

ASYLUM AND IMMIGRATION TRIBUNAL

THE IMMIGRATION ACTS

Heard at: Field House

Date of Hearing: 02 October 2008

Before:

**SENIOR IMMIGRATION JUDGE MOULDEN
SENIOR IMMIGRATION JUDGE PERKINS
MR M E A INNES**

Between

OY

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant:

Mr T Hodson, Legal Representative from Elder Rahimi, Solicitors

For the Respondent:

Mr S Kandola, Senior Home Office Presenting Officer

Despite existing country guidance, there are circumstances in which a female Muslim Chechen may be at risk and may not be able to relocate within Russia.

DETERMINATION AND REASONS

1. The appellant is a citizen of the Russian Federation born in 1977. She is of predominantly Chechen but part Russian ethnicity and a Muslim. Her husband is a citizen of the Russian Federation of Russian ethnicity. He is her dependant for the purposes of this appeal.
2. The appellant and her husband arrived in the United Kingdom on 29 January 2007 and claimed asylum the next day. On 27 February 2007 the respondent refused the appellant's asylum claim and indicated that directions would be given for her removal to Russia. The reasons for refusal letter is dated 21 February 2007.

The Previous Proceedings

3. The appellant appealed and her appeal was heard by an Immigration Judge on 30 April 2007. Both parties were represented at the hearing and the appellant gave evidence. The Immigration Judge found that the appellant was, in most material

respects, not a credible witness. She found against the appellant in relation to the asylum, humanitarian protection and human rights grounds and dismissed the appeal.

4. The appellant sought and obtained an order for reconsideration. At the first stage reconsideration hearing on 3 December 2007 a Senior Immigration Judge found that there were material errors of law. He said:
 - “1. The appellant is a citizen of Russia. She was born in [1977]. She is nominally Muslim and ethnically Chechen. Her husband is ethnically Russian.
 2. It is accepted that the appellant was detained in 2002 and again in 2006 and she was ill treated during each detention.
 3. It is the respondent’s case that she can return to Russia and relocate to a place of safety. This finding is support [sic] by the case of AV (IFA – Mixed Ethnicity Relationship – Russian/Chechen) Russia CG [2002] UKIAT 05260 but the decision is challenged by background evidence and particularly by the expert report of Rob[ert] Chenciner.
 4. Before me it was agreed that the Immigration Judge’s consideration of the background material and particularly the evidence of Rob[ert] Chenciner was so inadequate that the determination was unsafe.
 5. I further find that the Immigration Judge’s adverse credibility findings are unsound because they are reasoned inadequately and made in the light of inadequately reasoned findings about conditions in Russia.
 6. The deficiency will be remedied by further hearing.
 7. The positive credibility findings will stand unless necessarily displaced by any further evidence that the parties chose [sic] to serve.”

The Hearing

5. It is unfortunate that these reasons do not appear to have been sent to the representatives, but we gave them copies at the beginning of the hearing. Having seen these, Mr Kandola withdrew his application to depart from the factual concessions contained in paragraph 11 of the reasons for refusal letter that the appellant had been arrested and detained on two occasions and physically harmed and his indication that he wished to cross-examine the appellant as to her credibility. He indicated that he would limit his cross-examination to questions relating to the appellant’s ability to return and relocate within Russia.
6. The appellant gave evidence through a Russian-speaking interpreter, was cross-examined and we asked her some questions. In his submissions Mr Kandola did not argue that the appellant lacked credibility. Our reading of the reasons for refusal letter is that, whilst the respondent specifically accepted the elements to which we have referred in paragraph 11, there was no specific attack on the appellant’s credibility and no implied criticism of this. The main thrust of the

reasons for refusal letter was that the appellant could relocate in a part of Russia outside her home area.

The appellant's evidence and credibility

7. It has not been suggested that there are any inconsistencies in the appellant's evidence and there are none which are obvious to us. Her evidence is broadly consistent with and supported by that of the expert witness, Mr Chenciner. We find the appellant to be a credible witness and we accept the core ingredients of her account although not necessarily all her opinions. We summarise our findings of fact in relation to the appellant's evidence.
8. The appellant was born in 1977 in Grozny, Chechnya. Her father was Chechen and her mother of mixed ethnicity. The appellant's maternal grandfather was Chechen and her maternal grandmother Russian. The appellant had a sister who died before she was born. She has no living siblings.
9. The appellant attended an economics college and qualified as a financial economist. She is married but has no children. She is of the Muslim faith and wears a headscarf in public.
10. The appellant's husband was born in 1968 in Kazan. He is Russian and has worked as a builder and engineer. They married in 1999.
11. Russian forces invaded Chechnya in November 1994. The appellant and her mother fled to Ingushetia but her father remained in Chechnya. The appellant and her mother went to live with her Russian grandmother in Nazran in Ingushetia. Many Chechens had to live in refugee camps and they could be registered as refugees. Because the appellant was living outside a refugee camp she was not able to register as a refugee. The appellant's mother was able to register in Ingushetia because she had been born and lived there until her marriage.
12. The first war came to an end in 1996 and, in September 1996, the appellant and her mother returned to Grozny. Their home was badly damaged but partially habitable. The appellant's father returned home. He had been wounded in the war. The appellant and her parents restored their home and began to return to normality.
13. The appellant went to college in 1997 and graduated in June 1999. In 1998 she met her husband-to-be at a wedding of a relative in Astrakhan. He is an ethnic Russian who had served in the Russian army. His home was in Kazan.
14. The appellant and her husband married in Grozny in 1999. He stayed there for only two days because it was not safe for him to remain any longer. As the appellant was an only child and at her father's request she retained her maiden name. Her husband's mother objected to her son marrying a Chechen girl and has never become reconciled to the marriage. He is still in touch with his parents.
15. The appellant and her husband went to live in his flat in Kazan. The appellant and her husband managed to register her locally, presenting the appellant's internal

passport, birth certificate, certificate of secondary education, marriage certificate and student card. They remained there from January to May 1999.

16. The appellant returned to Grozny in May 1999 in order to sit her examinations and receive her diploma. She stayed with her parents. Her husband joined her at the beginning of August and left at the end of the month. The appellant remained because her father was very ill. In September 1999 Russian forces attacked Chechnya and Grozny was bombed. The appellant decided that she could not leave her parents and they hid in basements and cellars during the bombings. On 28 October 1999 the appellant attempted to escape to Ingushetia. She arrived at the border with her parents, her father being seriously ill, but the border was closed.
17. Russian soldiers drove the refugees, including the appellant and her parents, away from the border. On 29 October 1999, having been turned back into Chechnya, the appellant and her parents narrowly avoided being killed in a bombing attack on the road on which they were travelling.
18. Instead of returning to Grozny the appellant and her parents went to Alkhan-Yurt. The Russian attacks and bombings of Chechnya continued from November 1999 to February 2000. The appellant remained with her parents until the end of 2001. She could not leave her parents or get out of Chechnya to join her husband. During ethnic cleansing operations by the Russian forces the appellant and her parents hid in a cellar under a shed. On 9 December 2001 Russian soldiers surrounded the village and then attacked. About 20 soldiers burst into the house, tied up the occupants including the appellant, looted the house and took the appellant's father and another relative away. Four or five days later three bodies were found in a wooded area nearby. One of them was that of the appellant's father. They buried him in the garden because there was no access to the cemetery.
19. The appellant and her mother decided to leave the area. They travelled by cart to Argun district where there was a Chechen camp. Humanitarian organisations were helping refugees. The appellant learned that, after 1 April 2001, Chechen refugees would not be able to register in other parts of Russia.
20. On 5 February 2002 the appellant and her mother managed to travel to Dagestan and from there to Ingushetia and her grandmother's home. The appellant was able to send a telegram to her husband. Two days later he joined them. He helped the family financially and expressed the hope that the appellant and her mother would join him in Kazan. However, the appellant's mother did not wish to leave her mother. She remained in Ingushetia.
21. The appellant and her husband travelled to Kazan over 2½ days from 15 February 2002. The appellant was not aware that her registration in Kazan had been annulled. A few days later a local policeman saw her and asked her to go to the police station. The next day the appellant went to the police station with her husband and was told that she had lost her right to residency in Kazan because she had been absent for more than six months. She would have to re-apply.

