

RUSSIA

The aim of this report is to analyse the situation regarding migration in Russia in 2004, including an overview of the difficulties and inadequacies in the implementation of federal laws concerning forced migrants. The report has been compiled from material from lawyers' reports from the "Migration and Rights" Network of the Human Rights Centre (HRC) "Memorial" from 2004, from reports from visits to and observation of the temporary accommodation points, carried out by the staff of the HRC Memorial, written analyses from our lawyers, published statistics and publications in the press.

Some demographic information

A demographic crisis is currently developing in Russia. According to information from a report by the Russian Federation Federal State Statistics Service published on 2nd December 2004, from 1st January to 1st October 2004 there was a natural decrease in the population of 552,700 people (0.38%). According to the State Statistics Committee the natural decrease in the population in 2003 was 893,000 people (0.6%).

It is impossible to find a way out of the growing demographic crisis in the Russian Federation without attracting migrants to the country. According to a forecast by the State Statistics Committee by 2013 the population of Russia will decrease from 144 million to 137 million (by 5.5%). From 2006 onwards experts say that there will be a considerable decrease in the number of those able to work, estimated at around 1 million less people per year. At the moment the number of those working is 1.6 times greater than the number of pensioners. By 2030 the number of those working and pensioners will be the same (from the "Gazeta" newspaper, 17.11.2004).

According to a UN report "Replacement Migration: Is it a solution to problems of declining and ageing populations?" the demand for replacement migration in Russia is estimated at 498,000 people per year. This completely corresponds to estimates by Russian experts from the Centre of Demography and Human Ecology ("The Population of Russia 1996. Fourth Annual Demographic Report". M. 1997). The authors of this report estimate the number of immigrants necessary in order to halt the decrease in the population amongst groups of working age to be 715,000 people per year for Russia.

Nevertheless over the last two years we have seen a steep fall in the flow of migrants. According to the State Statistics Committee the increase in migration for the year was just 93,080 people, which made up for the natural decrease in the population by 0.05%. In the first nine months of 2004 the growth in migration was just 21,000 people, which compensated for 0.015% of the decrease in the population.

Meanwhile the main migration policy is an officially announced war on illegal migration. Staff from the migration authorities actively participate in this war. According to a Network lawyer from Bryansk, 50 staff members from the Migration Directorate undertake migration control measures at the railway station "Bryansk – 1" and at five border control points on the border with Ukraine and Belarus. According to information from the Federal Migration Service (FMS) over a period of 6 months in 2004, judges in the Russian Federation ordered the administrative expulsion of 52,042 people, whilst for the whole of 2003 53,346 people were expelled.

The Growth in Xenophobia in the Russian Federation

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This punitive tendency prevalent in migration policy has been manifested both in the sharp decline in the flow of migrants and in the growth of nationalistic attitudes amongst the public. The number of killings on ethnic or racial grounds doubled from 20 – 44 compared to 2003.

On 8th December 2004 the head of the Department of Criminal Investigation of the Ministry of Interior Affairs (MIA) of the Russian Federation, Viktor Papsuev, announced to journalists that since the beginning of the year 283 crimes had been committed against foreign students in Russia. Saint Petersburg is in first place with the highest number of murders on grounds of nationality. In 2004 there were 19 criminal cases opened that involved an extremist or ethno-religious focus. This was revealed by Sergei Zaitsev, the prosecutor of Petersburg revealed this on 3rd February 2005 at a joint board meeting of the municipal procuracy. Listed are a few well-known cases:

On 1st June 2004 a 22 year-old medical student from Libya and the son of the Libyan attaché on culture, Mokkhamed El'khimali, was knifed.

On 13th November the body of a first year student from the Polytechnic Institute Vu An' Tuana was found in the centre of town with multiple knife wounds.

On 4th December a group of young people with shaved heads attacked 3 citizens of the People's Republic of China who were students at the military-navy academy. All three students were hospitalised with injuries to the head and body.

On 27th March 2005 a citizen from Angola was attacked on the underground. He suffered stab wounds and cuts from a broken bottle and was taken to hospital.

Moscow is not far behind St Petersburg for the number of crimes committed on the grounds of nationality.

On 14th January 2004 in Tsarynskii park a 13 year-old girl from Tadjikistan was attacked. She suffered from 19 knife wounds and lay on the snow for more than 4 hours. She died in hospital three weeks later.

At the end of June a 34 year-old businessman from Tashkent was beaten to death on Proletarskii Prospekt.

On 18th September at the "Airport" underground station, a group of 50 young people attacked three "southerners": I Abdullaev from Azerbaijan, B Pogosyan from Armenia and Z Dodozhenova from Tajikistan. All three were badly beaten, one ended up in hospital with concussion and head injuries.

On 14th October in the town of Dolgoprudnyi unknown assailants attacked two citizens of Uzbekistan, one of whom died as a result of his injuries in hospital.

In mid-November two unknown assailants injured an Arab student Musa-al-Kamer who was studying at the Moscow Energy Institute. He received four knife wounds to the neck and stomach.

The Moscow Region is number one in Russia for murders. In 2004 there were 1620 intentional murders carried out on its territory. According to the prosecutor of the Moscow Region Ivan Sydoruk, the number of murders committed for reasons of ethnic or national hatred significantly increased. However, law and order authorities only proved that murders were committed for this reason in four cases (from the "Argumenty i Fakty" newspaper, No.3, 2005).

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The Centre for the Study of Xenophobia from the Institute of Sociology (Russian Academy of Sciences) ran a questionnaire amongst members of the public on the problem of inter-racial disagreement. In answer to the question: "Do people of non-Russian nationality living in Russia today present a problem for the security of Russia?" 55.8% answered affirmatively. Those with the most nationalistic attitudes were those older than 55 and young people aged between 18 and 24 amongst whom the level of hostility was close to 60%. A clear illustration of these statistics can be found in the words of the relatives of Yakov Kan, a Russian Karate Champion, who is an ethnic Korean. "It's just the fashion now. No one will kiss a "Churka" (pejorative term for dark-skinned people from the Caucasus and Central Asia) now after the terrorist acts and Beslan! Let them know, who is defending Russia!" (From the "Moskovskii Komsomolets" newspaper, 8th December 2004.

This "fashion for fascism" is blossoming in the provinces.

On 21 February 2004 in Voronezh a group of young people beat Amaru Lim, a student from Guinea-Bissau.

In February in Oriol skinheads beat up Damira Nimaeva, a 17 year-old Buryat sportswoman in the field of archery.

On 16th March in the centre of Kursk a group of teenagers severely beat two foreign students – a Malaysian, Guru Parab Kalikukhod and a citizen of Sri Lanka Vitkhitung Mudin Sing.

In May in Nizhnyi Novgorod teenagers with shaved heads attacked a 50 year-old person from Azerbaijan who died in hospital several days later.

On 15th June in Saratov 5 young people aged between 16 and 18 attacked a 39 year-old man from Azerbaijan, a father of three children. As a master sportsman at the combat sport of Sambo, he got away at first and threw them his gold ring and mobile phone, but they caught him up and hit him over the head with a bottle and wounded him with a knife in the neck and in the back.

