodies the obligation to "render assistance to a forced migrant at his/her request in the return to his/her former place of residence".⁷⁷ However, the Russian authorities have also consistently stressed the official position that IDPs should return to Chechnya, asserting that the situation has "stabilised".
63. Shortly after the resumption of the conflict in Chechnya in 1999 the Russian authorities, mainly through the Federal and Ingush Migration Service (MS) - started to urge Chechen IDPs to return to Chechnya. In

⁷⁵ See Section III for more information on the internal protection alternative.

⁷⁶ *Propiska* system applied to migrants, asylum seekers and refugees in Council of Europe member states: effects and remedies.

⁷⁷ *UNHCR Paper on Asylum Seekers from the Russian Federation in the Context of the Situation in Chechnya*, February 2003.

2004 the government promoted return promising payment of compensation for lost housing for those who “voluntarily” returned. Ingushetia's last temporary settlement, Satsita, was closed in June 2004.⁷⁸ NGOs⁷⁹ and international bodies have expressed concern about the return of IDPs to Chechnya from Ingushetia and the closure of the temporary settlements there.

64. ECRE believes that given the situation for IDPs in Ingushetia and other regions in the Russian Federation, the ongoing security concerns in the Chechen Republic and the lack of facilities for IDPs returning to Chechnya, any attempt at inducing the voluntary return of IDPs to the Chechen Republic would amount to forced return.

Recommendations

65. ECRE is against the promotion of return of IDPs to Chechnya or to other regions of the Russian Federation until conditions of safety and dignity can be upheld.
66. ECRE believes that any internal return, resettlement or reintegration of IDPs should be voluntary⁸⁰ and carried out in accordance with Principle 28 of the 1998 UN Guiding Principles,⁸¹ allowing IDPs to return to their homes or habitual places of residence voluntarily, in safety and with dignity. The voluntary nature of return implies more than a lack of physical coercion or overt intimidation. The imposition of sanctions on individuals to coerce them to return, such as the removal of socio-economic benefits, does not constitute voluntary return.
67. Conditions must be in place to ensure that it is safe to return – physically, legally and materially.⁸² It is the duty of the Russian government with the support of the international community to ensure that these conditions are in place.⁸³
68. Guarantees should ensure a minimum standard of living in Chechnya for IDPs, which should include the possibility to work, the availability

⁷⁸ Tullio Santini, “North Caucasus: upholding IDPs' right to “voluntary” return”, *Forced Migration Review*, 21 September 2004, pp 53-54

⁷⁹ For NGO reports on evidence of forced return, see: Human Rights Watch, *Into Harm's Way: Forced Return of Displaced People to Chechnya*, Vol. 15, No. 1 (D), Human Rights Watch Publications, January 2003, <http://hrw.org/reports/2003.russia0103/>; S Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation*, June 2003 to May 2004, Moscow 2004, Memorial Human Rights Centre and Migration Rights Network; and June 2005 to June 2006, Moscow 2006.

⁸⁰ Return can only be classed as voluntary when an individual with a legal basis for remaining has made an informed choice and freely consented to do so, without pressure of any kind. See *ECRE Position on Return*, paragraphs 7-8. www.ecre.org

⁸¹ http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html

⁸² *Ibid.*, Paragraphs 25-27 for a more detailed description of conditions that need to be in place to ensure physical, legal and material safety for returnees.

⁸³ Principle 15 of the *UN Guiding Principles on Internal Displacement*, 1998.

of a necessary level of subsistence and housing and a monetary payment that would ensure a healthy and dignified life.⁸⁴

II CHECHEN ASYLUM SEEKERS AND REFUGEES IN EUROPE

Protection Concerns in the European Union (EU)⁸⁵

69. Since 2003 asylum seekers from the Russian Federation (presumed to be primarily of Chechen origin) have become one of the largest groups of asylum seekers in Europe and other industrialised countries.
70. Due to difficulties obtaining visas the possibilities for Chechens to travel to Europe are limited. Many Chechens travel overland through Belarus or Ukraine to Poland or the Slovak Republic. A lack of access to asylum procedures in the Slovak Republic and lack of access to integration programmes in Poland, mean that often Chechens travel on further west.
71. Throughout Europe the treatment of Chechens seeking protection varies considerably, with refugee recognition rates in 2005 ranging from 0% (Slovakia) to over 90% (Austria),⁸⁶ showing that for many Chechens, the outcome of the 'asylum lottery' will very much depend on the country in which they seek asylum. In the case of Germany, it can even depend on the region of the country where the application is made.⁸⁷
72. In several EU countries, Chechens are not granted refugee status when they have been officially registered in the Russian Federation, outside of Chechnya.⁸⁸ Other countries view Chechens as fleeing generally from armed conflict and not at risk of individual persecution so they do not grant refugee status and/or grant subsidiary forms of protection for this reason.⁸⁹
73. Some Member States give subsidiary forms of protection to those Chechens not granted refugee status.⁹⁰ Whilst welcoming the

⁸⁴ See Principle 18 of the *UN Guiding Principles on Internal Displacement*, 1998, for more detail on the minimum services and provisions that should be made available for IDPs by the competent authorities.