22. The following day the appellant went to the agency with her documents in order to apply for residency. Her passport, birth certificate, marriage certificate, two photographs and application letter were taken from her. The appellant was told that her application would be considered but in the meantime the documents were retained. She had copies of none of them other than her marriage certificate. She was told that she had to report to the police station every month. As a result she was living in Kazan illegally.
23. The appellant reported to the police station every month. She was forced to wait, was questioned and insulted.
24. In October 2002 Chechens seized a theatre in Moscow and took hostages. That night two men came to the place where she and her husband were living. One was a policeman and the other was in plain clothes. The appellant was interrogated about a group of Chechen women suicide bombers known as "Black Widows". The appellant had never heard of them. The man in civilian clothes was Russian and did not believe that the appellant knew nothing about Black Widows.
25. The appellant was questioned about her whereabouts since the beginning of the war and what she had been doing. She told the truth but was not believed. She was taken to the police station where she was shown photographs of young Chechen women and men. She could not identify any of them but was not believed. She was beaten up.
26. The appellant was kept at the police station for 17 days after which she was sent to Ingushetia on a journey which was intended to return her to Chechnya. Her husband did not know that she had gone. The appellant left Kazan on 10 November 2002 and arrived in Ingushetia on 12 November. When the appellant arrived in Nazran in Ingushetia she was released and told that she should make her way to Chechnya because very soon all Chechens anywhere in Russia would be deported to Chechnya. The appellant had no money and no documents. She went to the nearest place she could think of which was where her mother and grandmother were living. The appellant's mother sent a telegram to the appellant's husband. A week later the appellant's husband joined her. They decided that he would sell his flat in Kazan, find different accommodation in Kazan and then come back with a car to take the appellant there. The appellant and her husband decided that it would not be safe for her to apply for registration in Kazan and for the time being she would remain in Ingushetia.
27. Many Chechens who had fled Chechnya were forced to return by the Russians even though conditions in Chechnya were dire. It took the appellant's husband more than six months to sell his flat in Kazan and during that time the appellant remained with her mother and grandmother in Ingushetia. On 9 May 2003 the police came to the place where the appellant was living and told her that if she did not return to Chechnya voluntarily she would be sent forcibly. They did not pay any attention to the appellant's protestations that she was married to a Russian and would soon be joining him. The appellant called her husband who came to Ingushetia on 20 May 2003 and drove the appellant to Kazan where he had found another flat. The appellant believed that if she had not left Ingushetia she would have been forced to return to Chechnya. She lived with her husband in a rented

flat after which he bought a flat. Terrorist activities by Chechens in various parts of Russia during July and August 2003 had a seriously adverse effect on Russian perceptions of Chechens. The appellant's husband was registered in the new accommodation but did not say anything about the appellant. Whilst they would have liked to have started a family, they decided that the appellant should not become pregnant. If she had she would need to go to a clinic and see a doctor, which would bring her to the notice of the authorities. The appellant left the flat as infrequently as possible and then only to shop. She never needed medical treatment. She was unable to work. She became nervous and unwell, fearing that she would be discovered.

28. In September 2005 the appellant went with her husband to Nalchik to attend the circumcision of the son of one of her husband's army friends. The appellant's husband rented a flat for a month and her mother came to join her. The appellant's husband had to go back to Kazan but said that he would rejoin her in about a month. The appellant's mother remained with her until 12 October 2005 and then left, prior to the appellant's husband return. On 13 October 2005 a curfew was declared in Nalchik because of the activity of militants. There was shooting in the city. Her husband was not able to rejoin her. After three days the landlord demanded that the appellant leave the flat. The appellant stayed with the mother of a friend of her husband and a week later her husband managed to get back to Nalchik and rescue her. They returned to Kazan. In October 2006 the appellant and her husband hired an advocate to try and deal with her registration in Kazan. They thought it would be safer than trying to do it themselves. The advocate started work on the case but soon after two policemen came to the appellant's home. They took her to the police station and beat her up. They told her that no advocate would be able to help a Chechen. They prepared documents which the appellant was not allowed to read but was made to sign. Later she discovered that she had signed a confession to being in possession of half a kilogram of marijuana which she was selling outside a school. The police told her that she was likely to end up behind bars. She was not allowed to see her husband or the advocate and the police told her that they were preparing a prosecution.
29. The appellant's husband managed to find somebody in the Public Prosecutor's Office and offered him a large bribe for her release. He paid about £3,000 to arrange the appellant's release.
30. The appellant and her husband decided to escape from Russia. She was released on 10 December 2006. The appellant's husband had sold his business. An agent was found to take them to a safe country. They left Kazan on 20 January 2007 and arrived in Vilnius Lithuania on 23 January 2007. On 25 January 2007 they were hidden in a lorry which arrived in London on 29 January 2007. The appellant claimed asylum with her husband as her dependant.
31. The appellant thinks that her mother may still be living in Ingushetia but has lost touch with her. As an observant Muslim woman the appellant feels compelled to wear a headscarf in public.

Documents and Evidence

32. The documents and evidence before us are set out in the Schedule to this determination.

Evidence of Mr Robert Chenciner

33. There are two reports from an expert witness, Mr Robert Chenciner, dated 13 April 2007 and 9 September 2008 to which he added further documents at the hearing. Mr Chenciner has given evidence to the AIT in a number of cases and his evidence is referred to in Country Guidance cases. He is a Senior Associate Member of St Anthony's College, Oxford and an Honorary Member of the Russian Academy of Sciences, Daghestan Filial. His knowledge extends to the Russian Federation, former Soviet countries, and in particular the Eastern Caucasus, Georgia, Chechnya, Azerbaijan, Crimea, Ukraine, Belarus, Moldova, Armenia and other central Asian countries. Mr Kandola did not call into question Mr Chenciner's expertise and we found his evidence to be objective, on the whole well sourced and helpful. Where necessary we compare and contrast his evidence with other objective material before us. We give his evidence substantial weight.
34. In his oral evidence, amplifying the written reports, Mr Chenciner said that the appellant's family name would, in Russia, indicate that she was of the Muslim faith and from the Caucasus. If she tried to change her name and was able to do so this would be recorded with her earlier name and the rest of her history. Ethnic Russians would look at her and conclude that her facial features were not those of an ethnic Russian. They were likely to conclude that she came from either Chechnya or somewhere in the Northern Caucasus. Many Russians would describe her with the pejorative word "Chorny" which means "black". Russians apply this to Caucasians. They apply different but equally pejorative terms to black Africans and Asians. Many Russians would view a woman wearing a headscarf as linked to Wahibi terrorists. Moderate, devout Muslim women who wear hijabs or headscarves are often targeted as Wahibi extremist terrorists by the Russian authorities.
35. Mr Chenciner said that he had heard the appellant give evidence in Russian. It was clear that another Russian would recognise her as having a Caucasian accent. Virtually every Russian of an age to have performed military service would have served in Chechnya. Many were wounded and very often there were strong anti-Chechen feelings amongst those who had served and their families and friends. Russia had compulsory conscription and virtually every policeman in Russia of the appropriate age was likely to have served in Chechnya. There was a widespread perception in Russia that Chechens and others from the Northern Caucasus were Wahibi Muslims, except possibly those from North Ossetia. President Putin won the first Presidential election on a wave of anti-Chechen feeling after the Moscow apartment bombings. In 1999 the Mayor of Moscow asked people to report on Caucasian neighbours. The roots of racism in Russia go back a long way, in some ways as far back as the Russian/Chechen wars of 1800 to 1860. The appellant's first arrest after the Moscow theatre siege was consistent with a perceived threat from "Black Widows". Even though there had not been a report of a Black Widow suicide bombing attack since 2004, they were still regarded as a continuing threat by many Russians and the Russian authorities.

