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

June 2005

KEY CONCLUSIONS AND EXECUTIVE SUMMARY

1. The European Council on Refugees and Exiles (ECRE) is a network of 78 organisations in 30 European countries. In this paper ECRE has compiled the views of its member agencies, many of whom work with Chechen refugees and internally displaced persons (IDPs) in European countries of asylum and/or in the Russian Federation.
2. These guidelines are a response to the high number of Chechen¹ refugees currently in Europe and the fact that some states are denying these refugees international protection on the grounds that they would be safe elsewhere in the Russian Federation. They include the latest developments in the Chechen Republic (hereinafter Chechnya) and the Russian Federation as well as information on the situation for Chechen asylum seekers and refugees in other European countries.
3. These guidelines concern the treatment and voluntary return of IDPs in the Russian Federation. They also concern Chechen asylum seekers and refugees in European countries, including EU Member States, in particular in terms of effective access to the asylum procedure and return. In relation to the latter the guidelines concern the voluntary repatriation of Chechens who have refugee or subsidiary protection status, those with temporary protection status and those who are in the process of applying for protection, including those who have received a negative first decision and have

¹ This paper only relates to ethnic Chechens as it is understood that asylum seekers and refugees from the Russian Federation seeking asylum in Europe are primarily Chechen (see UNHCR Position regarding Asylum Seekers and Refugees from the Chechen Republic, Russian Federation, 22 October 2004). Applications for asylum from ethnic Russians, those from an ethnically mixed background as well as from those of non-Russian and non-Chechen ethnic backgrounds (e.g. Ingush), should be considered on an individual basis.

appealed. They also concern the mandatory return of Chechens whose applications have failed, and those whose protection status has ceased or ended after they had effective access to the asylum system.

4. Since 2003 asylum seekers from the Russian Federation (presumed to be primarily of Chechen origin) have become one of the largest groups of asylum seekers in Europe and other industrialised countries.²
5. UNHCR has stated that all those Chechens whose place of permanent residence was the Chechen Republic prior to their seeking asylum abroad should be considered in need of international protection, unless there are serious grounds to consider that he or she is individually responsible for acts falling within the scope of Article 1F of the 1951 Convention relating to grounds for exclusion.³
6. Reports from NGOs and international organisations continue to emphasise that Chechnya remains extremely unsafe⁴ and that violence and widespread human rights violations have spread to Ingushetia. Meanwhile there continue to be severe obstacles to the physical, material and legal safety of Chechens in many other regions of the Russian Federation, particularly in large cities in Western Russia, where there are sizeable Chechen populations.
7. For this reason ECRE is against the forced or mandatory return to the Russian Federation of any Chechen seeking international protection and against the promotion of voluntary repatriation to the Russian Federation as a durable solution at the present time as the conditions of "safety and dignity" cannot be upheld.
8. Throughout Europe the treatment of Chechens seeking protection varies considerably, with refugee recognition rates⁵ in 2003⁶ ranging from 0% (Slovakia) to 76.9% (Austria),⁷ showing that for many Chechens, the outcome of the 'asylum lottery' will very much depend on the country in which they seek asylum.

² They were the largest group in 2003 and 2004. Although the most recent statistics show a sharp drop in the number of Chechens seeking asylum in Europe in the first quarter of 2005, they are still the second largest group. See UNHCR: (<http://www.unhcr.org/cgi-bin/texis/vtx/statistics/openssl.pdf?tbl=STATISTICS&id=428da0db2>). For 2003 and 2004 see www.unhcr.org/statistics

³ *UNHCR Position regarding Asylum Seekers and Refugees from the Chechen Republic Russian Federation*. October 2004.

⁴ International Helsinki Federation for Human Rights, *Chechnya: More of the Same. Extrajudicial Killings, Enforced Disappearances, Illegal Arrests, Torture*. March 2005. <http://www.nhc.no/land/tsjetsjenia/2005/IHFmarsrapport.pdf>

⁵ Refugee recognition rate = Number of recognised refugees divided by the total number of recognised refugees, number of persons granted other forms of protection, and persons rejected protection x 100%.

⁶ Refugee recognition rates for 2004 were not available at time of writing.

⁷ For more information on refugee recognition rates for Chechens in different European countries see Norwegian Refugee Council, *Whose responsibility? Protection of Chechen internally displaced persons and refugees*, May 2005.

9. ECRE urges European governments to ensure that Chechen asylum seekers can avail themselves of protection on their territory, through adequate access to fair asylum procedures.
10. For Chechens in need of international protection a viable internal protection alternative is not currently available and, therefore, should not be invoked as a bar to granting asylum.
11. ECRE urges European States to adopt a full and inclusive interpretation of the 1951 Geneva Convention Relating to Refugees (hereinafter “the 1951 Convention”) with regard to asylum seekers from Chechnya. Subsidiary and complementary forms of protection (hereinafter “subsidiary protection”) should only be accorded to those Chechens who have been determined as not qualifying as refugees under the 1951 Convention, but who nevertheless require international protection.
12. ECRE urges European states to ensure that all those accorded subsidiary protection enjoy the same rights as Convention refugees, in particular with regard to family unity and socio-economic rights and as a minimum should be granted those rights detailed in the Qualifications Directive.⁸ Those Chechens who fail to be granted refugee status or a form of subsidiary protection should be granted a legal status, which affords them their human rights and a dignified standard of living in the host country.
13. ECRE urges Member States to support those ‘new’ Member States receiving more refugees from Chechnya, because of their geographical location. Support could be achieved through utilising Article 3 (2) of the Dublin II Regulation⁹ to adopt responsibility for examining all asylum claims from Chechen asylum seekers lodged on the territory of the Member State, without transferring the Chechen asylum seeker to the first country of arrival in the European Union; and by utilising Article 15 of the Regulation (the Humanitarian Clause) to ensure that family unity is preserved and that applications from family members and other dependent relatives can be processed in the same country if the asylum seeker so requests. Member States might also seek to find additional ways of supporting new Member States with historically less well-developed systems.
14. ECRE would urge EU Member States not to transfer Chechens to other Member States under the Dublin II Regulation unless they can ensure that they will have access to a fair and efficient asylum procedure. The risk of *refoulement* from some EU Member States¹⁰ means that extreme care must

⁸ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

⁹ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

¹⁰ Including Slovakia and Greece, see paper by Norwegian Refugee Council and *The Transfer of Chechen Asylum Seekers from Norway to Greece In Accordance with the Dublin Convention*, 2002. <http://www.noas.org/Database/pub/print/TheTransferofChechenAsyl.shtml> . Recent concerns highlighted by Greek members of the ECRE ELENA network confirm that problems still occur.

be taken in such cases in order not to expose refugees to this danger in breach of States' obligations under Article 33 (2) of the 1951 Convention and Article 3 of the European Convention on Human Rights and Fundamental Freedoms (hereinafter ECHR) and the Convention Against Torture.