⁸⁵ And Switzerland and Norway.

⁸⁶ UNHCR Global Refugee Trends 2005 <http://unhcr.org/statistics> In general high recognition rates exist in Austria, Belgium and France, whilst it is more difficult for Chechens to be granted status in Finland, Poland, Sweden, Germany and the Slovak Republic. See also *ECRE/Elena Summary Report on the Application of the Dublin II Regulation in Europe*, March 2006. Pages 22-23. <http://www.ecre.org>

⁸⁷ There is a predominantly restrictive case law in Germany. Bayern, Nordrhein-Westfalen and Niedersachsen have issued mainly restrictive judgements. There have been some positive decisions in Bremen, Hessen and Sachsen-Anhalt. Information from ECRE Survey. See also: "Chechen Migration to Western Europe. In the backwaters of European Migration Policies – Cause and Impact". Article by Joerg Gebhard in *KOLOR Journal of Moving Communities*, 2006, Vol. 6, No. 2.

⁸⁸ Poland, Germany, Finland, Norway. ECRE survey 2006.

⁸⁹ For example, Poland, Czech Republic and Norway. ECRE survey 2006.

⁹⁰ According to UNHCR statistics these countries are Denmark, Finland, Germany, Hungary, Norway, Poland, Spain, Sweden, Switzerland and the United Kingdom.

protection from refoulement that subsidiary protection affords for those who have been determined not to qualify as a refugee but who require international protection, wide variances in the percentage of Chechens granted refugee status or subsidiary protection in Member States, are a cause of concern.⁹¹

74. ECRE believes that those with subsidiary forms of protection should enjoy the same rights as Convention refugees. As a minimum they should be accorded those rights guaranteed in the Qualifications Directive.⁹²
75. In some countries Chechen refugees in this position have received no legal status, which denies them access to the labour market and any means of supporting themselves and forces them to live clandestinely.⁹³
76. Most worryingly there are also reports of European authorities returning asylum seekers whose applications have been rejected to the Russian Federation⁹⁴ or have been endorsing policies that promote this as acceptable.⁹⁵ Chechens who are refused refugee status or a form of subsidiary protection should not currently be returned.
77. ECRE is also concerned about the situation in the countries which joined the EU in May 2004 and whose relatively new asylum systems are struggling to deal with the high numbers of Chechen refugees on their territories, particularly Poland.⁹⁶ ECRE would like to acknowledge the fact that Poland is receiving large numbers of refugees from Chechnya, which inevitably puts pressure on reception and other services. However there is little or no support for those suffering from trauma. The “tolerated stay” status accorded to most Chechens in Poland means in practice that these refugees have to leave the reception centres without having access to integration programmes, and receiving inadequate social assistance.⁹⁶ This leads many to make

⁹¹ For example, in Austria many Chechens receive refugee status, whereas a high percentage of Chechens in Poland receive “tolerated stay” status. ECRE survey 2006.

⁹² *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.*

⁹³ For example, France. Information received from ECRE member agency, February 2007.

⁹⁴ Germany, Norway (ECRE survey 2006) and Switzerland (in certain cases, see ECRE Country Report 2005).

⁹⁵ As above and the Netherlands (confirmed by ECRE member agency in May 2005).

⁹⁶ Martin Rozumek, *EU Law: The Fiction of Harmonized Standards*, 8 December 2004. The full text can be found on: http://www.ecre.org/eu_developments/responsibility/dublinreg.pdf. There has been a 57% drop in asylum applications in the new EU Member States between the first half of 2004 and the same period in 2006, see *Asylum Levels and Trends in Industrialised Countries*, First Quarter, 2006, UNHCR, July 2006.