36. Asked whether the authorities would see the appellant as a potential threat, Mr Chenciner said that there were two important factors. Firstly, she would be perceived as a Muslim woman trying to settle in non-Islamic Russia. Secondly, she would be returned from the United Kingdom which the Russian authorities perceive as a hotbed of Islamic terrorism. If the appellant was returned to an airport in St Petersburg or Moscow with a one-way ticket from a British carrier and an unusual travel document that, with her appearance, would excite the adverse interests of the border police. They would be likely to detain her. If she did not tell the truth as to who she was or where she came from they would check whatever story she gave and would soon find it to be untrue. If they found it untrue she would be interrogated and ill-treated and, when the truth was discovered, they would make enquiries of the local police, which would reveal her previous dealings with the police and the authorities. In the light of this information it was likely that she would be detained without charge and subjected to violent questioning as to what she had been doing in the United Kingdom. If she was fortunate and somehow managed to get through the airport it was inevitable that sooner or later she would be stopped by the police, mainly because of her appearance. She would be asked for her Russian internal documents and would be unable to produce them. She would then be subjected to the same enquiries which would have resulted from her being stopped at the airport. Questioning was likely to be brutal and abusive.
37. Asked to clarify the position in relation to Russian passports, Mr Chenciner said that there were two sorts of passports; the external one issued by the Russian authorities for travel abroad and the internal passport or identification document which had to be carried by all Russians in which an internal residence stamp for a particular area (a propiska) would be inserted. It was possible to get short-term propiskas in some areas, he thought for three months in Moscow. It was possible that it could be six months in Kazan. Any North Caucasian trying to obtain a propiska, even if he or she did not have an adverse record with the authorities, was bound to encounter difficulties and lengthy delays. If the appellant went to the Russian Embassy in London to try and obtain an external passport she would have to complete a number of forms and it was inevitable that the authorities would check back with the police in Moscow and through them the police in her home area. She might get a temporary Russian travel document but this would alert the border authorities on her return. Such an external passport or temporary travel document would not entitle her to live in Russia. It would not in any way equate to an internal passport or the propiska stamp.
38. Mr Chenciner said it was plausible that the appellant would have been able to obtain her release on payment of a bribe but it was most unlikely that her record and the adverse interest in her would have been expunged from the records. Asked whether the appellant could live somewhere in Russia other than Kazan, Mr Chenciner said that it would be possible for her to live in Muslim North Caucasus but not her husband. Whilst there were a large number of Russian soldiers in Chechnya they were there on duty and were rarely if ever seen out of uniform on the streets. If the appellant's husband went to Chechnya it was likely that he would be detained and questioned with violence. He would be at risk of being killed by ordinary Chechens.

39. In cross-examination Mr Chenciner was asked whether a Chechen woman married to an ethnic Russian male would present to the authorities as a potential Black Widow. He said that the appellant was the more likely to be thought of as a potential Black Widow because her father had been killed by the Russians. It was likely that the authorities would know this. Inter-ethnic marriage between a Muslim Chechen woman and an ethnic Russian man was extremely rare. Chechens would tend to think that it insulted their womanhood for one of them to marry a Russian man. The other way round, with a Chechen man marrying a Russian woman might be slightly more acceptable to Chechens. Russians would tend to regard her as a "prostitute" largely for racist reasons. At street level her husband would be regarded as having betrayed his ethnicity by marrying a Chechen woman.
40. Mr Chenciner did not think that it would help the appellant if she was returned to Moscow or St Petersburg with her husband. The authorities might not believe they were married. Asked whether he knew of any Chechens encountering difficulties on return to Russia, Mr Chenciner said that he was not aware that any Chechens had been returned. Referred to the UNHCR Report which indicated that there was no risk to returning failed asylum seekers to Russian and asked for the source of his information Mr Chenciner pointed to the context, which was that the United Kingdom was considered to be a source of Chechen terrorism. If the appellant got back to Kazan she would undoubtedly be subjected to police checks. The fact that she had signed a statement falsely confessing to the possession of drugs would not make it less likely that she would be regarded as a potential terrorist. This sort of trumped-up charge, hiding the authorities' real interest, was a common device used by the police. Even if the police records did not reveal their former suspicions these would re-surface because of her obvious Chechen ethnicity. Mr Chenciner was sure that the authorities would keep a note of their suspicions but he did not know the extent to which these would be immediately accessible.
41. In relation to the risk of the appellant being detained in a "filtration camp" Mr Chenciner did not agree that this was only applied to those against whom there was clear evidence or as an extreme measure. He was of the view that people who had not been charged were sent to such camps and tortured. He was unable to give any estimate of the number of people in Russia who might be undocumented. However, he said that it would be difficult to escape detection if one was undocumented. There were frequent checks and road blocks outside most towns. People in Russia were supposed to carry their internal passport at all times.
42. Asked whether the appellant would be able to get any sort of job, Mr Chenciner said that there was a black economy. The appellant would not be able to get a government or official job and any regular employer would get into trouble if employing an individual without a propiska. Asked whether the appellant could renew her internal passport in Kazan or Chechnya Mr Chenciner said that what the authorities portrayed as the official position was often not the reality on the ground. There was no doubt that if the appellant applied for an internal passport anywhere checks would be made at the place where she was last registered. The registration regulations might be less strictly applied for ethnic Russians but would not be relaxed for somebody of Chechen origin.

43. Mr Chenciner said that in theory it would be simple to get replacement documents which she would need to present in connection with an application for a propiska but in practice there could be many delays. It was likely that the originals of the appellant's documents were still held in Kazan and application would be made to Kazan if she applied for registration anywhere else. The authorities would make it as difficult as possible for her.
44. In reply to our question, Mr Chenciner said that he was familiar with the 2002 propiska system. He was not familiar with the details of subsequent changes but was aware of how practices applied on the ground. He considered that the appellant would be in difficulties with the registration process because of her history and because of her marriage. Whilst it was unlikely that an English person would describe the appellant as "black", many ethnic Russians would conclude that she was not an ethnic Slav but "swarthier". People from the Northern Caucasus including Dagestanis, Georgians, Azeris and Balcaris were all regarded as "black".
45. If the appellant had no adverse history with the authorities she would still have difficulties on return from the United Kingdom. It was likely that the authorities would know that her father had been killed. When asked whether the authorities could identify the characteristics of a "Black Widow" Mr Chenciner said that all too often they would not bother. They would assume from the appellant's characteristics that she was likely to be one and they would take no risks.

Submissions

46. Mr Kandola relied on the reasons for refusal letter and accepted that, as conceded in paragraph 11, the appellant had been arrested, detained and ill-treated on two occasions. He argued that the main issue was the question of risk on return to an airport in Moscow or St Petersburg. It is unfortunate that, although the respondent had been directed to produce a skeleton argument, she had failed to do so.
47. Mr Kandola referred to Mr Chenciner's report and the suggestion that the appellant would be thought to be a Black Widow suicide bomber. He argued that there was no real risk that she would be perceived as such. There was no direct evidence of Chechens being ill-treated on return on account of having been returned by the UK. In reply to our question, Mr Kandola said that he had no evidence of any Chechens having been returned to Russia by the United Kingdom and accepted that if this had happened the respondent was in the best position to know. On return the appellant would be accompanied by her husband who, as an ethnic Russian, would contradict any impression of her being an Islamic extremist. Mr Kandola accepted that there were real problems in relation to Chechens obtaining propiskas to live in Russia. However, the evidence showed that there were many internally displaced persons in Russia who were obtaining UNHCR assistance. We were referred to page 56 of the respondent's bundle but, in reply to our question, Mr Kandola accepted that there was no clear reference to refugees being able to obtain refugee registration documents. He submitted that the appellant had never been charged with any offence related to terrorism. She had been released on payment of a bribe. The reference at page 75 of the appellant's bundle to the internal passport system changes in December 2006 indicated that the appellant might not have to go to Chechnya to obtain a propiska. She could obtain it locally. All she lacked

was her birth certificate. He pointed out, relying on page 76 of the respondent's bundle, that internal passports no longer stated the individual's ethnicity. He accepted that the same report referred to difficulties encountered by Chechens in obtaining propiskas. He argued that any difficulties which the appellant might encounter in obtaining a propiska did not of themselves mean that her Article 3 human rights would be infringed.

48. Mr Hodson has submitted a lengthy, detailed and helpful skeleton argument on which he relied. He argued that there was nothing in the evidence taken today or the submissions which undermined the arguments in the skeleton. Indeed, he argued that they had become the stronger. In the light of the appellant's particular history she would be at risk on return. He was not arguing that all Muslim women would be at risk on return to Russia. It was clear that the Russian authorities played it safe in taking action against those they suspected of any connection with terrorism. He accepted that there was a lack of evidence about the treatment of returnees.
49. Mr Hodson submitted that Mr Chenciner was a well-known expert witness who had provided a great deal of evidence to the IAT and the AIT. The appellant had been closely questioned about the Black Widows after she had been picked up from the house where she was living with her Russian husband. The appellant and her husband wanted to start a family but it would not be safe for her to do so while she did not have legitimate residence status. The appellant's profile would put her at risk on return and it would be unduly harsh to expect her to live in Russia whilst undocumented. We were asked to allow the appeal.

Discussion

50. Whilst in his submissions Mr Kandola argued only that the main issue was the question of risk on return to an airport in Moscow or St Petersburg we must deal with this and the question of internal relocation raised in the reasons for refusal letter.
51. Mr Kandola argued that there was no risk that the appellant would be perceived as a Black Widow suicide bomber but did not draw our attention to any material in support of this argument. In relation to "Black Widows" paragraph 2.1.1 of Mr Chenciner's report states:

"2.1.1 "Black Widows" and funding

The Appellant stated that she had been accused of being a "black widow" Chechen extremist suicide bomber.