On 4th September in Vladivostok a group of aggressive young people attacked workers from the Democratic People's Republic of Korea. As a result [of the attack] one of the workers died from knife wounds and another ended up in hospital.

On 28th November in Maikop a group of skinheads beat up a repatriated Adyg from Jordan, Timur Shkhaltukh, and two of his friends. Timur suffered from a head wound and had to have a serious operation.

On 30th January 2005 in Voronezh two young people beat up a citizen of Guinea-Bissau, Anotoniu Gomishi, a student from Voronezh University.

Meanwhile the MIA has called for people not to focus on the real cause of such crimes – nationality. This was confirmed by the head of the Main Directorate of criminal investigation of St Petersburg, Vladimir Gordienko. Then on 19th December 2004 a man from the Caucasus, Dmitry Tarkeladze, was killed in Moscow. On 21st December the press secretary of the Moscow criminal investigation unit, A Bakhromeev, was already saying that information from the investigation showed that the murder was an ordinary one. "At the Moscow Criminal Investigation Unit we completely reject the version that this killing was carried out on the grounds of inter-ethnic relations", underlined Bakhromeev.

However, the very next day Nazis disproved these hurried conclusions. Information appeared on the Internet on 22nd December saying that the organisation "National-Socialist Group 88" accepted responsibility for the killing. The announcement about responsibility contained

threats towards people from the Caucasus and others with dark skins living in Moscow, and it was also stated that the murder of the Georgian had been filmed on video camera.

The law enforcement agencies are themselves infected with the same xenophobia and their arbitrary actions towards "foreigners" often cross over into the category of criminal offences. The following two cases are an example:

On 31st July 2004 on the underground at "Sokol'niki" station a twenty-year old worker from Tadjikistan, Rustam Baibekov, and his friend both tried to get into the underground on one ticket. He was stopped by Police Sergeant Boris Kostruba. When checking his documents Sergeant Kostruba discovered that Mr Baibekov had no [residence] registration. The policeman led the friends into a room for the police and threatening them with deportation he started to try and extort money from Mr Baibekov and his friend. Rustam answered that he had no money and Sergeant Kostruba got out his pistol and shot Mr Baibekov in the mouth. By lucky chance Rustam did not die. Trying to cover up his crime Sergeant Kostruba did not give the victim any first aid, did not allow them to call for the ambulance and threw the wounded man and the witness out of the room. The policeman has been charged with attempted murder and exceeding his official commission. At the present time the case is being heard at the Preobrazhenskii district court of Moscow.

The Afghan Abdul Khamid from Saint Petersburg, who had Russian citizenship, was not so lucky. On 2nd October 2004 during a document check at the Apraksinskii Market, Police major O.V. Shavrin took Abdul Khamid's passport and told him to collect his document at 1pm at police station 62. A. Khamid went to the police station alone and did not return. On the evening of the same day his wife and some friends went to police station 62 to find out what had happened to her husband. The officers there told her that after he had visited the police Abdul Khamid had had a heart attack at the bus stop, he died on the spot and his body was in the morgue at the Mechnikovskii hospital.

When his wife saw the body in the morgue she noticed that his nose was broken and that his lips were bloody. The body wasn't given to her and she was never given any report giving reasons for death. In answer to an enquiry by Memorial to the office of the public prosecutor in Saint Petersburg gave the information that that Abdul Khamid's death had happened due to receiving an internal head injury. A criminal case has been opened on the facts of his death; however, Major O.V. Shavrin is neither under suspicion nor accused and has not been suspended from duty.

According to a survey run by Yury Levada's Analytical Centre, 80% of a representative group of society questioned felt defenceless in light of the police's arbitrary behaviour and 69% did not trust the law enforcement agencies.

The tension in society is close to exploding point. Unfortunately "strangers" and "foreigners" are the first to feel it.

The situation for refugees and asylum seekers

The very limited support given by the state is for those foreign citizens who are either granted official refugee status in accordance with the Law of the Russian Federation "On Refugees" or those who are granted temporary asylum as defined by Article 12 of the above-mentioned law and the corresponding decree by the Government of the Russian Federation. Legal status, the right to work, education, medical and social services all depend on the acquiring refugee status. According to UNHCR at the beginning of 2004 there were 9.7 million refugees of whom 2.2 million were in Europe. According to information from the Federal Migration Service (FMS) on 1st October 2004 there were 624 refugees registered in Russia, whilst at the end of 2003 there were 8,725 of them. This difference can be explained by the fact that the

majority of those granted refugee status - 6,596 people - were from South Ossetia and they were given status in North Ossetia-Alania. In 2004 practically all of them received Russian citizenship and so were taken off the register. The number of refugees from outside of the CIS was 331 people as of 1st July 2004.

It should be noted that the number of those applying for refugee status is very low, about the same as that in Belarus and less than in Ukraine. According to information from the FMS, in 2004 700 people applied for asylum and out of this number 113 were recognised as refugees. The majority of these (94 people) were refugees from South Ossetia.

The number of those who have received temporary asylum is also low. According to figures from the FMS as of 1st October 2004 1229 people had been granted this status, the majority of whom (1147 people as of 1st July 2004) were from Afghanistan.

According to the FMS 632 people applied for temporary asylum in 2004 and 164 of them were awarded it.

The real number of refugees, that is those who meet the requirements of the definition of a refugee as per the 1951 Convention, is significantly higher. Experts estimate that their number is as many as 250,000. The reason for the discrepancy in figures is that in many regions the Migration Department (MD) simply does not work with asylum seekers. Access to asylum procedures remains a serious issue. MD staff refuse to register applications, do not provide any forms or papers for the application and do not give any access to information.

In the Presnenskii court in Moscow alone in the period from September to December 2004 182 complaints about the inaction of the Migration Department of the Main Directorate for Interior Affairs in Moscow (refusing access to the procedure) were being examined.

In Stavropol Krai the situation concerning issuing forms for applications for refugee status only changed after a member of the Presidential Council on Human Rights, Svetlana Gannushka, sent an enquiry to the FMS, after which the MD of Stavropol Krai received the corresponding orders. As a result several people from outside the CIS were given the necessary forms, their documents were accepted and they were given written confirmation that their applications to be granted refugee status on the territory of the Russian Federation were being examined on their merits.

However in many regions, having accepted an application for refugee status from a foreign citizen the migration authorities do not issue written confirmation that the application is being examined on its merits, which is a violation of the law.

Those whose cases are being examined in the refugee status determination procedure do not have any documents confirming this at all. As a result of this they cannot register at their place of sojourn or stay whilst their case is being examined by authorities from the Ministry of Interior Affairs, who then see them as foreigners who are illegally on the territory of the Russian Federation, with all of the consequences that this brings.

The practise of not delivering a decision on a rejected application for refugee status or temporary protection into the hands of the applicant is also illegal. In accordance with Point 2 Article 10 of the Federal Law of the Russian Federation "On Refugees" a decision to reject an application to be granted refugee status can be appealed at a higher authority or in a court. If the applicant does not have the decision against him or her in his or her hands then he or she cannot realise their legal right to appeal at court.

At present there are many citizens who have had refugee status or temporary asylum taken away from them on the basis of what are claimed to be false statements or information given by them during the status determination procedure.