⁹⁶ See the article “Chechen Migration to Western Europe. In the Backwaters of European Migration Policies – Cause and Impact”, by Joerg Gebhard from Foyer in Brussels in *KOLOR Journal on Moving Communities*. 2006. Vol. 6 – No. 2. Page 74. Also: Barbara Esser and Barbara Gladysch: *Die Situation tschetchenischer Asylbewerber und Flüchtlinge in Polen und Auswirkungen der EU-Verordnung Dublin II*, February 2005, page 3.

repeated claims for asylum in order to keep their reception benefits.⁹⁷ Others may choose to leave Poland for countries where they will have access to better support facilities.⁹⁸

78. With enlargement the burden on states at the Eastern borders of the EU has also increased⁹⁹ as Chechen refugees are being returned to their territories by other EU Member States in application of the so-called Dublin II Regulation, which often allocates responsibility to the state in which the asylum seeker first entered the EU.¹⁰⁰
79. NGOs in Poland report that the Dublin II system seems to have made Chechen asylum seekers less prone to abandon the asylum procedure and leave Poland irregularly. However, they also report a decrease in the number of asylum applications made in Poland, as growing numbers of Chechens cross the Polish border and try to enter Germany (also irregularly) to seek asylum there. This group is dependent on traffickers and all the hardships and risks that that entails.¹⁰¹ NGOs in the Czech Republic also report a decrease in asylum applications from Chechens since the Czech Republic joined the EU in 2004.¹⁰²
80. The Dublin II regulation causes suffering, distress and hardship for refugees and asylum seekers in other ways too. Both UNHCR and ECRE have highlighted concerns, including: the increased use of detention by some Member States to ensure the effective transfer of asylum seekers to the responsible Member State;¹⁰³ the transfer of children to Member States where they have no ties or family members;¹⁰⁴ a reluctance by some Member States to use the Humanitarian Clause to allow families to be together;¹⁰⁵ a reluctance by some Member States to use the sovereignty clause to take

⁹⁷ ECRE survey 2006.

⁹⁸ Barbara Esser and Barbara Gladysch: *Die Situation tschetchenischer Asylbewerber und Flüchtlinge in Polen und Auswirkungen der EU-Verordnung Dublin II*, February 2005, page 3.

⁹⁹ According to UNHCR incoming transfers far exceeded outgoing transfers in Greece, Hungary, Italy, Poland, Slovakia and Spain in their study: *The Dublin II Regulation. A UNHCR Discussion Paper*.

Page 8. <http://unhcr.de/pdf/591.pdf>

¹⁰⁰ *Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national*. For more information on how this regulation works, please see the ECRE/Elena Summary Report on the Application of the Dublin II Regulation in Europe. <http://www.ecre.org>.

¹⁰¹ Information from ECRE survey, July 2006.

¹⁰² NGOs report that this decrease in applications may have resulted in a higher recognition rate for Chechens in the Czech Republic in 2006 (over 20%) compared with a 1% recognition rate up until last year. ECRE NGO Survey 2006.

¹⁰³ Chechen refugees are routinely detained in Belgium, Czech Republic and Germany, see ECRE/Elena Summary Report on the Application of the Dublin II Regulation in Europe, Page 22. Austrian NGOs report increased detentions of Chechen asylum seekers pending identification of responsible member states under Dublin II in 2006 following the implementation of the new Asylum Law.

¹⁰⁴ ECRE/Elena Summary Report on the Application of the Dublin II Regulation in Europe, Page 11.

¹⁰⁵ ECRE/Elena Summary Report on the Application of the Dublin II Regulation in Europe, Page 16

responsibility for processing applications for asylum from individuals suffering from extreme distress and trauma.¹⁰⁶

81. ECRE is also concerned at reports that asylum seekers who are detained pending determination of and transfer to the responsible member state under Dublin II are not guaranteed access to legal advice and counselling.¹⁰⁷
82. Many refugees from Chechnya suffer from trauma and may have been tortured. This could disadvantage their chances of being awarded refugee status in accelerated procedures. Unless torture victims are identified and supported during asylum procedures they find it more difficult to talk about their experiences, have more problems in recounting what has happened to them and need more time to “trust” the person taking the interview.¹⁰⁸ In ECRE’s refugee story project, Chechen refugees in Poland confirmed their fear and anxiety during asylum interviews, saying: “Everyone who comes from Chechnya is afraid if what he says during the interview might be a threat to anyone still there. So we had doubts, because when you live there [in Chechnya] you are used to the fact that every piece of information can be sold and bought”.¹⁰⁹
83. Reception conditions are critical for traumatised refugees. Transferring Chechen refugees to new EU member states under Dublin II not only puts more pressure on already stretched resources in those countries¹¹⁰ but can cause significant harm to the individual in question. ECRE notes with concern that the new Asylum Law adopted in Austria in 2005¹¹¹ no longer foresees exemptions from Dublin II upon diagnosis of trauma.¹¹² ECRE considers that this was good practice and would urge Austria and other Member States to use the sovereignty clause in Dublin II to process claims for asylum for Chechens who are suffering from trauma.
84. Transfers under Dublin II do not just affect the psychological health of refugees. Chechen refugee groups have highlighted the case of Isa who died in Poland shortly after being released after being transferred

¹⁰⁶ See illustration 9 in The Dublin II Regulation, UNHCR Discussion Paper. Page 33.