While there is nothing unusual about seeking consolation through religion after bereavement, as her father had been killed and she and her mother had been raped by Russian police, even if she did not wear a hijab, both Russian forces and local people might have feared that the Appellant was becoming a Wahhabi suicide bomb candidate or Shahid. Black widows of Chechnya were demonised as suicide bombers by Pravda in May 2003. (*As a result of the changes in Chechnya*, 7 September 2004, Andrei Tsunsky, Expert Group contracted by Financial Times, *How the Guerillas Lost Chechnya; Explaining the Black Widows of Chechnya*, 11 December 2003, Brenda Stardom, Portugal) At the Moscow

Theatre siege women with hijabs and apparently wearing explosive belts were photographed among the hostage-takers.”

52. In paragraph 2.6 he said:

“2.6 Black Widows

Wherever the Appellant went in Russia, alone or with her husband, in addition to anti-Caucasian racism, she would be characterized as a potential Black Widow suicide bomber and/or Wahhabi terrorist.

The most recent attacks by Chechen black widow suicide bombers were in August-September 2004. However, as in the aftermath of 9/11, which occurred in 2001, there is constant fear and vigilance to avoid future attacks. There are two somewhat similar articles published in 2007 and 2008 on Black Widows by the respected commentator, Nabi Abdullaev, a Daghestani, working for Transparency International in US. (*Women to the forefront in Chechen terrorism*, 1 September 2008, Nabi Abdullaev, ISN Security Watch; *Chechen Black Widows organized or driven by despair?*, 2007, Nabi Abdullaev, 2007, Moscow Defense Brief 3(9), Centre for Analysis of Strategies and Technologies (CAST), US) Also a paper by Irina Bazaria at the April 2008 Chicago conference, presumably a follow-up on a similar paper “*Female Suicide Bombers: Case Study of the Chechen ‘Black Widows’*” which she gave there on 21 April 2006. (“*Female Suicide Bombers: Case Study of the Chechen ‘Black Widows’*” aka “*Chechen Female Suicide Bombers: A Diagnostic Approach*”, (when presented at another conference of American Political Science Association on 21 April 2008), 9 May 2008, I. Bazaria, APA Citation, The Midwest Political Science Association, Chicago conference April 2008) In October 2006, RFE/RL published a follow-up piece on the second anniversary of Nord-Ost theatre attack in 2004. (*Russia: Nord-Ost Anniversary Recalls Ascent Of Female Suicide Bomber* 27 October 2006, Irina Lagunina, RFE/ RL) It is accordingly likely that security services vigilance to prevent black widow suicide bombers continues both in Chechnya and the rest of Russia.”

53. Mr Kandola argued and Mr Chenciner accepted that there was no direct evidence of ill-treatment of Chechen women on return from the United Kingdom. Mr Chenciner suggested that this was because there had not been any such returns. Mr Kandola was not able to assist us, although if there had been such returns we would expect the Secretary of State to have known about them.
54. Mr Kandola argued that on return to Russia the appellant’s position would be improved and she would be less likely to be regarded with suspicion if she was accompanying her husband who is an ethnic Russian. Mr Chenciner’s evidence, in cross-examination, was that this was not likely to assist the appellant. Marriage between an ethnic Russian man and a Muslim, Chechen woman was rare. Russians would tend to regard him as having betrayed his ethnicity by marrying a Chechen woman. They were likely to regard her as a prostitute for largely racist reasons.
55. In his reports Mr Chenciner addressed the questions of why the appellant would be recognised by the Russian authorities on return to an airport in Russia, her name, risk as a returned failed asylum seeker as well as the situation because she had left Russia without permission or correct documentation in paragraphs 2.1.2, 2.1.2.1, 2.1.2.2, and 2.1.3 in the following terms:

“2.1.2 Why Appellant would be recognized by Russian Authorities on return at the airport. This lists a combination of reasons, in addition to the background reason that president Putin thinks that UK is a haven for Chechen terrorists. (subsection 2.2 above) It could equally apply to why almost any ethnic-Chechen or former Chechen resident woman returned from UK would likely be at risk. An exception would be if the person was a supporter of the pro-Russian Kadyrovsky Chechen militia, which has not yet come across my desk.

2.1.2.1 Name

..... (- Russianised feminine form ending in -ova) is an Islamic name, mainly from the Caucasus, for example Leila Yunus or Yunusova the oppositionist politician, historian and human rights activist in Azerbaijan. Olga is a Russian first name.

2.1.2.2 Risk as a returned failed asylum seeker.

When Russian citizens who do not have a passport are returned from UK, the Russian Embassy will issue them with a temporary travel document, as opposed to a few years ago when the Russians used to accept an EU extraordinary travel document issued by the UK government, which was no better for concealing the fact that the person was a failed asylum seeker. I understand from discussion with solicitors about various post-Soviet cases that the document is obtained by the following procedure, which is plausible. The Home Office contacts the Russian Embassy in London with details of the Appellant. The Appellant is then supposed to go to the embassy, which of course is legally Russian territory, to fill in form(s) giving full information on name, names of parents, former address in Russia. It is likely to be obvious to a Russian official that if a Chechen or Chechnya resident is being removed from UK, then he or she is an unsuccessful asylum claimant. This means that they have complained publicly about human rights abuses in Russia, which, to infer from the murder of Anna Politovskaya and the closure of Russian Chechen Friendship society NGO after oppression of its staff (section 1.1), to give examples from October 2006, means that as a punishment, they will be psychologically and physically abused by the Russian authorities. There is no direct evidence because I am not aware that any Chechens have been returned, and even if one was, it is unlikely that he or she would be in a position to give a free interview of what happened.

2.1.3 Leaving Russia without permission or correct documentation.

The airport authorities would want to know when she left Russia, and when they found out that she did not have a visa or other permission, she would have committed an offence and be liable for a six-month sentence. (section 3.1)”

56. Furthermore, the attitude of the Russian authorities would be affected by the fact that the appellant was returning from the United Kingdom. In paragraph 2.2 of his report Mr Chenciner expressed the following opinion:

“Sub-section 2.2 Allegations by Russian authorities that London is a recruiting ground for Chechen rebels

It is plausible that any Chechen especially a young woman whose father was killed by Russian forces and who had been repeatedly abused in a Russian SIZO detention center in 2002 and 2006, who arrived from London is considered by Russians to be a suspected terrorist and to be part of the anti-Russian propaganda war in Britain. In Russia there is a negative perception of London as a haven for Russian asylum seekers who are connected with protest and conscientious objection against the Chechen war. On 22 November 2004,

Moscow Times reported on UK IAT Krotov decision. (*Britain grants Russian soldier asylum*, 22 November 2004, Anatoly Medetsky, The Moscow Times)”

57. Mr Kandola accepted that there were real problems in relation to Chechens obtaining propiskas to live in Russia but argued that there were many internally displaced persons in Russia who were obtaining UNHCR assistance. He referred us to page 56 of the appellant’s bundle and the UNHCR Global Report for 2007 in which the relevant passage reads:

“In the northern Caucasus, UNHCR’s intervention focused on providing legal protection and housing assistance to IDPs. Until early 2007 most IDPs cited security concerns and the absence of the rule of law in Chechnya as the major impediments to return. UNHCR and its implementing partners worked with the judiciary, legal bodies and the Ombudsman’s office in the region to build both capacity and trust. As a result, by the end of 2007, the major impediments for return had changed to lack of shelter and employment.

UNHCR-supported legal counselling centres provided free legal advice and lawyers to accompany complainants to the courts. The Office also worked to find legal remedies for the remaining undocumented refugees.”

58. This passage does not, in our judgement, indicate that Chechen women who would have difficulty in obtaining internal passports and/or propiskas would be likely to obtain these with the assistance of UNHCR. The report from the Internal Displacement Monitoring Centre of June 2008 at page 61 of the appellant’s bundle indicates, in the Executive Summary:

“Executive summary

This report focuses on the situation of internally displaced people (IDPs) from the Chechen Republic living outside of the North Caucasus. The Internal Displacement Monitoring Centre (IDMC) visited the Russian Federation in March 2008, and interviewed IDPs of various ethnic backgrounds and their legal representatives in seven locations. The report is based on these interviews and information publicly available on the IDMC website. The observations outlined here are consistent with information published by Russian human rights non-governmental organisations, notably the Civic Assistance Committee.

Regardless of their ethnic background, IDPs are unwilling to return to Chechnya because they believe their physical security there would be at risk, yet they struggle to settle outside the north Caucasus due to specific circumstances which they often share.