15. Other States outside the border of the enlarged EU¹¹ are struggling to cope with high numbers of Chechen refugees to an even greater extent given their relatively new asylum systems, few financial resources, political tensions caused by the close proximity of and/or relationship with the Russian Federation. This is often whilst supporting other sizeable groups of IDPs and refugees from other conflicts in the region.¹²
16. While recognising these difficulties ECRE has serious concerns about access to asylum procedures for Chechen asylum seekers in the Republic of Belarus and Ukraine and urges these governments to ensure that Chechen asylum seekers can avail themselves of protection on their territory.
17. While welcoming efforts undertaken by States in this region and acknowledging the financial limitations affecting many of them, ECRE is also concerned about conditions for refugees and asylum seekers and the ability of governments in Azerbaijan, Belarus, Georgia, Moldova and Ukraine to accord refugees on their territory as a minimum those rights granted in the 1951 Convention concerning the Status of Refugees.
18. Until these conditions are in place, ECRE would urge EU Member States as a minimum not to transfer Chechen asylum seekers or Chechens who have had their applications for asylum rejected to third countries such as Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova or Ukraine.
19. In a spirit of responsibility sharing and solidarity, ECRE would support the resettlement of Chechen refugees from Azerbaijan, Kazakhstan and Georgia to EU Member States, due to particularly high numbers of refugees from Chechnya in these countries, and in the case of Azerbaijan and Kazakhstan, little or no access to legal status,¹³ and the allocation of financial resources to Azerbaijan, Belarus, Georgia, Moldova, Kazakhstan and Ukraine to help governments ensure more effective protection and better conditions for refugees on their territories.
20. The Russian Federation should respect the concept of internally displaced persons as defined in the 1998 United Nations Guiding Principles on

¹¹ Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Ukraine. (Please note: this paper will not look in detail at the situation in Kazakhstan as this country is outside the Council of Europe definition of Europe. For information on Kazakhstan see Norwegian Refugee Council, *Whose responsibility? Protection of Chechen internally displaced persons and refugees*, May 2005).

¹² For example, see Parliamentary Assembly of the Council of Europe *Recommendation 1570 (2002) on the Situation of refugees and displaced persons in Armenia, Azerbaijan and Georgia*.

¹³ The resettlement of Chechens from Azerbaijan and Georgia is already happening but on a very small scale. Countries who have accepted refugees from Azerbaijan or Georgia include Canada, the US, Sweden, Ireland and the Netherlands. See Norwegian Refugee Council, *Whose responsibility? Protection of Chechen internally displaced persons and refugees*, May 2005.

Internal Displacement¹⁴ (hereinafter the 1998 UN Guiding Principles) and as recommended by the Council of Europe,¹⁵ and should ensure that all IDPs have access to rights as set out in those Guiding Principles.

21. ECRE is against the promotion of return of IDPs to Chechnya or to other regions of the Russian Federation until conditions of safety and dignity can be upheld. Conditions must be in place to ensure that it is safe to return – physically, legally and materially.¹⁶ It is the duty of the Russian government with the support of the international community to ensure that these conditions are in place.
22. ECRE would strongly urge the Russian Federation to take active measures to halt the gross violations of human rights currently taking place in Chechnya and to take all possible measures to address the issue of discrimination towards Chechens within the Russian Federation.
23. This paper should be read in conjunction with ECRE's Position on Return, Position on the Harmonisation of the Interpretation of Article 1 of the Refugee Convention, Guidelines on Fair and Efficient Procedures for Determining Refugee Status and in light of other ECRE policy statements.¹⁷

I INTERNALLY DISPLACED PERSONS (IDPs)¹⁸

Situation of Chechen IDPs in the Russian Federation

24. There were around 400,000 displaced Russian citizens on the territory of the Russian Federation in 2002, as a result of wars and violence in the North Caucasus.¹⁹ About 310,000 of this number had been registered since the beginning of the second conflict in 1999. According to the Council of Europe in March 2004 there were 110,000 IDPs in Ingushetia; 140,000 in Chechnya itself and 20,000 in Dagestan. The remaining 40,000 IDPs were

¹⁴ *The UN Guiding Principles on Internal Displacement*, UN Document E/CN.4/1998/53/Add.2 (hereinafter the UN Guiding Principles) were developed by the UN Representative of the Secretary General on Internally Displaced Persons, Dr. Francis M. Deng. Although they do not constitute a binding instrument like a treaty, they reflect and are consistent with international human rights law and humanitarian law. For the full text see: http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html

¹⁵ Parliamentary Assembly of the Council of Europe, Situation of refugees and displaced persons in the Russian Federation and some other CIS countries, Recommendation 1667 (2004). <http://assembly.coe.int/Documents/AdoptedText/ta04/EREC1667.htm>

¹⁶ See the *ECRE Position on Returns*, paragraphs 25-27, for a detailed description of conditions that need to be in place to ensure physical, legal and material safety for returnees. www.ecre.org.

¹⁷ In particular, *ECRE's Information Note on the Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted*, *Position on Refugee Children* (1996), *Position on Asylum Seeking and Refugee Women* (1997) and *Position on Complementary Protection* at www.ecre.org

¹⁸ For a summary of the situation for IDPs in the Russian Federation please also see the Global IDP database at:

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

¹⁹ PACE Committee on Migration, Refugees and Population. *Situation of refugees and displaced persons in the Russian Federation and some other CIS countries*. Doc.10118 25, March 2004.

thought to have moved to other North-Caucasian republics and elsewhere in the Russian Federation, mainly in urban areas.²⁰

25. UNHCR confirms in a report from 2003²¹ that ethnic Chechens traditionally do not live in areas outside the republics of the northern Caucasus and larger Western Russian cities, being reluctant to travel to areas where there is no resident Chechen community to support them.