¹⁰⁷ For example, Austria. ECRE survey 2006.

¹⁰⁸ See Traumatized Refugees in the EU. Analysis of Institutional Developments, Identification of Protection Systems, Best Practices and Recommendations (TraRef). Report about the Final Conference. Berlin Institute for Comparative Social Research.

¹⁰⁹ ECRE Interview No. 11 Poland 2006

¹¹⁰ Both the Czech Republic and Poland have limited capacity for caring for traumatised refugees. See: ECRE/Elena Summary Report on the Application of the Dublin II Regulation in Europe, Page 8.

¹¹¹ Which came into effect on 1st January 2006.

¹¹² Although the European Convention on Human Rights needs to be taken into account in cases of transfers to Dublin States. In cases of severe traumatisation a psychiatrist’s opinion needs to be obtained by law. Psychiatrists have been appointed in all of the 11 pre-expulsion centres. See Traumatized Refugees in the EU, Berlin Institute for Comparative Social Research. October 2006. (Section on Austria). Despite these provisions, Austrian NGOs report that Chechen asylum seekers are being transferred to other states under Dublin II, mainly Poland and the Slovak Republic, even when they are suffering from trauma. ECRE Survey 2006

there from Belgium under Dublin II.¹¹³ According to refugee groups, and extracts from Isa's journal published in a Polish newspaper,¹¹⁴ Isa received unsatisfactory medical treatment for Hepatitis C during the transfer process, which may have contributed to his death.

85. The recognition rate of almost 0% in Slovakia, reports of chain deportations from Slovakia to Russia through Ukraine;¹¹⁵ reports of limited access to asylum procedures in Greece, Belgium, France, Ireland, Italy, the Netherlands, Slovenia and Spain;¹¹⁶ the restricted right of appeal in some countries and the absence of a suspensive right of appeal¹¹⁷ for those transferred under Dublin II: all mean that Chechen refugees also face a very real threat of refoulement from some EU Member States.

Recommendations

86. ECRE urges European states to adopt a full and inclusive interpretation of the 1951 Convention with regard to asylum seekers from Chechnya. Flight from armed conflict or a "civil war" like situation should not be a reason to deny Chechens refugee protection as many who flee conflict, do so in fact for Convention reasons. Subsidiary forms of protection should only be accorded to those Chechens whose reason for flight does not meet Convention criteria, but who nevertheless require international protection.
87. ECRE urges European states to ensure that all those accorded subsidiary protection enjoy the same rights as Convention refugees, in particular with regard to family unity and socio-economic rights and as a minimum should grant those rights detailed in the Qualifications Directive.¹¹⁸ Those Chechens who are refused refugee status or a form of subsidiary protection should be granted a legal status, which affords them housing, welfare support, and access to the labour market and a dignified standard of living in the host country.
88. ECRE would urge Member States not to transfer Chechens to other Member States through use of the EU Dublin II Regulation if they are not guaranteed to have access to a fair asylum procedure. The risk of refoulement from some EU Member States means that extreme care must be taken in such cases in order to not expose refugees to this danger in breach of States' obligations under Article 33 (2) of the 1951 Convention and Article 3 of the European Convention on Human Rights and the Convention Against Torture.

¹¹³ Information from World Chechen Congress and the Association of Chechens in Belgium.

¹¹⁴ See, "Isa who liked to be a human being", Article in Gazeta Wyborcza, January 30th 2007.

¹¹⁵ ECRE Survey, 2006

¹¹⁶ ECRE/Elena Summary Report on the Application of the Dublin II Regulation in Europe. Page 6. *The Transfer of Chechen Asylum Seekers from Norway to Greece In Accordance with the Dublin Convention*, 2002. <http://www.noas.org/Dbase/pub/print/TheTransferofChechenAsyl.shtml> .

¹¹⁷ ECRE/Elena Summary Report on the Application of the Dublin II Regulation in Europe. Page 21.