Many IDPs lack the documents necessary to lead a normal life. They struggle to acquire residence registration, internal passports and other documents necessary to access employment, services and entitlements such as government-provided housing, free medical care and pensions. The inconsistent interpretation and respect of legislation by local officials and courts makes the application process unpredictable. As a result most of the displaced work in the informal market, rent what housing they can find in the private sector, pay for all medical services and do not receive their full pension entitlements. Most have difficulty making ends meet as their income is barely enough to pay the rent, let alone cover other expenses. The issuance of documents to IDPs should be facilitated without

imposing unreasonable conditions that IDPs cannot meet because they have been displaced.

IDPs are still denied lasting housing solutions despite a government property compensation and housing programme. The property compensation paid out to some IDPs has become increasingly insufficient for them to buy alternative housing. IDPs who have received this compensation have lost their status as forced migrants and so have had to leave government housing, but have been unable to buy housing with the compensation they received. For different reasons, other IDPs have been put under pressure or forced to leave their housing in the private sector. A new federal housing programme has proven unreliable in providing IDPs with permanent housing, due to lack of funds and slow implementation. Additional funds should be allocated to the programme and IDPs still in need of permanent housing should be included regardless of whether they have forced migrant status or received property compensation.

Ethnic Chechen IDPs face particular difficulties in securing rental accommodation, residence registration, forced migrant status and jobs. They have been forced to move frequently by landlords unwilling to rent to them for extended periods or register them as resident in the dwelling. Some claim they were denied forced migrant status and employment because they were from Chechnya. The freedom of movement of displaced Chechen men is limited as the police frequently check their passports on the street”.

59. Whilst this shows that some Chechen IDPs are able to live in Russia it is clear that they can do so only by working within the black economy, under considerable difficulties and under pressure to return to Chechnya.
60. Mr Chenciner’s assessment of the current position in Russia needs to be read against the background set out in paragraph 2.1 in which he said:

“2.1 Russia Background

There is no sign that Dmitry Medvedev, Putin’s protégé and nominee for president who took office on 7 May 2008, following a flawed election on 2 March 2008, represents any force for change with regard to this case.

Russian propaganda in 2007 about Chechnya aimed to publish the idea that under the new young president Ramzan Kadyrov, appointed 2 March 2007 after a short period as acting president from 15 February 2007, peace was blooming and reconstruction is proceeding apace. While there is reconstruction of much of central Grozny (as observed by my Daghestan academic collaborator Dr Magomedkhanov who visited there in December 2007) which appears to be part of an aid-deal between Putin and Kadyrov and his support base, the peace appears to be the silence of a reign of terror. This is the background to the 23 May 2007 Amnesty International detailed monograph ‘What justice for Chechnya’s disappeared?’ which I attach in summary form. (*Russian Federation: What justice for Chechnya’s disappeared?*, 23 May 2007, Amnesty International, AI Index: EUR 46/015/2007 – 5 page Executive Summary, AI Index: EUR 46/020/2007)

In a further twist, the rapidly deteriorating relations between UK and Russia, described in section 2.7 imply that all official relations with Russia, for example return of asylum seekers have an added political dimension. These are further aspects of what several international Western commentators are debating: that Yury Baluyevsky, the Russian army chief of staff’s, threat on 15 February 2007, that Moscow might unilaterally withdraw from the 1987 Intermediate-range

Nuclear Forces treaty marked a return to the Cold War. During late October 2007 Putin was using Russia's veto on the UN Security Council to block UK and US efforts to apply pressure on Iran to cease developing nuclear weapon capability. The closure of the British Council is a distraction compared to military strategic and energy threats.

A TV reporter Abdullah Alishaev, who was critical of Wahhabist Islam, was shot dead in Dagestan on 3 September 2008. On 31 August in Ingushetia an independent news website owner Magomed Yevloyev was shot dead by police while being taken to a police station in Nazran the capital of Ingushetia. He had criticized Russian state policy and the tight military control over neighbouring Chechnya. (*Reporter shot dead in Russia's restive Dagestan province*, 3 September 2008, eFluxMedia News, New York)"

61. In his overall assessment of the position Mr Chenciner set out the following summaries in his two reports:

“5. Summary

The context of the Appellant's Statements is plausible. Mrs Y's surname is non-Russian and Islamic, and her coming from Grozny, mean that she is accordingly recognisably Chechen or Caucasian to Russian border police and other authorities in all parts of Russian Federation or Chechnya. They do not distinguish between different Caucasian ethnicities whom they perceive as *chorny* blacks.

In addition she statedly was detained twice at a SIZO pre-trial detention centre in Kazan her ethnic-Russian husband's home city in 2002 and in December 2006. With regard to resettlement elsewhere in Russian Federation, it is notable that Kazan capital of Republic of Tatarstan which has a significant Muslim population of Tatars and Bashkirs, as well as Russians, with widespread intermarriage, is likely to be one of the most sympathetic places to live in Russian Federation for couples of Islamic-Orthodox mixed marriages. This evidently does not apply to Chechens such as the Appellant.

If she were returned to Russia, in Chechnya, and other parts of the Russian Federation sooner or later her Chechen ethnicity and former residence in Chechnya would become known. Because of anti-Chechen racism she likely would not be able to get a registration from the police to live in other parts of Russian Federation. Because her husband is ethnic-Russian he would risk murder if he tried to live in Chechnya where any civilian Russians are targets for revenge of killings of Chechens by the Russians in both wars – 1994-1996 and 1999-present. Even though as International Herald Tribune reported, three commercial flights a week each with capacity of 68 passengers, started on 8 March 2007 after suspension since 1999, it is extremely unlikely that any Russian men outside the security forces have re-settled in Chechnya.

In a climate of increasing anti-Caucasian prejudice throughout Russia were she returned she would risk arrest at Moscow Airport or other entry point, and detention without trial, transfer again to a notorious 'filtration' camp, torture, rape and death because of her Islamic name, Chechen ethnicity, residence in Chechnya, being daughter of a dead Chechen likely suspected rebel, travel without permission and return from UK a perceived center of Chechen terrorism. If under violent questioning it came out that she had been in a SIZO, and irregularly released (i.e. by a bribe), she would likely be accused as a suspected potential suicide bomber, and she would be treated as guilty of conspiring to terrorist acts. To expand on risk because she was returned from UK, because president Putin has declared London to be a centre of Chechen terrorism, since UK granted asylum to Mr Akhmed Zakhaev, the late Aslan Maskhadov's envoy,

whose house was attacked in October 2004. (*Attack on Chechen envoy in London*, 16 October 2004, Andrew Cawthorne, Reuters; *Russians blast US-UK Sponsorship of Chechen Terror*, 17 September 2004, Webster Griffin Tarpley, US commentator and author) She would be suspected of being a potential terrorist such as those seen on TV during the Dubrovka Theatre siege in Moscow in November 2002.

Mrs Y's risk from the Russian authorities and public is the same as when she fled Russia in January 2007, as a result of the following. Maskhadov's successor Sadulayev was killed on 18 June 2006 and the war-lord/terrorist Basayev on 10 July 2006; former president Maskhadov was killed on 8 March 2005 that polarized the Chechen leadership and in August 2005 terrorists Basayev and Ugudov were made ministers in the rebel government by new Chechen separatist president Sadulayev; the Beslan school siege tragedy in September 2004 when over 500 were killed; the metro bomb in Moscow on 6 February 2004 (blamed on Chechens and other ethnic-Caucasians) with dozens dead (*Metro bomb blamed on Chechens*, on 6 February 2004, Geert Koerkamp, Netherlands World Radio). These were in addition to previous attacks: the car bomb in Vladikavkaz (capital of North Ossetia) on 4 February 2004. (*Investigators looking into car bomb motive*, 5 February 2004, AP, The Moscow Times) and the commuter train bombs in southern Russia and Moscow in December 2003; more than 166 people were killed in Russia in nine suicide bombings from May to the commuter train bomb in southern Russia on 3 September 2003; the October 2002 Moscow theatre kidnap, suicide bombings in Grozny December 2002 and elsewhere in Chechnya; and almost tripling the number of Russian forces in Chechnya.

Lawlessness and abuse of human rights continue in Chechnya and anti-Caucasian (especially anti-Chechen) racism throughout Russia has increased with the additional widespread resentments of and by Chechen war 'veterans' and casualties. If returned she would be unable to safely settle in Chechnya and unable to settle elsewhere in Russia, (that includes Ingushetia).