Chechnya

26. NGOs continued to document the worsening security situation in Chechnya throughout 2004 and the atmosphere of impunity in the Republic.²² The civilian population is at risk of violence and persecution from both the rebel groups and the Federal security forces.²³ In October 2004 UNHCR spoke of the grounds for "serious concern, due to targeted persecution including arbitrary detentions, widespread violence, insecurity and violations of human rights, as well as ongoing hostilities significantly affecting the civilian population and leading to continued forced displacement".²⁴ The UN Human Rights Committee has expressed deep concern about substantiated reports of human rights violations in the Chechen Republic, including extra-judicial killings, disappearances and torture including rape²⁵ and has criticised Russia's federal anti-terrorism legislation²⁶ for exempting law enforcement and military personnel from liability from harm caused during counter-terrorist operations.²⁷ There have been numerous reports of rape and other forms of sexual violence against women and men.²⁸
27. On 24th February 2005 the European Court of Human Rights delivered judgments on the first six Chechen cases from six residents of Chechnya whose relatives died at the hands of Russian troops or who suffered as a result of Russian military action in 1999 and 2000. In each of the cases, the

²⁰ Ibid.

²¹ UNHCR Paper on Asylum Seekers from the Russian Federation in the Context of the Situation in Chechnya, February 2003.

²² S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2003 - May 2004*, Memorial Human Rights Centre, Migration Rights Network, Moscow 2004, pages 14-25, Human Rights Watch, *Russia: Conditions in Chechnya and Ingushetia Deteriorate*, April 2004. <http://hrw.org/english/docs/2004/04/08/russia8415.htm>

²³ Human Rights Watch, *Chechnya: Disappearances, A Crime Against Humanity*, March 2005. <http://hrw.org/backgrounder/eca/chechnya0305/>

²⁴ UNHCR Position regarding Asylum-Seekers and Refugees from the Chechen Republic, Russian Federation. UNHCR Geneva. 22 October 2004.

²⁵ U.N. Human Rights Committee, *Concluding observations of the Human Rights Committee. Russian Federation § 13, 06/11/2003, U.N.Doc.CCPR/CO/79/RUS*.

²⁶ Article 21 of the statute "On the Fight Against Terrorism" Federal'nyi zakon of July 25 1998, N130-FZ, *Sobr. Zakonod. RF 1998 N 31* (as amended in 2002). Available in English at <http://www.legislationline.org/view.php?document=55618>.

²⁷ U.N. Human Rights Committee, *Concluding observations of the Human Rights Committee. Russian Federation § 13, 06/11/2003, U.N.Doc.CCPR/CO/79/RUS*.

²⁸ E.g. Human Rights Watch, *Russia: E.U. Policy Should Address Human Rights*, March 19, 2004, available at <http://hrw.org/english/docs/2004/04/13/russia8427.htm> and The Medical Foundation, *Report: Rape and Other Torture in the Chechnya Conflict: Documented Evidence from Asylum Seekers Arriving in the United Kingdom*, April 2004 <http://www.torturecare.org.uk/publications/reportChech.htm>

Court has found Russia in violation of several key articles of the ECHR, including Article 2 (the right to life) and article 3 (prohibition of torture). The Court, in particular, stressed in its judgments that the Russian authorities had failed to carry out adequate investigations into the circumstances of the deaths of the applicants' relatives' cases.²⁹

28. After ten years of conflict there is a lack of housing for IDPs generally and Temporary Accommodation Centres (TACs) set up for returnees cannot cope with the number of people returning from closed temporary settlements in Ingushetia.³⁰ The system of awarding compensation for lost housing is at best described as inadequate.³¹
29. The health of those still in Chechnya is at serious risk with higher rates of diseases such as tuberculosis, hepatitis A, cancer and HIV/AIDS than in the rest of the Russian Federation and a desperately struggling health service. After ten years of war there are also many suffering from psychological trauma and illnesses.³²
30. Despite the prolonged and recurring conflict in Chechnya, and well-documented human rights violations, the international community has virtually no presence in the region.

Ingushetia

31. The resumption of the conflict in September 1999 led to the displacement of over 240,000 Chechen civilians, mainly into neighbouring Ingushetia, where they lived in rented accommodation and temporary settlements.³³ Shortly afterwards the Russian authorities, mainly through the Federal and Ingush Migration Service (MS) - started to urge Chechen IDPs to return to Chechnya and initiated a campaign to close down the temporary settlements. The last temporary settlement was closed in June 2004.³⁴
32. The process of the closure of temporary settlements was accompanied by a worsening security situation in Chechnya and Ingushetia. From 2003

²⁹ <http://www.echr.coe.int/Eng/Press/2004/Oct/HearingKhashiyev&AkayevavRussia141004.htm>.

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

³⁰ S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2003 - May 2004*, Memorial Human rights Centre, Migration Rights Network, Moscow 2004.

³¹ Ibid.

³² See Medecins du Monde, *Report on Chechnya 2002*

<http://www.reliefweb.int/library/documents/2002/mdm-ched-31jul.pdf>; *Chechnya stricken by tuberculosis* - <http://www.hrvc.net/news4-03/24d-5-2003.htm>; *Precarious Health Situation prevailing in Chechnya (2003)*, Global IDP Database, <http://www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/wViewCountries/053B0FBFC11AA8D5C1256E01005A0ABF>

³³ Tullio Santini, "North Caucasus: upholding IDPs' right to "voluntary" return", *Forced Migration Review*, 21 September 2004, pp 53-54.

³⁴ S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2003 - May 2004*, Memorial Human rights Centre, Migration Rights Network, Moscow 2004, pages 26 - 31 and; Tullio Santini, "North Caucasus: upholding IDPs' right to "voluntary" return", *Forced Migration Review*, 21 September 2004, pp 53-54.

onwards violence, intimidation and human rights abuses spread from Chechnya to Ingushetia, including disappearances and "mop-up" operations (*zachistki*) carried out by Federal forces. This violence worsened after the armed incursions on four Ingush towns by separatist guerrillas in June 2004.³⁵

33. According to the Danish Refugee Council³⁶ there were 34,533 IDPs from Chechnya registered with them to receive assistance in Ingushetia at the end of December 2004. The number of those receiving assistance dramatically reduced after the closure of temporary settlements for IDPs in Ingushetia throughout the first half of 2004.