However, the migration authority does not give information on what grounds and by which criteria they decide the credibility or non-credibility of any information provided.

Status can only be taken away if the information which formed the grounds for the application is false and not just that any information given by the applicant is false.

Flaws in the Federal Law "On Refugees" and discord between a whole row of its provisions and the Federal Law "On the Situation of Foreign Citizens in the Russian Federation" give rise to many contradictions and create a hopeless situations for many foreign citizens and their families.

The migration authorities refuse to examine applications for refugee status from those who are married to a citizen of the Russian Federation on the basis of Article 5, Point 1, Sub-point 9 of the Federal law of the Russian Federation "On Refugees", referring to the fact that they have the opportunity to acquire permission for permanent residence on the territory of the Russian Federation.

In accordance with Article 2 of the Federal Law of the Russian Federation "On the Legal Situation of Foreign Citizens in the Russian Federation", any foreign citizen permanently living in the Russian Federation needs a permanent residency permit (vid na zhitel'stvo), a temporary residence permit in the Russian Federation or a visa. Asylum seekers do not have any of the documents listed and the interior affairs authority sees them as foreign citizens living illegally on the territory of the Russian Federation. Asylum seekers can not receive a permit to live temporarily in the Russian Federation and infact they cannot even apply for this type of permit.

Refusing to examine an asylum application on the basis that the applicant may apply for a permanent residency permit is not legitimate as according to legislative norms the possibility to do this is practically non-existent. Thus, the application of Article 5.1.9 of the Federal Law "On Refugees" violates the right of a significant proportion of foreign citizens to seek and be granted asylum on the territory of the Russian Federation. At the same time, the expulsion of this category of people is illegal as it violates the principle of family unity foreseen by Article 8 of the European Convention on Human Rights and Fundamental Freedoms.

A new draft law on refugees was being prepared in 2003. It has still not been submitted for examination.

We should pay particular attention to the situation of three groups of refugees who for the last 10-15 years have lived in Russia but have been unable to acquire any status and legalise their stay.

There are around 100,000 Afghans living on the territory of the Russian Federation, having left their country after the fall of the Najibullah regime. Out of this number only 314 people had refugee status as at 1st July 2004 and 1,147 people had been granted temporary asylum. The rest, having no legal status at all, are at risk of deportation.

In January 2004 at a meeting of the Government Committee on Migration Policy Interagency Working Group (IWG) a report "On the Regulation of Problems concerning the Arrival of Afghans in the Russian Federation" was submitted. A quotation from the report reads: "the problem of this group of foreign citizens arriving in the Russian Federation must be solved in accordance with the legislation of the Russian Federation without according [this group] any

advantages or preferential treatment. Giving preferences such as granting them the right to temporary sojourn on the territory of the Russian Federation in order to solve the issue would lead to a new flow of Afghans and not only those coming directly from Afghanistan, but from the territory of neighbouring states. First and foremost this would mean from Iran, Pakistan and India where there are several million Afghans living, some of them illegally. The current situation in Afghanistan shows that the majority of Afghans applying for asylum have no grounds as there are no premises to suggest that there is a risk of persecution by the current Afghan authorities for their past activities. Modern Afghan society is distinguished by its high level of political tolerance”.

This means that Afghan citizens are required to submit applications for asylum again and again, as they have had to do for so many years. However, they have no grounds for being granted refugee status. The result has been decided in advance.

This report also states that there are around 200 Afghan orphans [in the Russian Federation] that have not lost touch with their homeland and can be returned. This would mean that children who were 6-8 years old in 1981 would not yet have integrated into Russian society. However, they speak Russian, know our culture and many of them have married Russian citizens, although they have not all been able to officially register their relationships. The majority of them do not wish to leave the country they have lived in for all their conscious life.

Proposals from the IWG were approved by the Government Committee on Migration Policy. The main points were:

- To tighten control over the arrival of Afghans on the territory of the Russian Federation;
- To facilitate the voluntary return of Afghans to their homeland;
- To allocate the necessary resources from the federal budget and other non-budget sources for the administrative expulsion and the deportation of this group of people;
- To attain clear co-operation between the agencies involved in the return of Afghans to their homeland, the Embassy of the Islamic Government of Afghanistan and representatives of the Afghan authorities.

These recommendations have already begun to be implemented. A new threat for 2004 then was the threat of expulsion hanging over Afghans who had temporary asylum. As the Migration Rights Network lawyer from Rostov-On-Don informed us, from April 2004 Afghans started to receive notification of the loss of their temporary asylum status on the territory of the Russian Federation on the grounds of article 12.5.1 of the Law of the Russian Federation “On Refugees” and point 16a of Government Decree No. 274 from 09.04.01 “On granting temporary asylum on the territory of the RF”: “with regards to the removal of circumstances serving as grounds for granting temporary asylum”. The Migration Department Directorate of Rostov oblast believes that the current situation in Afghanistan means that the majority of Afghans have no grounds for being granted asylum as “there are no premises to suggest that there is a risk of persecution by the current Afghan authorities for their past activities”.

There have been examples of cases when straight after citizens from Afghanistan received notification of the loss of temporary asylum, they were visited in their homes and detained. A report was drawn up on their administrative violation of the law according to Article 18.8 of the Code of Administrative Violations of the Russian Federation and then a court order was requested to deport them from the territory of the Russian Federation.

The situation in Rostov oblast became so difficult that those who were waiting for decisions on the granting or extension of their temporary asylum status were forced to hide and periodically change their place of address.

On 3rd February 2004 a round table was organised on the problems faced by Afghan refugees and experts participated, as did a representative of UNHCR as the main international agency expert in refugee issues. The leading Russian expert on Afghanistan, G.P. Ezhov gave his point of view, representatives of Afghan society spoke, as did a lawyer representing their interests in court. Every speaker expressed the same opinion: at the present time, not only is it impossible to demand that Afghan citizens return to Afghanistan but voluntary repatriation should also not be encouraged.

The situation for Meskhetian Turks in Krasnodar Krai, of whom there are 11-12,000, is still very serious. Despite the fact that they have been living in the Russian Federation since 1989 and are citizens of the Russian Federation according to Article 13 of the Law of the Russian Federation "On Citizenship" from 1993-1995, the authorities from Krasnodar Krai, referring to their lack of permanent registration, refuse to acknowledge them as citizens of the Russian Federation and consider them "stateless people, temporarily living on the territory of the Russian Federation".

Since 16th February 2004 staff from the International Organisation on Migration (IOM) have been working in Krasnodar Krai to help Meskhetian Turks who wish to take part in a resettlement programme to the USA. Applications were accepted until 1st November 2004. According to different estimates 5000 to 7000 applications from Meskhetian Turks were received.

As of January 2005 around 400 people had left to go to the USA. In February another 300 people left. According to IOM's plans the resettlement programme is due to end before November 2005.

It should be noted that for a whole host of reasons a considerable proportion of Meskhetian Turks did not manage to apply for the resettlement programme in the given time scale. Many families were excluded from the programme because they failed to appear when invited to by IOM staff. For the most part it is these very families who need most protection. According to information from the Network lawyer from Krasnodar the number of crimes committed against Meskhetian Turks is rising.