¹¹⁸ *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.*

89. In the spirit of solidarity and responsibility-sharing inherent in UNHCR ExCom Conclusion No. 15 (XXX) 1979, ECRE urges Member States to support new Member States receiving more refugees from Chechnya, because of their geographical location.¹¹⁹
90. This support could be achieved through utilising Article 3 (2) (the Sovereignty Clause) of the Dublin II Regulation to adopt responsibility for examining all asylum claims from Chechen asylum seekers lodged on the territory of the Member State and not transfer them to the first country of arrival in the European Union (particularly when processing the asylum applications of Chechen refugees suffering from trauma, unless the refugee him or herself specifically requests to be transferred to another Member State for family reunification or other reasons); and by utilising Article 15 of the Regulation (the Humanitarian Clause) to ensure that family unity is preserved and that applications from family members and other dependent relatives can be processed in the same country if the asylum seeker so requests.
91. ECRE is strongly opposed to the forced or mandatory returns of Chechen asylum seekers by European countries to the Russian Federation for the following reasons: The fact that Russian Federal forces are reported to have committed widespread human rights abuses in Chechnya; the atmosphere of impunity and lack of prosecution of these abuses; the lack of a federal response to local and regional authorities introducing legislation that contradicts both national and international law; the tide of “anti-Chechen” feeling and an increase in racially motivated attacks; discriminatory treatment toward Chechens by law-enforcement agencies, arbitrary arrests and detention; the discriminatory and authorising nature of registration at place of residence and sojourn, and the violation of rights during checks on identity documents.
92. Any returns of Chechens to Chechnya should be voluntary¹²⁰ and asylum seekers and refugees should be allowed to return to their homes or habitual places of residence in safety and with dignity, which implies more than a lack of physical coercion or overt intimidation and includes genuine and informed consent.
93. UNHCR should continue to only facilitate voluntary return and not promote it.
94. EU Member States should also not transfer Chechen asylum seekers or Chechens who have had their applications for asylum rejected to third countries such as Azerbaijan, Belarus, Georgia, Moldova or Ukraine,

¹¹⁹ http://www.unhcr.ch/cgi-bin/texis/vtx/doclist/+cwwBmeBxnI_AwwwwhFqh0kgZTtFqnnLnqAFqh0kgZTMzmeCxwwwDzmpwwww5Fq1IZu2g0acoAnaet6GMgZNgeTGktqmRbZOzmpwww/

¹²⁰ Return can only be classed as voluntary when an individual with a legal basis for remaining has made an informed choice and freely consented to do so, without pressure of any kind. See *ECRE Position on Return*, paragraphs 7-8. www.ecre.org

where relatively new asylum systems are under added pressure due to the presence of other large groups of refugees and/or IDPs and to the proximity of the Russian Federation. Those returned to Belarus and Ukraine may also be at risk of refoulement.

Protection concerns in Countries Neighbouring the EU

95. Other States outside the borders of the new EU¹²¹ are also struggling to cope with high numbers of Chechen refugees given their relatively new asylum systems, few financial resources, political tensions caused by the close proximity of and/or relationship with the Russian Federation, and often whilst supporting other sizeable groups of IDPs and refugees from other conflicts in the region.¹²²

96. At the beginning of the second war in 1999 many Chechens sought refuge in neighbouring countries, mainly Kazakhstan, Azerbaijan and Georgia. Approximately 4000 Chechen refugees have been registered and granted protection in Georgia.¹²³ There are around 2500 refugees from Chechnya mostly residing in Pankisi Gorge.¹²⁴ There are around 8500 Chechen refugees in Azerbaijan.¹²⁵

97. Although ECRE welcomes the positive efforts from these non-EU States to provide protection to Chechen refugees, in particular the fact that Georgia has recognised Chechens as being in need of protection as a group¹²⁶ – the only country in Europe to do so to date, there remain serious concerns about access to asylum procedures and/or legal status in most of these countries.¹²⁷

98. In Azerbaijan although being registered with UNHCR is a form of protection against deportation, Chechen refugees are not accorded any legal status by the government and have no access to any social assistance apart from that given by UNHCR. ECRE welcomes the fact that the government of Azerbaijan recently accorded schooling to children of Chechen refugees, however, birth certificates are still not being issued. Most refugees in Azerbaijan have no legal status. Azerbaijan refuses to consider them as refugees as they cross the

¹²¹ Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Ukraine.

¹²² Council of Europe *Refugees and displaced persons in Armenia, Azerbaijan and Georgia*, Doc. 10835. 6 February 2006.

¹²³ See Background Note on the Protection of Asylum Seekers and Refugees in Georgia, UNHCR Refugee Policy and Practise. 31st May 2004. <http://www.unhcr.org/publ/RSDLEGAL/43a6878d4.pdf>

¹²⁴ Although many of these are ethnic Kists, see: Council of Europe *Refugees and displaced persons in Armenia, Azerbaijan and Georgia*, Doc. 10835. 6 February 2006 and *Silence Kills: Abuse of Chechen Refugees in Georgia*. The Human Rights Information and Documentation Centre, Georgia. 2006.

¹²⁵ Council of Europe *Refugees and displaced persons in Armenia, Azerbaijan and Georgia*, Doc. 10835. 6 February 2006.

¹²⁶ They are recognised prima facie but this status has to be renewed annually.