Other regions of the Russian Federation

34. In other regions of the Russian Federation, NGOs and international bodies have documented growing racism and xenophobia, in particular against those from the Caucasus.³⁷ A tide of "anti-Chechen feeling"³⁸ has developed in many parts of the Russian Federation and worsened after the October 2002 hostage crisis in Moscow, the bombings on the Moscow underground in 2004 and the hostage crisis in Beslan in September 2004.
35. It is of great concern that federal and national legislation is not systematically enforced throughout the Russian Federation and that regional and local authorities adopt their own regulations, which are in contradiction with national laws and do not meet with international standards.³⁹ This has a particularly damaging affect on IDPs and other vulnerable groups.
36. The practice of state authorities in applying unpublished normative acts and secret orders and instructions towards those from the Chechen Republic has become a serious problem making it more difficult for IDPs to live legally outside Chechnya and has restricted their freedom of movement.⁴⁰ Examples of illegal restrictions on the rights and freedoms of Chechen IDPs include: numerous refusals to register Chechens at their place of stay or residence for more than 90 days; refusals to change the 1974 Soviet-type passports for

³⁵ International Helsinki Federation for Human Rights (IHF), *The Situation in Ingushetia after the Armed Incursion of 21/22 June 2004*, 4 August 2004. <http://www.ihf-hr.org>

³⁶ The Danish Refugee Council has been implementing a humanitarian assistance programme in the Northern Caucasus since the aftermath of the first Chechen conflict in 1997. It serves some 250,000 - 400,000 people on a regular basis within the areas of food aid, non-food aid, shelter, psycho social and economic rehabilitation, mine awareness and seeds distribution. For more information see: <http://www.drc.dk/news/02042004/index.php>

³⁷ See: Amnesty International, *Dokumenty! Discrimination on grounds of race in the Russian Federation* (AI Index: EUR46/001/2003); S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2003 - May 2004*, Memorial Human rights Centre, Migration Rights Network, Moscow 2004, pages 9-13.

³⁸ *UNHCR Paper on Asylum Seekers from the Russian Federation in the Context of the Situation in Chechnya*, February 2003.

³⁹ *Parliamentary Assembly of the Council of Europe, Situation of refugees and displaced persons in the Russian Federation and some other CIS countries, Recommendation 1667 (2004)*.
[Http://assembly.coe.int/Documents/AdoptedText/ta04/EREC1667.htm](http://assembly.coe.int/Documents/AdoptedText/ta04/EREC1667.htm)

⁴⁰ Margarita Petrosyan, *Guiding Principles on the Issue of Internal Displacement and the Domestic Legal System of the Russian Federation: A Comparative Analysis*. 2004.

new passports for citizens of the Russian Federation at IDPs' place of temporary registration or their "factual" place of residence (rather than the place where they are permanently registered); requests for Chechen IDPs to prove that they are citizens of the Russian Federation; requests for a document confirming details of past registrations on the territory of the Russian Federation.⁴¹

Protection Concerns for IDPs in the Russian Federation

37. All those who have been displaced as a result of the first and second conflicts in Chechnya qualify as being internally displaced according to the definition in the UN Guiding Principles.⁴²
38. The concept of an internally displaced person as defined in the UN Guiding Principles is not reflected in Russian legislation. In the Russian Federation, the Federal Law "On Forced Migrants"⁴³ regulates a similar status for forcibly displaced persons.⁴⁴ Forced migrant status is meant to facilitate the integration of displaced persons in their new place of residence through benefits and legal guarantees for those who have had to forcibly leave their place of habitual residence.
39. Forced Migrant status is limited, however, to those who leave their place of permanent residence on the territory of one region⁴⁵ of the Russian Federation and move to the territory of another.⁴⁶ This means that those displaced within Chechnya itself cannot, under the current law, qualify for forced migrant status and the benefits that this status entails. This status is also not currently applied to those who have left their place of habitual residence because of mass violations of human rights, public disorder, military action or if the life or health of a person is at risk.
40. The majority of those awarded forced migrant status are those not seen as victims of ethnic or political discrimination. It is not granted to those whose displacement from permanent residency is due to the operations of the federal security forces or the armed forces, which in fact have shown a

⁴¹ For more information on documentation and residence registration see paragraphs 45 – 50.

⁴² "... persons or groups of persons forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border,". Paragraph 2, 1998 UN Guiding Principles.

⁴³ From 1993 and amended in 1995 and 2000.

⁴⁴ Law "On Forced Migrants", Article 1.1 "A forced migrant shall be a citizen of the Russian Federation, who was forced to leave his/her place of permanent residence due to violence committed against him/her or members of his/her family or persecution in other forms, or due to a real danger of being subject to persecution for reasons of race, nationality, religion, language or membership of some particular social group or political opinion following hostile campaigns with regard to individual persons or groups of persons, mass violations of public order".

⁴⁵ The Russian Federation is split into areas referred to as a "subjects" of the Russian Federation in Russian law.

⁴⁶ Article 1.2

striking lack of respect for humanitarian law principles, as have the insurgent groups themselves.⁴⁷

41. In addition to problematic legal restrictions, human rights groups and NGOs have highlighted discriminatory practices in granting forced migrant status. During the previous conflict, IDPs mostly of Russian ethnicity, were generally granted forced migrant status, while IDPs from the current conflict, most of whom are ethnic Chechens, were not. This has been confirmed by the Ministry of Federation, National and Migration Policy of the Russian Federation.⁴⁸ According to statistics from the Ministry, only 89 IDPs from Chechnya were granted forced migrant status in Ingushetia from September 1999 to December 2002. This practice is contrary to Principle 4 of the 1998 UN Guiding Principles, which says that there should be no discrimination in according IDPs their rights.
42. The proper application of the 1998 UN Guiding Principles would not allow for the discrimination currently shown with respect to the Chechen civil population fleeing the conflict and would require that they were granted the necessary protection.

Recommendations

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

Legal Status (Documentation and Registration or “*Propiska*”⁵⁰)

45. Guiding Principle 20 from the 1998 UN Guiding Principles clearly states that all IDPs should be issued with the documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates.

⁴⁷ Committee on Migration, Refugees and Population. *Situation of refugees and displaced persons in the Russian Federation and some other CIS countries*. Doc.10118 25 March 2004.