On 7th October 2004, people in Cossack uniform broke into the family home of the Akhmedovs in the village of Kholmskaya and fired from a pistol with a silencer. Islam Akhmeov, the owner of the house was wounded;

On 2nd December 2004 in the same village Anvar Akhmedov was beaten up by Cossacks;

On 18th December 2004 a group of young men with shaved heads attacked Meskhetian Turks and Khemshils at a disco in the village of Kubanskaya – 35 people were injured;

On 26th December 2004 in Russkoe village in the Kryskii region a drunken neighbour killed two girls: Harmina 26 and Nagril' 19, from the Labanovy family of Meskhetian Turks. Both were participants in the resettlement programme to the USA.

This policy of poisoning the attitude of the local population towards "foreigners" has been transferred by the authorities onto other groups of national minorities living in the region too, such as Armenians, Kurds and Khemshil Turks.

In July 2004 Krasnodar Krai Law No. 735 – KZ from 02.07.04 "On measures to stop illegal migration in Krasnodar Krai" came into force. According to Article 1 of this Law "illegal migration is defined as when Russian citizens, foreign citizens and stateless persons (hereinafter illegal migrants) arrive from other states or regions of the Russian Federation onto the territory of Krasnodar Krai and/or stay or live on its territory whilst violating the regulations set out in the Federal Laws "On the right of citizens of the Russian Federation to

freedom of movement, to choose a place of sojourn and of abode in the Russian Federation” and/or “On the legal situation of foreign citizens in the Russian Federation”.

The previous law “On staying and living on the territory of Krasnodar Krai” did not correspond to any of the requirements of federal legislation, as was pointed out by the Prosecutor of Krasnodar Krai in his protest of 15th April 2003 No. 7/4-27-18-2002. Obviously this newly fledged law does not answer any of these requirements either.

The official authorities of the region have not stopped their harsh measures towards so-called “illegal migrants”. In the village of Kopanskii near Krasnodar a deportation point has been opened, where migrants to be deported are kept in tents until tickets are bought for them to leave. In 2005 three more of these “points” are due to be opened in Temriuk, Armavir and Tikhoretsk.

The situation has got worse for those Armenians who fled Azerbaijan and who settled in the Moscow region. The legal situation for Armenians from Azerbaijan who arrived in Russia after the pogroms of 1988-1992 is practically no different to that of the Meskhetian Turks. Both groups arrived in Russia after the fall of the Soviet Union. Consequently they did not leave to go to another country but resettled within the country of their citizenship. In most regions Armenians from Azerbaijan were granted citizenship of the Russian Federation. The exception was the Moscow region where permanent residence was very difficult to obtain and, which was the grounds for the right to be considered a citizen of the Russian Federation. At the end of 2003 after the Deputy Chairman of the Supreme Court of the Russian Federation, V.M. Zhuikov sent a letter of instruction to all courts on the necessity to ascertain the fact of permanent residence in Russia on 6th February 1992 – the date the new Law “On Citizenship” came into force, a certain number of migrants did manage to confirm their right to citizenship of the Russian Federation and received a Russian passport.

On 24th June 2004 in Moscow 48 families of Armenian refugees were thrown out of the first corpus of a hostel at 29 Molodtsov Street. Their eviction took place at dawn, at 5.30am, without any court order or sanction from the prosecutor. According to our information, both hostel corporuses had been sold and had become private property. These events were public knowledge but there was no sort of reaction from the prosecutor’s office at all. Some of the inhabitants settled in the second corpus and there are now 56 families living there. Some of them have forced migrant status and the Migration Service should do something to help them. Some of the inhabitants are applying for citizenship of the Russian Federation having proved residence in the courts. However, they have nowhere to go to and the threat of being thrown out of the second corpus is still hanging over them.

The situation for forced migrants

Forced Migrants are citizens of the Russian Federation who have left their place of abode due to violence committed against them, persecution or a real threat of persecution on the grounds of ethnicity, religious belief or political conviction, or due to mass violations of public order. This definition contains the main provisions in the understanding of the term “refugee” in the UN Convention on the Status of Refugees. Since 1st July 1992 the state has started to recognise citizens as forced migrants and issue them with the corresponding documentation. In 1993 the Law “On Forced Migrants” was adopted, defining forced migrant status and guaranteeing such citizens state support in resettling.

Over the last two years the granting of forced migrant status has almost entirely stopped. There are odd cases of status being granted on the basis of court decisions.

In 2003 3,051 migrants were granted forced migrant status, which is 6 times less than in 2002 when 18,226 people were granted status. In 2004 2,103 people were granted status but the

majority of them – 1,840 people – had already been granted refugee status and lost it after being granted Russian citizenship. This group is made up of refugees from South Ossetia who were granted citizenship in North Ossetia. This means that for the whole of the rest of the Russia only 263 people were granted forced migrant status in 2003. The FMS of the Ministry of Interior Affairs of the RF had 238,000 forced migrants on their register as of 1st January 2005. This means that the number of forced migrants has decreased by 116,000 in one year.

The decrease in the number of forced migrants has been achieved by removing them from the register and refusing to prolong their status. For example, in Voronezh oblast in the first half of the year 194 forced migrants managed to prolong the validity of their status. From August to October only 10 people managed to do this and from October to December no one did – everyone received a rejection.

Staff from the migration authorities consider the fact that a person has registration in a relative's flat (on the basis of which they are considered to be housed elsewhere) or the fact they have received compensation for destroyed housing as grounds for rejecting an application to prolong Forced Migrant Status.

Having registration does not guarantee that forced migrants are housed elsewhere. The migration authorities do not run any checks at all to see how real the right to use the accommodation is for the forced migrant. A Saint Petersburg lawyer from the Network has experience of lawsuits where migrants do not acquire the right to use accommodation where they are registered. When court decisions are positive the migration authorities prolong the validity of forced migrant status.

Accommodation is one of the most serious issues for forced migrants. The amount of resources allocated by the FMS for buying and building housing for forced migrants decreases dramatically every year. So in 2003 there were 775.6 million roubles allocated for this purpose, but in 2004 only 605.8 million. In certain oblasts the situation is even worse. In Ul'yanovsk oblast 3 times less money was allocated to buying and building housing in 2004 than in the past, in Stavropol' Krai 2.5 times less (from the "Migration Bulletin" newspaper No. 11-12 from 10.11.2004). Moreover out of 98,957 families of forced migrants on the register at the end of 2004 only 1745 of them had been settled. As the programme for building housing for forced migrants will end in 2007 the FMS is putting all its energies into finishing it early and is managing this through a rapid reduction in the number of forced migrants by taking them off the register.

In accordance with point 40b of the Resolution "On the housing of forced migrants in the Russian Federation" approved by Russian Federation Government Decree No. 845 from 08.11.2000 those forced migrants on the waiting list for permanent accommodation can be excluded if they rent accommodation from members of the family (paragraph two); and also if they live permanently in accommodation owned by a member of their family (paragraph three).