She would not be likely to be able to relocate elsewhere in Russian Federation because as an ethnic-Chechen ex-resident of Chechnya with a perceived Islamic surname she would not likely be allowed by police or FSB (formerly KGB) to obtain a resident's permit propiska, at an address outside Chechnya and under present conditions she would be discriminated against by the Russian public.

In a previous IAT report in September 2004, the Home Office confirmed that the Russian authorities refused to accept EC extraordinary travel documents (ETDs), but wanted to issue their own ETDs unless the returnee had valid Russian travel documents. To this end the Home Office were giving details to the Russian Embassy in London and/or the returnee was to fill in forms at the Russian Embassy. This would of course alert the Russian authorities that the returnee was a failed asylum seeker and give them time to check out the returnees record with the FSB in Moscow, increasing the likelihood of detention at Moscow airport. She would likely be accused of publicly slandering Russia by claiming asylum on human rights ground related to Chechnya.

In the unlikely event of her walking through the airport police, it would be impossible for her to relocate anywhere in Russia outside Chechnya, because as a Chechen she would not be granted a propiska resident's permit. She would also not even be allowed to resettle in Ingushetia for reasons given in response to Country Guidance June 2006, provided at the start of this report.

I am aware that I have a duty to the Court to be independent and I follow the recommendations regarding expert witnesses in the starred Determination of Sir Andrew Collins, President of The Immigration Appeal Tribunal, dated 21 December, 2000; and AIT *Practice Directions* 13 November 2006. I have a duty

to the court to provide an impartial expert opinion and to assist the Court in reaching a decision. I have neither met nor communicated with the appellant. 'I confirm that insofar as the facts stated in my report are within my own knowledge I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion'. I have read the tests for an expert witness listed re *The Ikarian Reefer* and I have done my best to follow them.

In addition I confirm that this report has not been prepared on the basis that payment will only be made in the event of the appeal succeeding."

And

"3. Summary

The Appellant is likely at risk of detention and abuse if returned to Russia as a Chechen suspected suicide bomber "Black Widow". With regard to relocation elsewhere in Russia, in the unlikely event of her not being arrested on arrival, because of anti-Caucasian racism, xenophobia and Islamophobia, exacerbated by the long Chechen war and continuing terrorist attacks in Chechnya and elsewhere in Russian Federation, she would likely be unable to obtain a propiska resident's permit to move elsewhere in Russia. This is supported by evidence presented in section 2 which updates and reconfirms the evidence presented in the first report of April 2007. If she attempted to live without propiska which is illegal, she would be denied accommodation, employment, medical care, child care, and police protection, such as it is.

In addition, if she tried to change her propiska she would have to de-register at her previous police station which would also alert the police.

I am aware that I have a duty to the Court to be independent and I follow the recommendations regarding expert witnesses in the starred Determination of Sir Andrew Collins, President of The Immigration Appeal Tribunal, dated 21 December, 2000. I have a duty to the court to provide an impartial expert opinion and to assist the court in reaching a decision. I have neither met nor communicated with the appellant. (except over the telephone at Instructing Solicitors' office, to listen to her Russian accent) 'I believe that the facts I have stated in this report are true and that the opinion I have expressed is correct.' I have read the tests for an expert witness listed re *The Ikarian Reefer* and I have done my best to follow them.

In addition I confirm that this report has not been prepared on the basis that payment will only be made in the event of the appeal succeeding."

Current and Continuing Country Guidance

62. The appellant's and respondent's bundles contain a number of country guidance cases. These are: RM (Young Chechen Male – Risk – IFA) Russia CG [2006] UKAIT 00050, EM & LM (IFA – Chechen) Russia CG [2003] UKIAT 00210, AV (IFA – Mixed Ethnicity Relationship – Russian/Chechen) Russia CG [2002] UKIAT 05260, OA (IFA – Unduly Harsh – Chechens – Relocation) Russia CG [2002] UKIAT 03796 and [2003] UKIAT 00073 C (Russia). We are in no position to comment on RM which related to a young Chechen male, not a woman except to the limited extent set out in paragraphs 66, 67 and 68 in relation to relocation to Ingushetia as an IDP. We are in no position to comment on EM & LM which related to women but women of Russian ethnicity living in Chechnya. AV related to a woman of Russian ethnicity whose partner was a male Chechen. OA related to a male pilot who feared persecution because he had refused to fly planes for

Chechen rebels. C (Russia) is a case which turned on very different facts. In the circumstances whilst the present determination provides updated information in relation to some aspects of the situation in Chechnya and Russia it does not replace any country guidance cases before us.

Burden and Standard of Proof

63. We must decide whether there are substantial grounds for concluding that, if removed in consequence of the respondent's decision, the appellant would be subjected to persecution for a Refugee Convention reason and/or a real risk of treatment amounting to torture or inhuman or degrading treatment or punishment. Article 3 is absolute and permits no justification. The burden of proof falls on the appellant. The standard of proof in determining the likelihood of the risk of a breach of the appellant's protected rights under Article 3 or Article 8 is the same low standard (that is, that of a reasonable likelihood) as it is for persecution for a Convention reason. If the appellant is entitled to succeed on Refugee Convention grounds she does not need and is not entitled to humanitarian protection.

Risk on return

64. In assessing the evidence and submissions we begin with the position of a female Chechen failed asylum seeker returning to Russia. It is common ground that return would be to an airport either in the Moscow or St Petersburg areas. Such an individual is likely to be returning, voluntarily or compulsorily, with a one-way ticket and a one-way travel document issued by the Russian authorities in London. She is not likely to have an external Russian passport. We do not have evidence as to what the position would be for a female Chechen returning with a legitimate external Russian passport. We accept Mr Chenciner's evidence that the steps which would have to be taken to obtain a one-way travel document from the Russian authorities in London would mean that those authorities would, before issuing such a document, check with the central authorities in Russia who would in turn check with the authorities where the individual was last registered. That information would be fed back to the embassy in London. If the individual was issued with a one-way travel document this document would, with or without a one-way ticket and with or without obvious compulsory return, put the authorities at the airport on notice that the individual was likely to be a returning failed asylum seeker. If, in addition, the individual presents as being of North Caucasian ethnicity, in particular Chechen, she is likely to be stopped and questioned. Factors which might contribute to the conclusion that the individual was of Chechen ethnicity would be her name, mode of dress if it indicated that she was likely to be of the Muslim faith and accent. Being accompanied by an ethnic Russian spouse or partner is not likely to reduce the authorities' suspicions. We find that a Chechen woman returning in these circumstances is likely to be stopped, held and questioned. There is a real risk of serious ill-treatment amounting to persecution and infringement of her Article 3 human rights during questioning whether or not the enquiries which the authorities are bound to make of the police in her home area or area of last registration indicate that anything is recorded against her. The Convention reasons would be a combination of her race, religion and perceived political opinions. If an individual who presents in this way gives false information, for example name, date of birth or place of residence then the enquiries will reveal

the falsehoods and lead to further serious ill-treatment whilst the individual's true identity and antecedents are sought. If, when these are obtained, they show cause for suspecting that the individual might be a Black Widow suicide bomber, have information about Black Widows or a perception arises of any connection with Chechen insurgents, then she is likely to be detained for a lengthy period and suffer further serious ill-treatment.

65. If, through some fortunate chance, such an individual is able to pass through the airport without being stopped, and Mr Chenciner considered that this was possible but unlikely, giving as a possible scenario one which he had encountered where the airport security staff were all drunk, then it is likely that an individual with these characteristics but without an internal passport bearing a propiska, would, sooner rather than later, be stopped and questioned by the authorities with the same results as if she had been stopped at the airport.

Risk on the journey to Chechnya

66. If a Chechen woman with the characteristics we have described is fortunate enough to be able to pass through the airport on arrival it is not likely that without an internal passport she would be able to travel to Chechnya without being stopped, identified and detained with the same outcome as if she had been stopped at the airport. Even if she was able to reach Chechnya she would be at risk from the Russian supported authorities. Such an individual would not be able to live in Chechnya with a husband or partner of Russian ethnicity because he would be at constant risk from the authorities who, whilst they are supported by the Russian central government, are also Chechen in outlook and attitude. He would also face a real risk of death at the hands of the Chechen population.