¹²⁷ Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Ukraine.

border illegally without identity documents. There have also been reports of the extradition of a refugee to the Russian Federation.¹²⁸

99. Meanwhile, in 2005 UNHCR reported that refugees were leaving Azerbaijan for Russia because they could not grow their own food and did not have enough to eat.
100. In Georgia refugees who do not have registration with citizens of Georgia are required to live in Pankisi Gorge, a poor area with little opportunity for finding work. Refugees depend on UNHCR food rations, which are meagre and basic. Naturalisation can take years and most ethnic Chechens do not want to stay in Georgia. In a survey conducted by the UN in Georgia, 73% of ethnic Chechens wanted to be resettled elsewhere.¹²⁹ However, both the Council of Europe and NGOs have noted that third countries, such as Sweden and Canada, who previously received Chechen refugees, are now more reluctant to resettle this group due to security concerns.
101. Meanwhile, Human Rights Watch documented the repatriation of 18 refugees to the Russian Federation in 2005, not considered voluntary by UNHCR;¹³¹ the administration of the Republic of Chechnya made several visits to the Gorge to help facilitate “voluntary” return in 2006; and the European Court of Human Rights has criticised Georgia’s treatment of thirteen refugees in an extradition case to the Russian Federation.¹³⁰
102. In these circumstances, returns of refugees from Azerbaijan and Georgia cannot be considered voluntary.
103. Ukraine offered temporary protection Chechen refugees from 1995 to 1997. Up until 2001, the recognition rate of Chechen asylum seekers averaged 32.6%. Since the beginning of 2005, it has been 0%.¹³¹
104. Refugee groups in Ukraine maintain¹³² that not only is there little access to asylum procedures but it is difficult for ethnic Chechens to gain access to the country, when as Russian citizens they should enjoy the benefits of a visa-free regime. Ukrainian NGOs¹³³ also still report that Chechens are returned to Ukraine, mainly by the Slovak Republic,

¹²⁸ Dzhankeyev Press release in Russian - Kavkazskii Uzel

<http://www.kavkaz.memo.ru/newstext/news/id/995920.html>

¹²⁹ See: *Silence Kills: Abuse of Chechen Refugees in Georgia*. The Human Rights Information and Documentation Centre, Georgia. 2006.

http://www.proasyl.de/fileadmin/proasyl/fm_redakteure/Newsletter_Anhaenge/120/242_1169541420_2007-01-silence-kills-abuse-of-chechen-refugees-in-georgia.pdf Also: *Chechen refugees choose resettlement over integration*. <http://www.balkananalysis.com/2006/08/10/chechen-refugees-choose-resettlement-over-integration/>

¹³¹ <http://hrw.org/english/docs/2006/01/18/georgi12229.htm>

¹³⁰ Shamayev and Twelve Others v. Georgia and Russia.

¹³¹ Information from Hebrew Immigrant Aid Society (HIAS), Ukraine. 2006.

¹³² Information collected during interviews with Ukrainian NGOs and refugee community groups by ECRE, December 2006.

¹³³ Information from HIAS, Ukraine, 2006.

but also sometimes by Poland, even when they have tried to ask for asylum in these countries, although this tendency decreased in 2006.

105. Ukraine is due to sign a readmission agreement with the European Union in 2007. ECRE is concerned that this agreement does not foresee sufficient safeguards for refugees and asylum seekers that would protect them from being returned to situations where they could be at risk of torture or inhuman or degrading treatment.
106. Ukraine and Russia have recently agreed a bilateral readmission agreement.¹³⁴ Even before this was finalised, deportations of Chechens to Russia were reported to take place on a regular basis.¹³⁵ NGOs and Chechen refugee groups report several cases whereby Chechens they considered to be in need of international protection¹³⁶ were deported to the Russian Federation in 2006.¹³⁷ Once the readmission agreements with the EU and Russia come into force, the risk for Chechens of 'chain refoulement' through Ukraine to Russia are obvious.
107. Although in general Chechen refugees should have a good chance of integrating into Ukrainian society because of a knowledge of Russian language and a shared Soviet heritage, in practice Chechens cannot obtain a legal status that would enable them to remain in the country.
108. The Creation of the Union State between the Republic of Belarus and the Russian Federation and the Treaty on Equal Rights of its Citizens, have meant in practice that no applications for asylum from Chechen refugees have been processed. Chechens, as Russian citizens, do have the right to stay on the territory of Belarus, but have difficulty getting residence registration in Minsk, and without refugee status have no legal protection against refoulement.
109. Moldova was supportive of Chechen refugees for many years and awarded them refugee status – one of the only countries in the region to do so. However, numbers have dropped, as has the number of Chechens applying for refugee status in Moldova. One of the main issues faced by all refugees in Moldova is that the government cannot provide any support once a refugee is awarded refugee status. In a country often cited as the poorest in Europe, with an extremely

¹³⁴ Final text to date not available, however, from drafts of the agreement it is clear that there are no special provisions relating to the protection of asylum seekers and refugees included.