These sections of legislation are used by the migration authorities to exclude forced migrants from the housing waiting list irrespective of the amount of space each person has. It is enough for one member of the family to be registered as having the right to property. A judicial argument on one such case was examined not long ago by the Soviet district court in Volgograd. The court found no violation in the activities of the Migration Department Directorate even after they excluded a wooden house built in 1953, which one declarant owned, and which had a living space of 13.3 m² in which 3 people lived, giving them 3.3 m² each. The house was also very poorly equipped with heating from a stove. The declarant had the right to be housed as a priority as a pedagogical worker.

The second paragraph of point 40b of the Resolution is interpreted by the migration authorities as all that is necessary to exclude a person from the waiting list is having registration in a place of accommodation and having been issued authorisation for one whatever the state of the maintenance or sanitation of the place. This norm was interpreted differently by the judicial authorities examining the many court cases in the town of Volzhsky in the Volgograd Oblast. Forced migrants were housed in emergency housing – old barracks built in 1953 for the builders of the Volgograd hydroelectric station. A judge ruled that these barracks were only temporary accommodation. The migration authorities did not agree with the judge, however, and continue to take migrants off the waiting list for housing and are not implementing the decision of the court.

This bears witness to the necessity of changing 40b of Resolution No. 845 and bringing it into line with the current housing legislation, which it contradicts.

The amount of free subsidy to build or purchase accommodation is of vital importance to the lives of forced migrants. In line with the Russian Federation Government Resolution of 03.08.96 No. 937 “On granting citizens of the Russian Federation who need to improve their living conditions a free subsidy for building or buying a home” the level of subsidy is calculated depending on the relationship between the monthly salary of one member of the family and the set minimum salary for citizens receiving a subsidy and the amount of time on the waiting list for improvements in living conditions, which is shown by a table in the Resolution.

Receiving the subsidy is meaningless as its size does not enable the recipients to solve their housing problems. To solve this issue the Resolution on Subsidies should be changed and the calculation to pay subsidies on the minimum wage should be raised to base it on the subsistence minimum. If the government will not do this then there is a compromise – it could change from using the subsistence minimum to using the real minimum wage, used for the regulation of wages. At the moment this is 660 roubles i.e. 6.6 times more than the figure of 110 roubles used at the moment. That way a family earning the same amount would get a subsidy covering up to 70% of the necessary sum.

The situation of IDPs

Those internally displaced within the country are citizens [of that country] who have been forced to leave their homes due to armed conflict, persecution, and violations of human rights or natural disasters in search of a safe place to live. IDPs differ from refugees in that they have not crossed an international border and remain on the territory of their own country. According to the UN the number of IDPs in the world is currently around 25 million people. According to UNHCR in Russia there were around 366,000 IDPs at the beginning of 2004. These are the victims of the two military campaigns in Chechnya and the Ossetian-Ingush conflict of 1992. Some IDPs have forced migrant status, however IDPs from Chechnya are practically never granted forced migrant status: out of 580,000 citizens who have left the Chechen Republic during the second wave of military activity, only 12,500 people have been granted forced migrant status. In answer to this the official migration authorities have themselves said that on the whole those who received status were not from the indigenous population, i.e. not Chechen.

IDPs from the Chechen Republic who have left their place of abode due to military action live both inside the Chechen Republic and outside of it, in Ingushetia and other regions.

According to the Directorate of the Migration Department of the Ministry of Interior Affairs (the MD Directorate) at the end of 2004 there were 168,000 IDPs registered through Form No. 7 as living on the territory of Chechnya. As of 01.12.04, 37,455 of them were living in 32 temporary accommodation points. 132,000 IDPs were living in the private sector. Out of this

number 10,509 were living at their accommodation on standard contracts agreed with the MD Directorate in accordance with Resolution No. 797 by the Government of the Russian Federation.

According to information from the MD Directorate in the Republic of Ingushetia there were 18,000 IDPs in Ingushetia at the end of 2004. According to publications in the official local press the number of registered migrants in Ingushetia from Chechnya was 485,000 at the end of 2003.

A mass exodus of Chechen refugees from Ingushetia back to Chechnya started at the beginning of 2004. The last tent settlement in Ingushetia, "Satsita", was closed in March 2004. Around 20,000 Chechen refugees left Ingushetia in 2004. Their return was often far from voluntary. Methodical pressure from the authorities, especially those in Chechnya, and the tragic events in Ingushetia, which took place during the night of 22 June 2004, forced people to leave Ingushetia, for many reasons including a fear that the anger against those that participated in the attack would be turned on them.

Those who returned to Chechnya were offered housing in temporary accommodation points (TAPs) or in the private sector by the Chechen Republic Migration Service and the Chechen government. However, there were not enough places in the TAPs to accommodate everyone. At the moment around 8,000 IDPs registered as living in TAPs only get food there and live in the private sector.

Those practically living in tent towns, but who are excluded from the MD Directorate database, have problems registering at a place of sojourn in other compact settlements, both on the territory of Ingushetia and of Chechnya. Those excluded from the lists do not have the necessary documents witnessed in the correct manner and the Passport and Visa Service does not register them. For the same reason they are not given any of the humanitarian (food) aid foreseen by Resolution of the RF Government No. 163 from 03.03.2004.

An absence of temporary registration on the territory of the Republic of Ingushetia can have other serious consequences. Without this people can have difficulty proving to the security services that they have no involvement with groups of fighters.

The MD Directorate in the Republic of Ingushetia has categorically refused to include children born after 2001 on the territory of Ingushetia in the list of IDPs and they are not taken into account when giving out humanitarian aid, allocating temporary accommodation etc.

Living conditions in TAPs from the point of view of the provision of food, medical help, education, day-to-day living conditions and sanitation and disease remain extremely unsatisfactory. In many TAPs there is sometimes no water for several days at a time. People have to stock up on water from other sources in the private sector, from places that are distant from the place where they are residing. In nearly all TAPs no sewage system has been installed, there are no showers or laundry rooms. Because there are no opportunities for people to wash themselves, their clothes and bedding, there is an unbearable hygiene situation, which encourages the spread of infectious diseases. Some TAPs even have poor heating. The functioning of central heating systems depends on the provision of uninterrupted electricity, which is practically impossible to guarantee in the conditions of today's Chechnya.

Due to the high level of unemployment, IDPs are often unable to provide for themselves materially. The majority of them have received help through the migration service. However, the rations given out have been noticeably reduced. According to those living in TAPs at the end of the year they were receiving about the same amount of food aid for a month as they

were given for ten days whilst in the tent settlements. The explanation for this is simple: the amount of money allocated for upkeep and food has stayed at the same level as it was one or two years ago: 15 roubles per day per person. The prices for goods are going up all the time.

Small children aged up to three years are not given any children's food, as this is not included in the List of Products acquired for those living in the TAPS. According to the FMS in November 2004 there were 2,712 children aged one to three living in the Chechen Republic. The "Civic Assistance" Committee gave humanitarian aid to provide children's food for children living in remote TAPs (in Samashki, Achkhoi-Martan, Assinovskaya) and turned to the President of the Russian Federation with a request to solve this problem. The Ministry of Health and Social Development of the RF prepared a letter to the Government of the Chechen Republic regarding organising food for children under 3 years old living in TAPs on the territory of the Republic, however there is no money allocated to this in the Federal budget for 2005.