⁴⁸ This was done through a letter to the State Duma, see S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2001 - May 2002*, Memorial Human rights Centre, Migration Rights Network, Moscow 2002, pages 57-60.

⁴⁹ Ibid

⁵⁰ The 1993 "Law on Freedom of Movement" within the Russian Federation established a two-tier system of registration of individuals: "temporary registration" and "permanent registration" whereby citizens notify the local authorities of their place of, stay and residence respectively. See Parliamentary Assembly of the Council of Europe, *Situation of refugees and displaced persons in the Russian Federation and some other CIS countries*, Recommendation 1667 (2004).
[Http://assembly.coe.int/Documents/AdoptedText/ta04/EREC1667.htm](http://assembly.coe.int/Documents/AdoptedText/ta04/EREC1667.htm)

46. In Russia the internal passport⁵¹ gives people access to many social and other rights, such as health care, education and social allowances and it is extremely difficult to live in Russia without one.⁵²
47. IDPs from Chechnya have limited access to documentation. They have problems renewing internal passports or getting a new internal passport issued to replace the Soviet-style passport. In many cases Chechen IDPs have been forced to travel to Chechnya, where their lives could be at risk, to renew them.⁵³
48. All those living or staying in the Russian Federation need to be registered at a temporary or permanent address. For Russian citizens this registration is stamped in their internal passport. An inability to register properly in a given location prevents a person from living legally on the territory of the Russian Federation, from participating in the labour market, accessing social and civil rights and from being admitted to public services such as the health service or educational facilities.⁵⁴ According to the Code on Administrative Violations in the Russian Federation, a lack of registration on the territory of the Russian Federation can also result in a monetary fine and a person without registration can be detained.
49. Although the system of “*propiska*” or “authorising” residence registration has formally been abolished in favour of the current “informative” system of residence registration, it is still in evidence in the administrative regulations and practice in many regions of the Russian Federation.⁵⁵ This has a particularly negative effect upon the most vulnerable part of the population: refugees, asylum seekers and internally displaced persons seeking protection and stability.⁵⁶
50. According to the Council of Europe and NGOs, Chechens are often seen as undesirable by landlords, neighbours and those responsible for issuing or checking registration. This has meant that Chechens have been restricted in their possibility to reside legally outside Chechnya, especially in Moscow

⁵¹ Officially called the “Passport of the Citizen of the Russian Federation” the internal passport is the main identification document of Russian citizens on the territory of the Russian Federation. For more information on the replacement of USSR passports see: UNHCR Moscow, *Information Note on the Replacement of USSR passports in the Russian Federation*, January 2004.

⁵² For more information on how a lack of a passport restricts citizens’ rights in the Russian Federation see a ruling by the ECHR, *SMIRNOVA v. RUSSIA* (46133/99) [2003] ECHR 397 (24 July 2003), <http://www.worldlii.org/eu/cases/ECHR/2003/397.html>

⁵³ See S. Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2003 - May 2004*, Memorial Human rights Centre, Migration Rights Network, Moscow 2004.

⁵⁴ Parliamentary Assembly of the Council of Europe, *Situation of refugees and displaced persons in the Russian Federation and some other CIS countries*, Recommendation 1667 (2004).

⁵⁵ This has been further complicated by the recent introduction of the new Housing Code from 01.03.2005, according to which the authorities can now “authorise” who moves into and lives in state property (see Article 70).

⁵⁶ For an analysis of the “propiska” regimes in light of States’ international obligations, see Council of Europe, Parliamentary Assembly, *The Propiska System Applied to Migrants, Asylum Seekers and Refugees in Council of Europe Member States: Effects and Remedies*, 12 October 2001, <http://assembly.coe.int/Documents/WorkingDocs/docs01/EDOC9262.htm>

and other big urban centres as well as in North-Caucasian republics (e.g. North Ossetia-Alania). In other places, like in North-West Caucasus, the desire to protect the local labour market and to control the internal flow of migrants has resulted in many restrictive practices.⁵⁷ Meanwhile, UNHCR has said that it is “virtually impossible” for Chechens to register in Moscow and that there are serious barriers to registration in St Petersburg and many other large cities in Western Russia.

Recommendations

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

Voluntary nature of return of IDPs

54. According to Principle 15 of the 1998 UN Guiding Principles, all IDPs have the right to be protected against forcible return or internal resettlement to any place where their life, safety, liberty or health would be at risk.
55. Guiding Principle 28 of the 1998 UN Guiding Principles states that the competent authorities have the primary duty to establish conditions, which allow IDPs to return voluntarily to their homes or places of habitual residence or to resettle internally to another part of the country.
56. To date the Russian authorities have not offered internal resettlement as a viable option for Chechen IDPs.
57. The Russian government has declared its respect for the need to preserve the voluntary nature of return of IDPs to Chechnya and Article 7.2 (5) of the Law on Forced Migrants imposes upon local executive bodies the obligation to “render assistance to a forced migrant at his/her request in the return to his/her former place of residence”.⁵⁹ However, the Russian authorities have also consistently stressed the official position that IDPs should return to Chechnya, asserting that federal forces control most of Chechen territory,

⁵⁷ Committee on Migration, Refugees and Population. *Situation of refugees and displaced persons in the Russian Federation and some other CIS countries*. Doc.10118 25 March 2004.

⁵⁸ *Propiska* system applied to migrants, asylum seekers and refugees in Council of Europe member states: effects and remedies.

⁵⁹ *UNHCR Paper on Asylum Seekers from the Russian Federation in the Context of the Situation in Chechnya*, February 2003.

that IDPs should take part in the reconstruction and administration of the Republic and that IDPs constitute a destabilising factor in the host regions, specifically those in Ingushetia.⁶⁰

58. Shortly after the resumption of the conflict in Chechnya in 1999 the Russian authorities, mainly through the Federal and Ingush Migration Service (MS) - started to urge Chechen IDPs to return to Chechnya. In 2001 the authorities applied more pressure by reducing the provision of basic humanitarian assistance, not registering those newly displaced from Chechnya and intermittently cutting off gas, water and electricity supplies to temporary settlements in Ingushetia. In May 2003 the government announced a plan to shut down all temporary settlements in Ingushetia by September that same year. In 2004 the government promoted return promising payment of compensation for lost housing for those who “voluntarily” returned. Ingushetia's last temporary settlement, Satsita, was closed in June 2004.⁶¹ NGOs⁶² and international bodies have expressed concern about the return of IDPs to Chechnya from Ingushetia and the closure of the temporary settlements there.
59. After the October 2002 Moscow theatre siege by Chechen extremists, abusive behaviour by federal troops against civilians, which had already been pervasive, increased again. Sweeps by Russian military forces in towns and villages in Chechnya, which regularly result in the abduction or disappearances of civilians, were stepped up while indiscriminate killings by Russian soldiers, torture of detained persons, summary executions, rape and other sexual violence against women and men, looting and burning of homes and extortion of money were and still are commonplace.⁶³ ECRE agrees with the conclusion of the Council of Europe that in such circumstances, any attempt at inducing the voluntary return of IDPs to the Chechen Republic would amount to forced return.⁶⁴

Recommendations

60. ECRE is against the promotion of return of IDPs to Chechnya or to other regions of the Russian Federation until conditions of safety and dignity can be upheld.