Internal Relocation

67. In assessing internal relocation in the light of the evidence before us we apply the guidance set out by the House of Lords in Januzi v Secretary of State for the Home Department [2006] UKHL 5. In its briefest form the test is whether it would be unduly harsh to expect an individual to relocate within his or her own country. In paragraphs 23 to 24 of its judgement the Court said:

“23. Relocation in a safe haven will not provide an alternative to seeking refuge outside the country of nationality if, albeit that there is no risk of persecution in the safe haven, other factors exist which make it unreasonable to expect the person fearing persecution to take refuge there. Living conditions in the safe haven may be attendant with dangers or vicissitudes which pose a threat which is as great or greater than the risk of persecution in the place of habitual residence. One cannot reasonably expect a city dweller to go to live in a desert in order to escape the risk of persecution. Where the safe haven is not a viable or realistic alternative to the place where persecution is feared, one can properly say that a refugee who has fled to another country is ‘outside the country of his nationality by reason of a well-founded fear of persecution’.

24. If this approach is adopted to the possibility of internal relocation, the nature of the test of whether an asylum seeker could reasonably have been

expected to have moved to a safe haven is clear. It involves a comparison between the conditions prevailing in the place of habitual residence and those which prevail in the safe haven, having regard to the impact that they will have on a person with the characteristics of the asylum seeker. What the test will not involve is a comparison between the conditions prevailing in the safe haven and those prevailing in the country in which asylum is sought....”

68. In RM (Young Chechen Male – Risk – IFA) Russia CG [2006] UKAIT 00050 the Tribunal came to the conclusion that it would not be unduly harsh for a young Chechen male who was not wanted by the authorities to relocate to an IDP camp in Ingushetia. However, the position has changed since then. Mr Chenciner’s report of 13 April 2007 states, at SP4:

“Another reaction to the Chechen attack (above) on 22 June 2004 was that the local Ingush authorities used it as an excuse to drive out most of the remaining Chechen refugees. This is not a climate where new refugees would be accepted. (*Chechen refugees leaving Ingushetia*, 5 July 2004, Information Center of the Council of NGOs, Caucasian Knot/News) RFE/RL reported in March 2004 that the remaining 4,000 to 7,000 displaced persons from Chechnya were being pressured to return – a far lower number than in 2002 – as part of the Moscow-backed Chechen Kadyrov regime’s policy supported by Putin’s president of Ingushetia, Zyazikov. (*Chechen displaced persons under pressure to return*, 11 March 2004, Liz Fuller, RFE/RL Newswire)

Before 2002, it might be thought that a Chechen male could go to a refugee camp in Ingushetia. However the way there and the camps are controlled by the Russian military forces. Also the current increased Russian invasion has been matched by attempts to return Chechen refugees from neighbouring Ingushetia.

...

In August 2002 Zyazikov said that 90,000 of the 157,000 Chechen refugees were left after 27,000 ‘voluntarily’ returned to Chechnya during the preceding 15 months, ...”.

69. In his later report, dated 9 September 2008, Mr Chenciner said that by July 2008 the number of refugees remaining in Ingushetia had dropped to approximately 23,000. Furthermore,

“Local authorities throughout Russian are pressuring IDPs from Chechnya to return to Chechnya, even just to obtain an internal passport (i.e. a valid ID), which under Russian law any Russian citizen should be able to obtain at his or her current place of residence. Many IDPs choosing to leave the region and settle elsewhere in the Russian Federation regularly face serious discrimination, hostility and even violence.”

70. We find that a Chechen woman could not now relocate to an IDP camp in Ingushetia.

71. We turn to the question of whether it would be unduly harsh to expect a Chechen woman to relocate to some other part of the Russian Federation. We find that if she lacked an internal passport it would be unduly harsh to expect her to attempt to relocate. She would not be able to live anywhere in Russia for any length of time without running a real risk of being stopped, identified as Chechen, having the lack of a registration document discovered and being forced to return to Chechnya.

Without a registration document she would not be able to obtain a government job, normal employers would not run the risk of employing her and whilst she might be able to find work in the black economy she would not be able to access medical services or any of the services provided to legitimate residents in Russia. If accommodation could be found it is likely to be much more expensive than that available to a legitimate resident and for older women and men refugees from Chechnya pensions to which they are legitimately entitled are often much reduced or even unobtainable. Whilst it is clear that some Chechen refugees do manage to exist outside Chechnya we find that it would be unduly harsh for a Chechen woman without internal registration documents to relocate. She would have no realistic prospect of obtaining an internal passport with a propiska and, if she applied she would face a real risk of questioning, serious ill-treatment and forcible return to Chechnya.

Assessment of the specific claim

72. We turn to the particular facts of this appeal. We have found the appellant to be a credible witness. We have set out the facts of her case. We find that on return to an airport in St Petersburg or Moscow, with or without her husband, the appellant would face a real risk of detention and serious ill-treatment amounting to persecution and a breach of her Article 3 human rights. Enquiries would be made and her past history discovered after which there is a real risk of further questioning, serious ill-treatment and long-term detention. In the unlikely event that she was able to pass through the airport she would not be able to live anywhere for very long without being discovered and the same treatment would ensue. This would be the case in Chechnya as much as elsewhere with the added factor that in Chechnya her husband could not live with her. He would face a real risk of serious ill-treatment at the hands of the authorities and the Chechen population at large. They would not tolerate an ethnic Russian living in their midst.
73. The appeal is allowed on asylum grounds.
74. The appeal is dismissed on humanitarian protection grounds.
75. The appeal is allowed on Article 3 human rights grounds.

Signed

Senior Immigration Judge Moulden

SCHEDULE OF DOCUMENTS AND EVIDENCE BEFORE THE TRIBUNAL

DATE	SOURCE	TITLE
<u>Documents relating to this appellant</u>		
17 April 2007	Appellant OY	<i>Witness statement</i>
13 April 2007	Robert Chenciner	<i>Country expert report with reference to this appellant</i>
09 September 2008	Robert Chenciner	<i>Updated country expert report with reference to this appellant</i>
<u>Country background documents</u>		
<u>Undated</u>		
Undated	Wikipedia.com	<i>Entry on Ramzan Kadyrov</i>
Undated	Russian Federation	<i>The Criminal Code of the Russian Federation</i>
Undated	IBRU University of Durham	<i>Map of the Caucasus and central Asia</i>
Undated	GUGK, Moscow	<i>Extracts from <u>Atlas Kavkaz</u></i>
<u>1990</u>		
05 February 1990	Time.com	<i>Soviet Union occupational disease</i>
<u>2000</u>		
20 January 2000	Human Rights Watch	<i>Rape allegations surface in Chechnya</i>
30 March 2000	Human Rights Watch	<i>More evidence of rape by Russian forces in Chechnya</i>
21 August 2000	UNHCR	<i>Guidelines on asylum seekers from Chechnya</i>
<u>2001</u>		
20 April 2001	The Initiative Group, Common Action	<i>Open appeal to the President of the Russian Federation</i>
<u>2002</u>		
2002	Moscow Helsinki Group	<i>Living conditions in penitentiaries</i>
January 2002	UNHCR	<i>Asylum seekers from the Russian Federation in the context of the situation in Chechnya (introduction and conclusions)</i>
10 January 2002	Human Rights Watch	<i>Russia Federation: Serious violations of women's human rights in Chechnya</i>
25 January 2002	Amnesty International	<i>Russian Federation: Women and girls – daily victims in the cycle of violence and impunity</i>
18 March 2002	Human Rights Watch	<i>Memorandum to the UN Commission on Human Rights</i>
10 April 2002	Human Rights Watch	<i>Russia: Investigate sexual violence by troops in Chechnya</i>
<u>2003</u>		
February 2003	UNHCR	<i>Asylum seekers from the Russian Federation in the</i>