IDPs from Chechnya living in other regions of the Russian Federation are also in a difficult situation. In the majority of the regions of Russia they suffer from deliberate, cruel discrimination from the authorities and society. From February 2004 vouchers and food were no longer given out at Temporary Accommodation Centres (TACs) in Voronezh, Orenburg and Tver' oblast. In April all Chechen refugees without forced migrant status were issued a notice of eviction at a TAC in Tambov oblast. When the inhabitants refused to leave voluntarily the authorities applied to the courts for a permit to evict them. The court decided that 31 people should be evicted. Through the efforts of Network lawyers, this decision was put off until 1st March 2005.

In the "Serebryanniki" TAC in the Tver' oblast, the administration made all those living there pay for their accommodation. As no one was able to pay the inhabitants were told to apply for temporary accommodation elsewhere. Those who refused to write the application did not have their forced migrant status prolonged. When after this no one left the TAC, the Director took them to court for back payment of rent for 2003 and 2004. These cases are currently being examined but the results are not yet known.

Administrative pressure as well as the rising level of xenophobia and nationalism amongst the public and attacks and murders on the grounds of nationality have forced many families to leave Kabardino-Balkaria, Tambov, Bryansk and Voronezh oblasts and to return to their homeland. Staying in Russia as objects of this poison has become more dangerous for them than staying in Chechnya.

The pay out of compensation for destroyed housing is another crucial issue for IDPs. In 2004, as of November, the MD Directorate had paid out 272.9 million roubles compensation for destroyed housing and property to 2,489 families in accordance with Resolution No. 510 of the Government of the RF. For the whole of the period from 1997 to November 2004 32,532 families received 3 billion 442 million roubles according to this resolution. FMS records show that since Resolution No. 404 of the Government of the RF "On the System of Paying Out Compensation for Destroying Housing and Property" has come into force 27,824 applicants have received payments into their personal accounts.

Those who receive payments are quickly removed from the register and allowances at the passport and visa service. The administration demands that they free their rooms in the shortest period possible. For many it is impossible to buy themselves even a corner in the Republic given the shortage of housing and the amount they receive. This means that there is no other option for those who receive compensation for renovating housing but to rent accommodation and pay for their day-to-day needs with the money received.

Being taken off the records and allowances lists at the Passport and Visa Service is not lawful as it violates Resolution No. 785 of the Government of the Russian Federation from 31.10.2002. This Resolution revokes Point 19 of Resolution No. 510 of the Government of the RF, according to which all migrants who have received compensation for destroyed housing and property in Chechnya are considered to be re-housed.

IDPs, who have left the Chechen Republic and those who have remained on its territory, do not have equal rights to payments of compensation. The former can receive 120,000 roubles according to Resolution 510 for their destroyed housing and 20,000 for destroyed property, whilst the latter can receive 300,000 roubles for destroyed housing plus 50,000 roubles in accordance with resolution 404. There also needs to be an indexing of the amounts of compensation paid as in 1998 in the period between the two Resolutions, there was a financial crash. The FMS has put in a corresponding recommendation to the Ministry of Finance but the Ministry turned out to be unwilling to examine it. The question has now been taken to an inter-agency commission to be resolved. It should be noted that both with Resolution 404 and confirmation of the system for paying additional sums of compensation instructions were given (in Point 10) to solve the issue of increasing the amount of compensation for citizens who have permanently left Chechnya, within a three-month period. This instruction has not been implemented to date.

Calculating pensions is also a serious issue in Chechnya. If a person cannot show a written document confirming earnings for 60 months in a row, if the records have been destroyed, the person concerned will receive the minimum pension. Due to the emergency situation in Chechnya the majority of records have been lost. As the person applying for a pension is not at fault for the loss of records it would seem to be expedient to review the legislation so that if records are lost due to unavoidable events (such as war, natural disasters etc) then the calculation of the part of the pension based on insurance contributions can be calculated according to salaries in a similar profession, of a similar specialist, or with similar qualifications, paid in that particular area at that particular time. To do this it would be necessary to add to Article 30.2 of the Federal Law "On Work Pensions in the RF" from 17.12.01 with a corresponding new paragraph.

Victims of the Ossetian-Ingush conflict, which took place in November 1992 in the Prigorodnyi region of Northern Ossetia, are still unable to return to their former place of residence. As a result of the conflict it is estimated that between 45,000 and 60,000 Ingush living in the Prigorodnyi region and the town of Vladikavkaz were forced to leave their houses. The majority of people moved to Ingushetia.

Over 140 normative acts have been approved by the Federal centre in an attempt to resolve the consequences of the conflict. According to information from the President of the Russian Federation's Representative on Solving the Ossetian-Ingush conflict, from March 1998 to July 2004 4.5 thousand bank accounts were opened for the restoration and acquisition of housing for 21.1 thousand people at a the sum of 1 billion 504 million roubles. In August 1994 the process of return started and according to the representative by 1st July 2004 21.7 thousand people had returned to their former place of residence in the Republic of Northern Ossetia-Alania.

Despite the measures taken, however, a considerable proportion of the displaced are still on the territory of Ingushetia, living in train wagons, kindergarten buildings, and hospital buildings or in the private sector.

Since 1994 there has been a small town called "Maiskii" on the territory of North Ossetia, made up of train wagons brought from the Republic of Ingushetia. Authorities from the Republic of Ingushetia have taken care of the organisational side of the life of the town. The town is still not registered with the Federal Migration Service and as a consequence does not have any status as a centre for temporary accommodation. In November 2004 HRC Memorial

undertook research on the living conditions for the inhabitants of the town. A report called “Forgotten People” was published as a result of this research in December 2004. The people living in this type of settlement present all the types of problems people living in this type of settlement face. Below are some excerpts from the report.

“On 1st December 2004 there were 236 families, 1,235 individuals from 15 different places in Ossetia living in Maiskii, for whom for one reason or another return was impossible. Memorial has identified four groups of people who cannot return to the Republic of Northern Ossetia-Alania and they are all represented in the town of Maiskii: inhabitants from villages with “a problematic moral and psychological climate” (187 families); inhabitants from villages in the “water-protective area” (37 families); those who lived in communal housing before (10 families), those who have received partial compensation for lost housing but were not able to become house owners again (11 families).

The main problem for forced migrants in Maiskii is the frequent and extended periods without electricity. Due to the non-defined status of the settlement the North Ossetian migration service does not pay the bill for the energy used whilst the State Committee for Refugees in Ingushetia has no budget line to cover these costs. The Ingush government is continually forced to find extra resources from somewhere, which is not always possible on time. So the electricity is cut off systematically for non-payment.

The settlement is not well provided for. There is no bathhouse or school, no catering or medical block. There are no asphalt roads, waste collection is not organised – there are no dustbins in the camp: the dump that has grown around the town over the last ten years has become a terrifying threat to health.

98% of Maiskii inhabitants are living in extreme poverty, 99% of the inhabitants are unemployed. According to information from the State Committee of the Republic of Ingushetia out of 1,235 people living in the camp 17 of them are able to work. The main sources of income are the state pension, children’s benefits (70 roubles per child) and benefits after the loss of the breadwinner in the family.