⁶⁰ UNHCR Paper on Asylum Seekers from the Russian Federation in the Context of the Situation in Chechnya, February 2003.

⁶¹ Tullio Santini, “North Caucasus: upholding IDPs' right to “voluntary” return”, *Forced Migration Review*, 21 September 2004, pp 53-54

⁶² For NGO reports on evidence of forced return, see: Human Rights Watch, *Into Harm's Way: Forced Return of Displaced People to Chechnya*, Vol. 15, No. 1 (D), Human Rights Watch Publications, January 2003, <http://hrw.org/reports/2003.russia0103/>; S Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation*, June 2003 to May 2004, Moscow 2004, Memorial Human Rights Centre and Migration Rights Network.

⁶³ See S.A.Gannushkina, *On the Situation of Residents of Chechnya in the Russian Federation, June 2003 – May 2004*, Moscow 2004.

⁶⁴ Committee on Migration, Refugees and Population. *Situation of refugees and displaced persons in the Russian Federation and some other CIS countries. Doc.10118* 25 March 2004.

61. ECRE believes that any internal return, resettlement or reintegration of IDPs should be voluntary⁶⁵ and carried out in accordance with Principle 28 of the 1998 UN Guiding Principles⁶⁶, allowing IDPs to return to their homes or habitual places of residence voluntarily, in safety and with dignity. The voluntary nature of return implies more than a lack of physical coercion or overt intimidation. The imposition of sanctions on individuals to coerce them to return, such as the removal of socio-economic benefits, does not constitute voluntary return.
62. Conditions must be in place to ensure that it is safe to return – physically, legally and materially.⁶⁷ It is the duty of the Russian government with the support of the international community to ensure that these conditions are in place.⁶⁸
63. Guarantees should ensure a minimum standard of living in Chechnya for IDPs, which should include the possibility to work, the availability of a necessary level of subsistence and housing and a monetary payment that would ensure a healthy and dignified life.⁶⁹

II CHECHEN ASYLUM SEEKERS AND REFUGEES IN EUROPE

Protection Concerns in the European Union (EU)

64. Since 2003 asylum seekers from the Russian Federation (presumed to be primarily of Chechen origin) have become one of the largest groups of asylum seekers in Europe and other industrialised countries.
65. Throughout Europe the treatment of Chechens seeking protection varies considerably, with refugee recognition rates⁷⁰ in 2003 ranging from 0% (Slovakia) to 76.9% (Austria),⁷¹ showing that for many Chechens, the outcome of the ‘asylum lottery’ will very much depend on the country in which they seek asylum.
66. Some countries currently give subsidiary forms of protection to those Chechens not granted refugee status.⁷² ECRE believes that those with subsidiary forms of protection should enjoy the same rights as Convention

⁶⁵ Return can only be classed as voluntary when an individual with a legal basis for remaining has made an informed choice and freely consented to do so, without pressure of any kind. See *ECRE Position on Return*, paragraphs 7-8. www.ecre.org

⁶⁶ http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html

⁶⁷ *Ibid.*, Paragraphs 25-27 for a more detailed description of conditions that need to be in place to ensure physical, legal and material safety for returnees.

⁶⁸ Principle 15 of the *UN Guiding Principles on Internal Displacement*, 1998.

⁶⁹ See Principle 18 of the *UN Guiding Principles on Internal Displacement*, 1998, for more detail on the minimum services and provisions that should be made available for IDPs by the competent authorities.

⁷⁰ Refugee recognition rate = Number of recognised refugees divided by the total number of recognised refugees, number of persons granted other forms of protection, and persons rejected protection x 100%.

⁷¹ See Norwegian Refugee Council, *Whose responsibility? Protection of Chechen internally displaced persons and refugees*, May 2005.

⁷² According to UNHCR statistics these countries are Denmark, Finland, Germany, Hungary, Norway, Poland, Spain, Sweden, Switzerland and the United Kingdom.

refugees. As a minimum they should be accorded those rights detailed in the Qualifications Directive.⁷³

67. Chechens who fail to be granted refugee status or a form of subsidiary protection should not currently be returned. In some countries Chechen refugees in this position have received no legal status, which denies them access to their rights and forces them to live clandestinely.⁷⁴
68. ECRE is concerned about the situation in the countries which joined the EU in May 2004 and whose relatively new asylum systems are struggling to deal with the high numbers of Chechen refugees on their territories, in particular the Czech Republic, Poland and Slovakia.⁷⁵ With enlargement this burden has increased as Chechen refugees are being returned to their territories by other EU Member States in application of the so-called Dublin II Regulation.⁷⁶ This Regulation states that after the consideration of any family links or visa history, if it can be established that an asylum seeker has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the Member State thus entered shall be responsible for examining the application for asylum.⁷⁷
69. The almost 0% recognition rate in Slovakia,⁷⁸ reports of chain deportations from Slovakia to Russia through Ukraine⁷⁹ and reports of limited access to asylum procedures in Greece⁸⁰ for those transferred under Dublin II mean that Chechen refugees also face a real threat of refoulement from some EU Member States.
70. There are also reports of European authorities returning asylum seekers whose applications have been rejected to the Russian Federation⁸¹ and/or endorsing policies that promote this as acceptable.⁸²

⁷³ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

⁷⁴ For example, France. Information received from ECRE member agency, May 2005.

⁷⁵ Martin Rozumek, *EU Law: The Fiction of Harmonized Standards*, 8 December 2004. The full text can be found on: http://www.ecre.org/eu_developments/responsibility/dublinreg.pdf

⁷⁶ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

⁷⁷ Ibid., Article (10).