¹³⁵ Information from Berkat (Ukrainian NGO).

¹³⁶ Due to difficulties in accessing the territory of Ukraine and in processing applications for asylum, many Chechens do not apply officially for refugee status in Ukraine and, therefore, cannot be considered "asylum seekers" in the literal sense of the word.

¹³⁷ Ukrainian NGOs report that in 2006 one Chechen asylum seeker was detained while trying to cross the border to Slovakia, escorted by Ukrainian border guards to Kharkiv where she was handed to Russian border guards. In early 2006 Ahmed, a single Chechen male asylum seeker was reportedly detained in an apartment in Kiev by the Ukrainian security services and subsequently deported to Russia. In October 2006 Ukrainian NGOs report that a family of six Chechen asylum seekers were deported from Donetsk to Russia. Another family of four (including 2 children) were reportedly deported in 2006.

difficult economic situation, it is a battle for refugees to support themselves. Many of those Chechens who had refugee status in Moldova have since left.¹³⁸

110. Resettlement to a third country is an option for refugees who cannot find a durable solution in their current country of asylum. UNHCR and implementing partners currently run resettlement programmes for refugees from Azerbaijan, Georgia and Ukraine. In the past Chechen refugees have been resettled to EU countries, mainly Sweden.¹³⁹ Although numbers were small, these programmes were often a life line for Chechen refugees in desperate circumstances. However, it is becoming increasingly difficult for UNHCR to find places to resettle Chechen refugees, due to security concerns. It is commonly acknowledged that states “do not want” this group.¹⁴⁰ ECRE recognises the positive role played by Sweden in resettling Chechen refugees from this region and urges other Member States to share responsibility for this vulnerable group and increase numbers of Chechens in need of international protection resettled to EU states.
111. With little chance of getting access to the refugee status determination procedure, a real risk of refoulement back to Russia and few possibilities for a durable solution in these countries outside of the EU, it is little wonder many refugees from Chechnya choose to risk all and continue west.

Recommendations

112. Whilst recognising the difficulties faced by governments in Ukraine and the Republic of Belarus, ECRE urges European governments to ensure that Chechen asylum seekers can avail themselves of protection on their territory, through adequate access to fair asylum procedures.
113. European states should ensure that adequate reception facilities are in place by the time the Ukraine EU readmission agreement comes into force in two years’ time¹⁴¹ and that any use of detention meets international standards. Clear provisions to protect the rights of asylum seekers and refugees should be agreed to prevent their return to countries without effective and accessible asylum systems and their implementation carefully monitored.
114. Azerbaijan, Belarus, Georgia, Kazakstan and Ukraine should determine a legal status, on the basis of international humanitarian law, to ensure that Chechens who have fled conflicts in Chechnya can avail themselves of protection on their territories.

¹³⁸ Information from NGOs, July 2006.

¹³⁹ Other countries who have resettled refugees from this region include the US, Canada, Ireland and the Netherlands. See: *Whose Responsibility?* Norwegian Refugee Council, May 2005.

¹⁴⁰ This was repeated again and again to ECRE staff during interviews throughout 2006.

¹⁴¹ <http://news.liga.net/news/N0640235.html>

115. In recognition of the high number of refugees from Chechnya and in a spirit of responsibility sharing and solidarity, ECRE urges EU Member States (both those with existing resettlement programmes and those willing to undertake ad hoc resettlement activities) to seriously consider resettling Chechen refugees in Azerbaijan, Belarus, Kazakhstan, Moldova, Georgia and Ukraine deemed in need of resettlement by UNHCR. ECRE also recommends the allocation of financial resources to Azerbaijan, Belarus, Georgia, Moldova, Kazakhstan and Ukraine to help governments ensure more effective protection and better conditions for Chechen refugees on their territories. NGOs should and can play a positive role in this process.

III INTERNAL PROTECTION ALTERNATIVE

116. Research has shown that many European States are using the concept of an internal protection alternative (IPA) to return Chechen asylum seekers to the Russian Federation.¹⁴² Chechen refugees who have lived as IDPs outside of the Chechen Republic seem to be particularly at risk of having their applications for asylum rejected on the grounds of an IPA. ECRE is concerned that the primary use of the internal protection alternative in such cases has been to deny protection to those who would otherwise be recognised as refugees.