In November 2004 staff from HRC Memorial in Nazran went round the settlement with the aim of collecting information on the health of its inhabitants. Having gone round practically the whole settlement of 1,235 people HRC staff collected information about 397 cases of chronic illnesses confirmed by diagnoses by medics.

The Maiskii settlement is only one of 33 compact settlements where forced migrants from the Republic of Northern Ossetia-Alania are living in similar conditions. According to figures from the Government of the Republic of Ingushetia there are still around 18,000 IDPs from North Ossetia on its territory. 12 years on this group of people are living in a state of complete exhaustion, in extreme poverty with shattered health and psychological trauma.

Inhabitants from the settlement have forced migrant status. The FMS recently sent a representative there to run re-registration and to complete its database on forced migrants. Their housing issue will only be solved once this has been done.

The problem of legalising foreign citizens and stateless persons

The largest group of people with no legal status is citizens of the new country members of the CIS and stateless people who arrived in Russia without needing a visa, i.e. legally, and who live permanently on its territory. Estimates from some state authorities put their number at 400,000, while others say there are considerably more of them (up to over 3 million). The Federal Laws “On Citizenship of the RF” and “On the Legal Situation of Foreign Citizens”, which came into force in 2002, have created a huge number of problems for former citizens of the USSR. The legislation in force before the Law “On the Legal situation of Foreign Citizens

in the RF” was adopted did not contain any provisions that restricted the period of stay of former USSR citizens in the country; in international agreements between Russia and the country-members of the CIS on visa-free travel, there is also no mention of any such provision. In these circumstances former USSR citizens honestly considered themselves permanent residents of the Russian Federation. They had integrated into society, settled independently, had a job, a home – which they owned or rented, and then all at once they suddenly became illegal migrants.

Those who were born in the Russian Federation also lost their right to travel freely. The majority of them were elderly people who were convinced that their place of birth and ethnic background gave them the right to consider themselves Russian. The Law “On the Legal Situation of Foreign Citizens” released them into orbit whereby they need to get migration cards when entering the country, apply for a permit for temporary residence, which takes twice as long to get as the time their migration cards are valid for and finally, get permanent residency. Only after they have gone through all these stages does the Federal Law “On Citizenship” allow people the right to apply for citizenship of the Russian Federation.

On 11th November 2003 Federal Law No. 151 “On Amendments and Additions to the Federal Law On Citizenship of the Russian Federation” was adopted. The legal provisions contained in this Law aim to simplify the procedure for acquiring Russian citizenship for those people who had USSR citizenship and who had come to Russia or who will come to Russia to live from a state of the former Soviet Union before 1st January 2006. In the two years that this law has been in use a specific way has been developed of interpreting its provisions and sub acts along with the international agreements between the Russian Federation and the countries of the CIS, adapted to the new internal legislative situation. Thanks to this the number of those who were granted citizenship of the Russian Federation grew considerably in 2004. According to figures from the FMS in the first 9 months of 2004 around 190,000 people were granted citizenship, of whom 136,000 were granted citizenship according to the simplified procedure. This is a considerable increase compared to 2003 when only 38,000 people were granted citizenship of which 26,000 received it according to the new simplified procedure.

The Russian Federation had a quadripartite agreement on simplified procedures for acquiring citizenship with the Republic of Belarus, the Republic of Kazakhstan and the Kyrgyz Republic and a bipartite agreement with the Republic of Kazakhstan and the Kyrgyz Republic. These agreements included a registration procedure to award citizenship to citizens of one state by the other. Following the enforcement of the new version of the Law “On Citizenship of the RF” these agreements were no longer valid. However, the priority of international agreements has now been restored and in case of contradictions they are applied. Passport and Visa Service branch offices have been sent an instructional letter on the application of these agreements in practise. The number of those awarded citizenship on the basis of these international agreements has considerably increased – during the first nine months of 2004 more than 55.5 thousand people acquired citizenship of the RF whilst the number was only 4,593 for the whole of 2003.

However, there are many remaining unregulated normative problems, which complicate the process of acquiring citizenship considerably for certain groups of people. This applies most of all to those with no valid identity documents. This is a particular issue for those who came to the Russian Federation as minors and who for one reason or another do not have a national [internal] passport. This group of people are in a no-win situation because they do not have an identity document that would enable them to travel to their country of origin to sort out these problems and for many the situation in their country of origin represents a threat to their safety. The Law gives them the right to apply for citizenship but they have no identity document with which to do so.

There are also serious difficulties in solving the problem of drawing up and issuing supplementary sheets to birth certificates confirming Russian citizenship in the case of children who have no proof of residence either on the territory of the Russian Federation or outside it. This situation is happening because of contradictions between the normative provisions of paragraph four point 39 and paragraph three point 40 in the Resolution on the procedure for examining issues of citizenship in the Russian Federation, approved by a Decree of the President of the Russian Federation from 14th November 2002, No. 1325 (in the edition of Decree of the President of the Russian Federation No. 1545 of 31st December 2003), which define the procedure for issuing a child who has acquired citizenship and who lives on the territory of the Russian Federation, the supplementary sheet to the birth certificate or for issuing a foreign passport upon an application from the parent to children who live outside the territory of the Russian Federation.

In cases where a person applying for citizenship has changed their first name, patronymic or surname, they should present a document confirming this fact to the authority dealing with citizenship cases. At the moment a person cannot give a personal declaration that it is impossible to recover this document. We hear from many foreign citizens who cannot apply for citizenship of the Russian Federation because they do not have the documents needed to confirm they have changed their surname.

At the moment there is no solution to the problem of former citizens of the USSR who have lost identity documents or confirmation of a change of surname.

In the current year the problem of legalising citizens of the former USSR with 1974 type passports who have not acquired citizenship from any other state and so who have become stateless has got worse. 1974 type passports that do not contain a registration stamp are invalid. People with these documents cannot apply for temporary residence (or residency permit – vid na zhitel'stvo), since they have no valid identity document or registration at a place of sojourn for 90 days. These people are considered to be staying on the territory of the Russian Federation illegally by interior affairs departments. They cannot leave the Russian Federation in order to obtain a migration card and for that card to be registered, they cannot even buy a ticket as their passports are not valid and they have no identity documents.

People in this situation who live as a family with citizens of the Russian Federation and with children with citizens of the Russian Federation cannot register their marriage or their children and are deprived of all their civil rights and duties. Neither can they enter the procedure for legalisation, as they would need to present identity documents, which they do not have.

Recently there have been many cases of Russian passports that were issued incorrectly being taken away and with no other document confirming the identity of the person given in exchange. This happened to the Ismailovaya sisters who came to Russia as children in 1990. They had had permanent registration in Moscow since 1996. When they reached 14 years of age Sabina and Samira Ismailovaya obtained an internal passport as citizens of the Russian Federation. In 2004 when it came to exchanging their passports aged 20, their passports were taken away as it was declared that there had been no grounds to issue them. As Sabina and Samira have had permanent registration at their place of residence in the Russian Federation since 1996, according to Article 14.4 of the Law "On Citizenship of the Russian Federation" they have the right to apply for Russian citizenship in a simplified procedure, but their application has not been accepted as [since their passport was taken away] they have no document to confirm their identity. Staff from several departments of the FMS of the Ministry of Interior Affairs, have struggled to find a solution to this situation have suggested that they obtain permanent residency first (vid na zhitel'stvo). This approach, however, means that they would forego their right to acquire citizenship under Article 14.4.