⁷⁸ For more information on refugee recognition rates see Norwegian Refugee Council, *Whose responsibility? Protection of Chechen internally displaced persons and refugees*, May 2005.

⁷⁹ Ibid.

⁸⁰ *The Transfer of Chechen Asylum Seekers from Norway to Greece In Accordance with the Dublin Convention*, 2002. <http://www.noas.org/Dbase/pub/print/TheTransferofChechenAsyl.shtml>. Recent concerns highlighted by Greek members of the ELENA network confirm that problems still occur.

⁸¹ Denmark, Switzerland and Norway (see Norwegian Refugee Council, *Whose responsibility? Protection of Chechen internally displaced persons and refugees*, May 2005) and the Netherlands (information from ECRE member agency in May 2005).

⁸² Four regions in Germany and the Dutch parliament (see Norwegian Refugee Council Research Paper) and the Netherlands (confirmed by ECRE member agency in May 2005).

Protection concerns in Countries Neighbouring the EU

71. Other States outside the borders of the new EU⁸³ are also struggling to cope with high numbers of Chechen refugees given their relatively new asylum systems, few financial resources, political tensions caused by the close proximity of and/or relationship with the Russian Federation, and often whilst supporting other sizeable groups of IDPs and refugees from other conflicts in the region. These strains have been highlighted in recent hunger strikes by Chechen refugees in Azerbaijan and Moldova.
72. At the beginning of the second war in 1999 many Chechens sought refuge in neighbouring countries, mainly Kazakhstan, Azerbaijan and Georgia. Approximately 4000 Chechen refugees have been registered and granted protection in Georgia.⁸⁴ Almost 8000 Chechen refugees are registered by UNHCR in Azerbaijan.⁸⁵
73. Although ECRE welcomes the positive efforts from these non-EU States to provide protection to Chechen refugees, in particular the fact that Georgia has recognised Chechens as being in need of protection *as a group* – the only country in Europe to do so to date, there remain serious concerns about access to asylum procedures and/or legal status in most of these countries.⁸⁶
74. In Azerbaijan although being registered with UNHCR is a form of protection against deportation, Chechen refugees are not accorded any legal status by the government and have no access to any social assistance apart from that given by UNHCR. Refugee groups in Ukraine have claimed⁸⁷ that not only is there little access to asylum procedures but it is also increasingly difficult for ethnic Chechens to gain access to the country, when as Russian citizens they should enjoy the benefits of a visa-free regime. The Creation of the Union State between the Republic of Belarus and the Russian Federation and the Treaty on Equal Rights of its Citizens, have meant in practice that applications for asylum from Chechen refugees have not been processed.
75. ECRE is also concerned about conditions for refugees and asylum seekers and the ability of governments in Azerbaijan, Belarus, Georgia, Moldova and Ukraine to accord refugees on their territory as a minimum those rights granted in the 1951 Convention concerning the Status of Refugees.⁸⁸

⁸³ Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Ukraine.

⁸⁴ Parliamentary Assembly of the Council of Europe, *The Humanitarian Situation of the Chechen Displaced Population: Report by the Committee on Migration, Refugees and Population*. UNHCR, however, estimates that they have registered 8000 refugees from Chechnya in Azerbaijan – see Norwegian Refugee Council, *Whose responsibility? Protection of Chechen internally displaced persons and refugees*, May 2005.

⁸⁵ UNHCR, *Country Operational Plan for Azerbaijan, Planning year 2005*.

⁸⁶ Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Ukraine.

⁸⁷ Information collected during interviews with Ukrainian NGOs and refugee community groups by ECRE, December 2004.

⁸⁸ See Norwegian Refugee Council, *Whose responsibility? Protection of Chechen internally displaced persons and refugees*, May 2005.

Recommendations

76. Whilst recognising the difficulties faced by governments in Ukraine and the Republic of Belarus, ECRE urges European governments to ensure that Chechen asylum seekers can avail themselves of protection on their territory, through adequate access to fair asylum procedures.
77. ECRE urges European states to adopt a full and inclusive interpretation of the 1951 Convention with regard to asylum seekers from Chechnya. Flight from armed conflict should not be a reason to deny Chechens refugee protection as many who flee conflict, do so in fact for Convention reasons. Subsidiary forms of protection should only be accorded to those Chechens whose reason for flight does not meet Convention criteria, but who nevertheless require international protection.
78. ECRE urges European states to ensure that all those accorded subsidiary protection enjoy the same rights as Convention refugees, in particular with regard to family unity and socio-economic rights and as a minimum should grant those rights detailed in the Qualifications Directive.⁸⁹ Those Chechens who fail to be granted refugee status or a form of subsidiary protection should be granted a legal status, which affords them their human rights and a dignified standard of living in the host country.
79. ECRE would urge Member States not to transfer Chechens to other Member States through use of the EU Dublin II Regulation if they are likely not to have access to a fair asylum procedure. The risk of *refoulement* from some EU Member States means that extreme care must be taken in such cases in order to not expose refugees to this danger in breach of States' obligations under Article 33 (2) of the 1951 Convention and Article 3 of the European Convention on Human Rights and the Convention Against Torture.
80. ECRE urges Member States to support 'new' Member States receiving more refugees from Chechnya, because of their geographical location, in the spirit of solidarity and responsibility-sharing inherent in UNHCR ExCom Conclusion No. 15 (XXX) 1979.⁹⁰
81. This support could be achieved through utilising Article 3 (2) of the Dublin II Regulation to adopt responsibility for examining all asylum claims from Chechen asylum seekers lodged on the territory of the Member State and not transfer them to the first country of arrival in the European Union; and by utilising Article 15 of the Regulation (the Humanitarian Clause) to ensure that family unity is preserved and that applications from family members and other dependent relatives can be processed in the same country if the asylum seeker so requests.