05 February 2003	UNHCR	<i>context of the situation in Chechnya</i>
06 February 2003	IWPR	<i>Letter</i>
20 February 2003	UNHCR	<i>The mental scars of Chechnya's children</i>
13 March 2003	BBC News	<i>Letter</i>
29 April 2003	The Chechen Times	<i>Palestinians get Saddam funds</i>
May 2003	Campaign against Sanctions on Iraq CASI	<i>UN denies human rights violations in Chechnya! List of people who are refused justice after death</i> <i>Payments to Palestinians</i>
26 September 2003	Prima News Agency	<i>Pogroms of Chechens in Kabardino-Balkaria</i>
11 December 2003	Brenda Stardom	<i>Explaining the Black Widows of Chechnya</i>
<u>2004</u>		
15 January 2004	Norwegian Refugee Council	<i>IDPs in northern Caucasus endure violence and destitution</i>
16 January 2004	Relief Web	<i>Russia to shut down Chechen refugee camps ahead of presidential vote</i>
29 January 2004	Human Rights Watch	<i>Briefing to the 60th session of the UN Commission on Human Rights</i>
01 March 2004	Amnesty International	<i>Statement on the situation of Chechen asylum-seekers</i>
12 April 2004	Human Rights Watch	<i>Russia: Nine civilians extra-judicially executed in Chechnya</i>
23 June 2004	BBC News	<i>Ingushetia mourns rebels' victims</i>
07 September 2004	Andrei Tsunsky, expert	<i>As a result of the changes in Chechnya</i>
17 September 2004	Webster Griffin Tarpley	<i>Russians blast US-UK sponsorship of Chechen terror extracts only</i>
26 September 2004	The Telegraph	<i>Moscow steps up its reign of terror in Chechnya after the horrors of Beslan siege</i>
01 October 2004	Christian Science Monitor	<i>Ethnic Chechens face revenge attacks in Moscow</i>
22 October 2004	UNHCR	<i>Position regarding asylum seekers and refugees from the Chechen Republic, Russian Federation</i>
<u>2005</u>		
Summer 2005	Middle East Quarterly	<i>How Chechnya became a breeding ground for terror</i>
March 2005	Human Rights Watch	<i>Worse than a war: 'Disappearances' in Chechnya – a crime against humanity</i>
March 2005	Kate Desormeau	<i>The Outside Inside: Chechen IDPs, Identity Documents and the Right to Free Movement in the Russian Federation</i>
27 May 2005	Prague Watchdog	<i>Mop-up takes place in Martan-Chu</i>

17 June 2005	Radio Free Europe	<i>Pro-Moscow Chechen official confirms atrocities</i>
30 June 2005	IPS News Agency	<i>Chechnya: 'Dark' record on disappearances brought into the light</i>
05 July 2005	Prague Watchdog	<i>Spate of abductions of women in Chechnya</i>
September 2005	Human Rights Centre Memorial	<i>Human rights violations during anti-terrorist operations in the Republic of Ingushetia (introduction)</i>
17 September 2005	Voice of America	<i>Upsurge in attacks in regions near Chechnya, separatist leader killed</i>
14 October 2005	IWPR	<i>Counting the cost of Nalchik's 24-hour war</i>
04 November 2005	Radio Free Europe	<i>Nalchik raids trigger new wave of harassment against Muslims</i>
08 November 2005	Amnesty International	<i>Russian Federation: 'Disappearances' and abductions in the Chechen Republic</i>
July 2005 - February 2006	Svetlana Gannushkina, The Memorial HRC	<i>On the situation of Chechens outside Chechnya</i>
 <u>2006</u>		
2006	UK Foreign and Commonwealth Office (FCO)	<i>Human Rights Annual Report 2006: Russia</i>
25 May 2006	IWPR	<i>Chechnya: Living with a vengeance</i>
01 June 2006	Human Rights Centre Memorial (Russia)	<i>Special operation in Stanitsa Nesterovskaya of Ingushetia: Security servicemen publicly commit a summary execution</i>
27 July 2006	Reuters Foundation	<i>European Court condemns Russia in Chechen case</i>
10 August 2006	BBC Monitoring Central Asia	<i>Mass arrests in Chechnya after pro-Moscow police desert to rebels</i>
04 September 2006	BBC News	<i>Russian town hit by race violence</i>
05 September 2006	Radio Free Europe	<i>Violence leaves two dead in Karelia</i>
06 September 2006	Radio Free Europe	<i>Russia uneasy quiet continues in Kondopoga</i>
27 September 2006	Prague Watchdog	<i>Hostage-taking still rife in Chechnya</i>
12 October 2006	Voice of America News	<i>US on Politkovskaya murder</i>
12 October 2006	UK Foreign & Commonwealth Office	<i>Human Rights Annual Report 2006: Russia</i>
13 October 2006	Amnesty International	<i>Russian Federation: Russian Chechen Friendship Society closed under new NGO law</i>
27 October 2006	Radio Free Europe	<i>Russia: Nord-Ost anniversary recalls ascent of female suicide bomber</i>
14 November 2006	Home Office	<i>Operational Guidance Note on the Russia Federation</i>
03 December 2006	Boston.com	<i>Peace in Chechnya comes at brutal cost</i>

2007

2007	Nabi Abdullaev	<i>Chechen 'Black Widows' organised or driven by despair?</i>
2007	UNHCR	<i>Global report – Russian Federation</i>
2007	US State Department	<i>Country Reports on Human Rights Practices 2007: Russia</i>
06 January 2007	Prague Watchdog	<i>Practice of extortion at 'Kavkaz' checkpoint stops</i>
23 January 2007	Prague Watchdog	<i>Russian soldiers conduct 'mop-up' in Serzhen-Yurt</i>
19 January 2007	Home Office	<i>COIS Report on Russia</i>
02 February 2007	Union of Councils for Jews in the Former Soviet Union	<i>Murders and abductions continue in Chechnya</i>
01 March 2007	BBC News	<i>Torture 'systematic' in Chechnya</i>
14 March 2007	Amnesty International	<i>Russian Federation must end torture, ill-treatment, 'disappearances' and arbitrary detention in Chechnya</i>
23 March 2007	ECRE	<i>Guidelines on the treatment of Chechen IDPs, asylum seekers and refugees in Europe</i>
23 May 2007	Amnesty International	<i>Russian Federation: What justice for Chechnya's disappeared?</i>
30 May 2007	OHCHR	<i>Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to the Russian Federation</i>
04 June 2007	Prague Watchdog	<i>Mop-up in Nazran</i>
06 June 2007	Radio Free Europe	<i>Hundreds rally against Chechens in southern Russia</i>
12 July 2007	IWPR (UK)	<i>Upsurge of fighting in Chechnya</i>
03 September 2007	BBC News	<i>New data on Russia race attacks</i>
01 November 2007	Amnesty International	<i>Day of National Unity – a day to challenge racism</i>

2008

25 January 2008	Amnesty International	<i>Urgent Action 22 August: 147 internally displaced families reportedly told to leave at short notice</i>
03 February 2008	Prague Watchdog	<i>Slayings of innocent people continue in Ingushetia</i>
25 February 2008	Prague Watchdog	<i>Self-styled ID checks underway on the eve of elections in Chechnya</i>
11 March 2008	US State Department	<i>Country Report on Human Rights Practices (extracts)</i>
20 March 2008	Radio Free Europe	<i>Chechen resistance launches major attack</i>
15 April 2008	Human Rights Watch	<i>Council of Europe failing on Russia</i>
22 April 2008	UNHCR / ACCORD	<i>Chechnya: Summary of the ACCORD-UNHCR Country of Origin Information Seminar, Vienna, 18 October 2007</i>
05 May 2008	Radio Free Europe	<i>Five police killed by roadside bomb in Grozny</i>

25 June 2008	Human Rights Watch	<i>'As if they fell from the sky': Counterinsurgency, rights violations and rampant impunity in Ingushetia (summary only)</i>
26 June 2008	North Caucasus Weekly	<i>Increase in Chechen attacks linked to broader North Caucasus strategy</i>
30 June 2008	IDMC (Norwegian Refugee Council)	<i>Struggling to integrate: Displaced people from Chechnya living in other areas of the Russian Federation</i>
06 August 2008	Amnesty International	<i>Urgent Action 218 August (abduction of Makhmadsalors Delilovich Masaev)</i>
07 August 2008	North Caucasus Weekly	<i>Chechen and Federal authorities declare Sulim Yamadaev a fugitive</i>
12 August 2008	SOVA Centre	<i>Compliance of the Russian Federation with the Convention on the elimination of all forms of racial discrimination: Russian NGOs' alternative report</i>
15 August 2008	North Caucasus Weekly	<i>Wanted Chechen commander leads his battalion against Georgian forces</i>
18 August 2008	Xinhua News Agency	<i>Sarkozy urges rapid Russian withdrawal from Georgia</i>
26 August 2008	Times Online	<i>Dimitri Medvedev raises spectre of new Cold War</i>
27 August 2008	FIDH	<i>UN Committee demands to halt increasing racial discrimination and violent practices against ethnic minorities</i>
01 September 2008	Nabi Abdullaev	<i>Women to the forefront in Chechen terrorism</i>
02 September 2008	Committee to Protect Journalists	<i>Website owner killed in police custody in Ingushetia</i>
03 September 2008	BBC news	<i>New data on Russian race attacks</i>
03 September 2008	Efluxmedia.com	<i>Reporter shot dead in Russia's restive Dagestan province</i>
06 September 2008	Kavkaz Center	<i>Cheney visits Ukraine amid crisis</i>
07 September 2008	Kavkaz Center	<i>Vladimir Putin set to bait US with nuclear aid for Tehran</i>
23 September 2008	BBC News	<i>Ingushetia abuses 'may spark war'</i>