For several years now everyone has understood that some sort of temporary identification document is needed for stateless persons, but nothing has been developed to date.

According to changes in the Law of the Russian Federation “On Citizenship”, former citizens of the Soviet Union who have arrived from countries of the former Soviet Union and who had registration at a place of residence as at 01.07.2002 can acquire citizenship under a simplified procedure until 1st January 2006. This situation makes registration at a place of residence the source of a person’s right to acquire citizenship, which is in contravention of the Law of the Russian Federation “On Freedom of Movement”. Whilst discussing a comparable situation with MIA Order No. 250 from 14th April 2002, which gives those with registration at their place of residence the opportunity to receive permanent residency (*vid na zhitel’stvo*), bypassing the permit for temporary residency, in a letter of 2nd October 2003 No. 16/4544, L.E. Gerbanovskii the deputy head of the State Passport and Visa Service of the Ministry of Interior Affairs gave the following explanation:

“On the basis of Part 2, Article 13 of the Civil Procedural Code of the Russian Federation, court decisions which have come into force are binding for everyone without exception, including for branches of the state authorities and officials and require strict implementation across the whole of the Russian Federation.

With regards to this, a copy of a decision of a court instance, which has come into force, confirming the fact of permanent residency of not less than one year’s duration of a foreign citizen on the territory of the Russian Federation as at 22nd May 2002 is viewed by the interior affairs authorities as a document which confirms the fact of registration of the foreign citizen at his or her place of residence”.

If we transfer this explanation to the situation shown with the amendments to the Federal law “On Citizenship of the Russian Federation”, it should be possible, having confirmed the fact of permanent residency on the territory of the Russian Federation through the courts, to substitute registration at place of residence for a copy of a court decision, which has come into force and to demand to be granted citizenship in the most simplified procedure possible.

It is unlawful to refuse to accept documents for applications for temporary residence (and receipt of permanent residency – *vid na zhitel’stvo*) if a family does not have financial means equal to the subsistence minimum for each member of the family. Grounds for refusing to issue or to cancel permits for temporary residence (or permanent residency) are laid out in Articles 7.8 and 9.8 of the Federal Law on the Russian Federation “On the Legal Situation of Foreign Citizens”:

[If the person] cannot show proof that he or she can keep themselves and the members of their family in the Russian Federation at a level equal to the subsistence minimum, without recourse to support from the state, with the exception of those cases where the foreign citizen is declared to be incapable of working.

Articles 7.8 and 9.8 of the above Law and Article 13 of the Federal Law “On Citizenship” through links with these, do not correspond to Article 19 of the Constitution of the Russian Federation, which states:

The state shall guarantee the equality of rights and liberties of man and citizen regardless of sex, race, nationality, language, origin, property or employment status, residence, attitude to religion, convictions, membership of public associations or any other circumstance. Any restrictions of the rights of citizens on social, racial, national, linguistic or religious grounds shall be forbidden.

Many citizens with the legal grounds to acquire a temporary residence permit or permanent residency (*vid na zhitel'stvo*), are living in private property and are deprived of the opportunity to hand in their documents for a permit for temporary residence (permanent residence – *vid na zhitel'stvo*) if they have less than 9-12m² space per person. Refusing to accept documents from those living in private property with less than the regulated norm of space per person is a violation of the interests of private property owners to use their property freely.

Those with no registration at their place of residence as of 01.07.02 have to manage to get into a regional quota set by the region in question if they want to receive a temporary residence permit. The heads of many regions set miserly quotas so that they do not become burdened with too many migrants and this cuts off the path for this group of people to receive citizenship. Even in those regions where there are considerable numbers of foreign citizens living, the size of the quota is extremely small. In Moscow, for example, in 2004 the quota was 5,000 permits and this was exhausted by spring. It is not clear what foreign citizens who do not get onto the quota are supposed to do. Even those who have a house, work and are looking after a family.

We propose that either through a law (or a resolution of the Government of the RF) every region should be set a minimum quota taking into account the number of foreign citizens already on the territory of each region and below which it is forbidden to go.

There is a large number of complaints from stateless persons from amongst former citizens of the USSR, who have lived for many years in the Russian Federation, linked to them having no right to receive a pension as they have no permanent residency permit (*vid na zhitel'stvo*) and will not be able to obtain one for some time.

Article 3.1 of the Federal Law on “On the State Provision of Pensions in the Russian Federation” states that “foreign citizens and stateless persons permanently living in the Russian Federation have the right to a pension”. Current practise in implementing legislation, including judicial, does not tie in permanent residency for foreign citizens and stateless persons with their factual permanent residency on the territory of the Russian Federation but with Federal Law No. 115-FZ from 25.07.2002 “On the Legal Situation of Foreign Citizens in the Russian Federation” on the strength of Article 2 which states that the only acceptable confirmation of permanent residency for stateless persons is the permanent residency permit (*vid na zhitel'stvo*).

Part 1, Article 39 of the Russian Constitution guarantees everyone social security in old age, in case of illness, disability and loss of the breadwinner. Requiring stateless persons who are former citizens of the USSR and who are living permanently in the Russian Federation to acquire a permanent residency permit (*vid na zhitel'stvo*) (as an obligatory means of confirming their permanent residence) in order to be able to take advantage of their right to a pension is a restriction upon their constitutional right to receive social security.

There are also problems linked to “the impossibility of eliminating the contradictions inherent in the normative positions of international agreements for the Russian Federation and federal legislation from the practical activities of the interior affairs authorities”. For example, there is a problem in the implementation of the Agreement between the Russian Federation and Turkmenistan on Regulating the Migration Procedure and Defending the Rights of Migrants from 23rd December 1993 and the Protocol on the procedure for its implementation from 18th May 1995.

Taking into account the priority of international agreements above federal legislation of the Russian Federation, from the moment the Federal Law “On the Legal Situation of Foreign Citizens” came into force establishing the legal institution of temporary residence in Russia for foreign citizens and stateless persons, article 9 of the above-mentioned Protocol allowed

the passport and visa departments of the interior affairs authorities to process documents for permanent residence in the Russian Federation for those voluntary migrants from Turkmenistan with their own property, bypassing the stage of processing a permit for temporary residence. At the same time issuing a foreign citizen who had citizenship of the USSR and who arrived in Russia from Turkmenistan permanent residence (*vid na zhitel'stvo*) and thus evading the stage of acquiring temporary residence has consequences for those who have no other grounds for applying for citizenship of the Russian Federation under the simplified procedure as this does not allow them to do that.

This was a (probably incomplete) picture of the problems which different groups of forced migrants come across in our country – refugees, asylum seekers, foreign citizens, stateless people, internally displaced persons and forced migrants. The very near future of our country, fast approaching a demographic crisis, depends very much on solving the problems of legalising those who come here and in accommodating its own citizens who have suffered so much.

Biography

Memorial Human Rights Centre