⁸⁹ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification of third country nationals and stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

⁹⁰ <http://www.unhcr.org/>

82. ECRE is strongly opposed to the forced or mandatory returns of Chechen asylum seekers by European countries to the Russian Federation due to the fact that Russian Federal forces are reported to have committed widespread human rights abuses in Chechnya; the atmosphere of impunity and lack of prosecution of these abuses; the lack of a federal response to local and regional authorities introducing legislation that contradicts both national and international law; the tide of “anti-Chechen” feeling and an increase in racially motivated attacks; discriminatory treatment toward Chechens by law-enforcement agencies, arbitrary arrests and detention; the discriminatory and authorising nature of registration at place of residence and sojourn, and the violation of rights during checks on identity documents.
83. Any returns of Chechens to Chechnya should be voluntary⁹¹ and asylum seekers and refugees should be allowed to return to their homes or habitual places of residence in safety and with dignity, which implies more than a lack of physical coercion or overt intimidation and includes genuine and informed consent.
84. Voluntary return should continue to only be ‘facilitated’ by UNHCR and not promoted.
85. EU Member States should also not transfer Chechen asylum seekers or Chechens who have had their applications for asylum rejected to third countries such as Azerbaijan, Belarus, Georgia, Moldova or Ukraine, where relatively new asylum systems are under added pressure due to the presence of other large groups of refugees and/or IDPs and to the proximity of the Russian Federation. Those returned to Belarus and Ukraine may also be at risk of *refoulement*.
86. In recognition of the high number of refugees from Chechnya and in a spirit of responsibility sharing and solidarity, ECRE would support the resettlement of Chechen refugees in Azerbaijan, Kazakhstan and Georgia to EU Member States and the allocation of financial resources to Azerbaijan, Belarus, Georgia, Moldova, Kazakhstan and Ukraine to help governments ensure more effective protection and better conditions for Chechen refugees on their territories. NGOs should and can play a positive role in this process.

III INTERNAL PROTECTION ALTERNATIVE

87. Research has shown that many European States are using the concept of an internal protection alternative (IPA) to return Chechen asylum seekers to the Russian Federation.⁹² ECRE is concerned that the primary use of the

⁹¹ Return can only be classed as voluntary when an individual with a legal basis for remaining has made an informed choice and freely consented to do so, without pressure of any kind. See *ECRE Position on Return*, paragraphs 7-8. www.ecre.org

⁹² See Norwegian Refugee Council, *Whose responsibility? Protection of Chechen internally displaced persons and refugees*, May 2005.

internal protection alternative in such cases has been to deny protection to those who would otherwise be recognised as refugees.

88. There is no requirement in the Refugee Convention that a refugee should first seek safety in another part of his or her country of origin before seeking surrogate protection or that the fear of that protection should extend to the whole territory of the country of origin. ECRE's position is that the focus of enquiry must always be on whether a refugee claimant has a well-founded fear of being persecuted in his or her country of origin. In order to assess the reasonableness of an IPA the protection must be afforded by a *de jure* authority; the claimant must be able to access the area of internal protection in safety and in dignity and legally; there must be conditions to meet the needs of vulnerable groups; conditions in the area must ensure that the applicant is not forced back into the area where there is risk of serious harm for a convention reason; and the absence of a risk of serious harm in the proposed site must be objectively established rather than considered unlikely to occur. An IPA rarely exists where the state is the persecutor.
89. Chechen refugees who have lived as IDPs seem to be particularly at risk of having their applications for asylum rejected on the grounds of an IPA. ECRE reminds states that it is imperative to focus on the key questions of whether an asylum seeker is genuinely free from a risk of serious harm in the country of origin, in order to avoid contributing to a worsening situation for internally displaced persons in the Russian Federation.
90. UNHCR has stated that there is no genuine internal protection alternative within the Russian Federation for Chechens and that all those *Chechens whose place of permanent residence was the Chechen Republic prior to their seeking asylum abroad* should be considered in need of international protection, unless there are serious grounds to consider that he or she is individually responsible for acts falling within the scope of Article 1F of the 1951 Convention relating to grounds for exclusion.⁹³ This does not exclude the position that an internal protection alternative could be considered for those whose place of permanent residence was outside Chechnya.
91. The Parliamentary Assembly of the Council of Europe (PACE) recently underlined the importance of international protection for refugees from this region, stating that the continued *de facto* application of the internal residence permit (former “propiska”) system in the Russian Federation makes an internal flight alternative unavailable in most cases.⁹⁴ The Swedish Cabinet reviewed eight Chechen refugee cases at the beginning of 2004, concluding that there was no internal protection alternative for Chechens in

⁹³ UNHCR *Position regarding Asylum Seekers and Refugees from the Chechen Republic Russian Federation* (Emphasis added). October 2004.

⁹⁴ PACE Committee on legal Affairs and Human Rights *Declaration on the recent human rights violations in the Chechen Republic*, 27 January 2005.

the Russian Federation.⁹⁵ This position is also held by Amnesty International.⁹⁶

92. ECRE welcomes the positions taken by PACE and the Swedish Cabinet as detailed above and considers that the internal protection alternative for Chechens should not be considered at the present time in light of the fact that Russian Federal forces are reported to have committed widespread human rights abuses in Chechnya; the atmosphere of impunity and lack of prosecution of the perpetrators of these abuses; the lack of a federal response to local and regional authorities introducing legislation that contradicts both national and international law in Stavropol Krai, Krasnodar Krai, Moscow, St Petersburg and other large cities in Western Russia – the very places most Chechens settle; the tide of “anti-Chechen” feeling and an increase in racially motivated attacks; discriminatory treatment toward Chechens by law-enforcement agencies, arbitrary arrests and detention; the discriminatory and authorising nature of registration at place of residence and sojourn, the violation of rights during checks on identity documents and the fact that documents have been taken away illegally.

Recommendations

93. ECRE does not consider that there is currently a viable internal protection alternative in the Russian Federation for ethnic Chechens, including those ethnic Chechens who hold residence registration (*propiska*) outside of Chechnya, and, therefore, urges European States not to invoke an internal protection alternative as a bar to granting a protection status.
94. The fact that a refugee may have lived as an IDP before seeking protection should not be used in negative credibility findings to prove that the claim for asylum abroad is not genuine. The right of IDPs to seek asylum in another country is upheld in Principle 15 (d) of the 1998 UN Guiding Principles on Internal Displacement.

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⁹⁵ See Norwegian Refugee Council, *Whose responsibility? Protection of Chechen internally displaced persons and refugees*, May 2005.

⁹⁶ Russian Federation Amnesty International Statement on the Situation of Chechen Asylum-Seekers, March 2004. <http://web.amnesty.org/library/Index/ENGEUR460102004?open&of=ENG-393>