117. There is no requirement in the 1951 Convention that a refugee should first seek safety in another part of his or her country of origin before seeking surrogate protection or that the fear of persecution should extend to the whole territory of the country of origin. ECRE reminds states that in considering the Internal Protection Alternative, it is imperative to focus on the key questions of whether an asylum seeker is genuinely free from a risk of serious harm in the country of origin.

118. In order to assess the reasonableness of an IPA, the protection must be afforded by a de jure authority; the claimant must be able to access the area of internal protection in safety and in dignity and legally; there must be conditions to meet the needs of vulnerable groups; conditions in the area must ensure that the applicant is not forced back into the area where there is risk of serious harm for a convention reason; and the absence of a risk of serious harm in the proposed site must be objectively established rather than considered unlikely to occur. An IPA rarely exists where the state is the persecutor.

119. UNHCR has stated that there is no genuine internal protection alternative within the Russian Federation for Chechens and that all those Chechens whose place of permanent residence was the Chechen Republic prior to their seeking asylum abroad should be considered in need of international protection, unless there are serious grounds to consider that he or she is individually responsible for acts falling within the scope of Article 1F of the 1951 Convention relating to grounds for

¹⁴² Germany, Finland, Norway, Austria and Switzerland in certain cases. ECRE Survey. 2006.

exclusion.¹⁴³ This does not exclude the position that an internal protection alternative could be considered for those whose place of permanent residence was outside Chechnya

120. The Parliamentary Assembly of the Council of Europe (PACE) has underlined the importance of international protection for refugees from this region, stating that the continued de facto application of the internal residence permit (former "propiska") system in the Russian Federation makes an internal flight alternative unavailable in most cases.¹⁴⁴ This position is also held by Amnesty International.¹⁴⁵ In Belgium the Commissioner General¹⁴⁶ considers that in reality there is rarely an internal protection alternative for Chechens in the Russian Federation.¹⁴⁷
121. ECRE welcomes the positions taken by PACE as detailed above and considers that the internal protection alternative for Chechens should not be considered at the present time in light of the fact that Russian Federal and Chechen national forces are reported to have committed widespread human rights abuses in Chechnya; the atmosphere of impunity and lack of prosecution of the perpetrators of these abuses; the lack of a federal response to local and regional authorities introducing legislation that contradicts both national and international law in Stavropol Krai, Krasnodar Krai, Moscow, St Petersburg and other large cities in Western Russia – the very places most Chechens settle; the tide of "anti-Chechen" feeling and an increase in racially motivated attacks; discriminatory treatment toward Chechens by law-enforcement agencies, arbitrary arrests and detention; the discriminatory and authorising nature of registration at place of residence and sojourn, the violation of rights during checks on identity documents and the fact that documents have been taken away illegally.
122. ECRE does not agree with states who say that Chechens "only" suffer the same problems as the rest of the Russian population. Although certain other specific groups have suffered a systematic violation of rights in the Russian Federation (for example, the Meskhetian Turks in Krasnodar Krai, many of whom were resettled in the USA), and many ethnic Russians may and certainly do suffer a violation of their rights at one time or other, this does mean that the discrimination against Chechens is not real and pervasive and that this can be invoked as proof of an internal protection alternative.

¹⁴³ *UNHCR Position regarding Asylum Seekers and Refugees from the Chechen Republic Russian Federation* (Emphasis added). October 2004.

¹⁴⁴ PACE Committee on legal Affairs and Human Rights *Declaration on the recent human rights violations in the Chechen Republic*, 27 January 2005.

¹⁴⁵ Russian Federation Amnesty International Statement on the Situation of Chechen Asylum-Seekers, March 2004. <http://web.amnesty.org/library/Index/ENGEUR460102004?open&of=ENG-393>

¹⁴⁶ http://www.gdisc.org/index.php?id=302&no_cache=1&tx_gdiscdb_pi3%5BshowUid%5D=24

¹⁴⁷ ECRE Survey 2006.

123. States should also beware of returning Chechen refugees and asylum seekers to the Russian Federation as they could be contributing to a worsening situation for internally displaced persons.¹⁴⁸

Recommendations

124. ECRE does not consider that there is currently a viable internal protection alternative in the Russian Federation for ethnic Chechens, including those ethnic Chechens who hold residence registration (propiska) outside of Chechnya, and, therefore, urges European States not to invoke an internal protection alternative as a bar to granting a protection status.

125. The fact that a refugee may have lived as an IDP before seeking protection should not be used in negative credibility findings to prove that the claim for asylum abroad is not genuine. The right of IDPs to seek asylum in another country is upheld in Principle 15 (d) of the 1998 UN Guiding Principles on Internal Displacement.

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¹⁴⁸ See paragraphs on the situation in the Russian Federation.