

## UNHCR Moscow

### Information Note

#### on the Decree of the Russian Federation Government on Compensations for the Victims of the Conflict in the Chechen Republic

##### **1. Legislative framework for the compensation of lost housing**

On 4 July 2003, the RF Prime Minister Kasyanov signed Decree # 404 “On the procedure for implementation of compensation payments for the lost housing and property of permanent residents of the Chechen Republic who were victimised as a result of the resolution of the crisis in the Chechen Republic”. The Decree extends to victims of the first Chechen conflict (1994-96) by defining lost housing as “housing irremediably destroyed from 12 December 1994 onwards”. This decree is based on an earlier presidential decree, which was adopted to compensate the victims of the 1994-96 Chechen conflict: Presidential Decree # 898 of 5 September 1995 “On additional compensation payments to persons victimised as a result of the resolution of the crisis in the Chechen Republic”.

Subsequent to the 1995 presidential decree, a governmental decree was adopted to regulate the payment of compensations to the victims of the 1994-96 Chechen conflict: RF Government Decree # 510, of 30 April 1997. As it stands, there are now two separate governmental decrees, deriving from the same Presidential Decree # 898, and which are aimed at providing compensation to the victims of the 1994-96 and current conflicts. To the extent that the recent Decree # 404 does also cover the victims of the first conflict, the relation between the two decrees is being examined in this Information Note.

Annexed to Decree # 404 are two regulations: Regulation “On the implementation of compensation payments for the lost housing and property to permanent residents of the Chechen Republic who were victimised as a result of the solution of the crisis in the Chechen Republic”, and Regulation “On the Commission on consideration of applications of citizens on compensation payments for lost housing and property resulting from the resolution of the crisis in the Chechen Republic” (hereinafter the Commission).

In comparison with Decree # 510, which contained a formula for determining the exact amount of compensation, the new Decree # 404 foresees a fixed amount of compensation (Article 2): RUR 300,000 (approx. USD 10,000) for lost housing (immovable property) and RUR 50,000 (approx. USD 1,700) for lost property (belongings, movable objects). Both types of compensation (housing and property) are linked to each other, meaning that if an individual is eligible for compensation for lost housing, he/she is automatically entitled to the RUR 50,000 compensation for lost property. This compensation can be considered a lump-sum payment, as it does not depend on the value of the lost housing and/or movable property. However, what triggers the eligibility to compensation is the fact of lost housing, irrespective of whether movable property was effectively destroyed or not. A contrario, if the housing was not destroyed but the damage was inflicted only to movable property (cars, cattle, etc.), the victim will not be eligible to compensation at all under Decree # 404.

Decree # 404 further establishes a time frame for the payment of compensations, according to which the payments should be implemented in the course of 2003 – 2004<sup>1</sup>.

Under Decree # 404, a “List of Destroyed Housing in the Chechen Republic”, enumerating all housing units that cannot be restored, is to be compiled before 1 August 2003. On the basis of this list, the “List of Citizens whose Housing was Destroyed” will be drawn up by 15 August 2003. Starting from 15 August 2003, citizens can start submitting applications for compensation payments to the Commission. The Decree does not specify whether these lists will be made public or not.

Importantly, Decree # 404 requires certain State ministries and agencies (MOI, Ministry of Justice, etc.) to propose draft amendments to governmental Decree # 510 of 30 April 1997 (for the victims of the first conflict), which are to regulate the “amount of compensation and condition for its payment”<sup>2</sup>. As was mentioned above, the new Decree # 404 regulates the payment of compensations to victims of both conflicts, *permanently residing in Chechnya*, whereas Decree # 510 provides compensations to victims of the first conflict *having left Chechnya permanently*. Therefore, there is one group which, in the current legal framework, is deprived of the right to compensation: the victims of the second conflict who have left Chechnya permanently (i.e. who cancelled the registration at their place of permanent residence – Chechnya – and who re-registered at their new place of permanent residence elsewhere in the Russian Federation).

Recapitulating table:

|                        | Decree # 510<br>(30 April 1997)      | Decree # 404<br>(4 July 2003)    | Gap  |
|------------------------|--------------------------------------|----------------------------------|--|
| Chechen conflict       | First conflict                       | Both conflicts                   | Victims of the current conflict who have left Chechnya permanently |
| Residence requirements | Having left Chechnya permanently     | Residing in Chechnya permanently |  |
| Amount of compensation | Max. RUR 120,000 (approx. USD 4,000) | RUR 350,000 (approx. USD 11,700) |  |

As for possible amendments to Decree # 510, it is speculated that the amount of compensation under said Decree # 510 (currently the maximum stands at RUR 120,000 – approx. USD 4,000) could be increased to equal the amount of compensation under Decree # 404 and, as for the condition of payment, Decree # 510 could be extended to the second conflict as well. Should Decree # 510 be amended in a way to become applicable to victims of the current conflict as well, the compensation scheme would then be comprehensive and available to all victims. At this stage, however, it remains unclear exactly how Decree # 510 will be amended and when.

<sup>1</sup> Under the RF Supreme Court’s position, the time limit on payment of compensations can be a potential violation of Presidential Decree # 898. In 2001, the RF Government introduced amendments to Decree # 510, which established a deadline for submission of compensation applications. Upon appeal, the RF Supreme Court ruled (decision of 26 September 2001, # 1347) that the amendment was illegal, as the Presidential Decree # 898, which established the right for compensation, did not prescribe any time limits for implementation of this right and that, by introducing a deadline, the Government violated the right for compensation.

<sup>2</sup> RF Government Decree # 510 regulates the procedure of payment of compensation for lost housing and property to victims of the 1994-1996 conflict in Chechnya, who permanently left the Chechen Republic.

## **2. Implementation procedure for compensation payments under Decree # 404**

The Regulation determines eligibility criteria for compensations as well as the procedure for compensation payments. The Regulation also contains samples of the various forms required throughout the procedure.

### **a. Eligibility criteria**

The Regulation provides for compensation payments to citizens who *permanently reside* in the territory of the Chechen Republic, whose housing, independently from the type of property for the housing, is *lost* and *is included* into the “List of Destroyed Housing in the Chechen Republic” (Article 2). The Regulation defines lost housing as “housing which was *irremediably destroyed* starting from 12 December 1994 as a result of the solution of the crisis in the Chechen Republic” (Article 1 para. 2). The compensation will be paid for the particular destroyed house or apartment irrespective of the number of persons who were registered in the premises (Article 3). Indeed, one implicit requirement is to be registered in Chechnya (“permanent residence in the territory of the Chechen Republic” is to be understood as possession of registration *at the place of permanent residence in Chechnya*). However, it seems unlikely that many individuals will not meet this requirement, since most of the victims nonetheless remain registered at the place of residence in the Chechen Republic, even if they are temporarily sojourning outside the Republic or abroad.

One group which might encounter problems confirming *permanent residence* in the Chechen Republic are those persons who came to Chechnya from Central Asia in the early 1990s and have since then resided in Chechnya without residence registration (as a first hurdle, the concerned group might face problems as regards the establishment of their Russian citizenship). Those who do not have residence registration in Chechnya would first need to establish the fact of their *permanent residence in the Chechen Republic* through the courts of general jurisdiction, after which they would be able to submit applications for compensations.

The Regulation excludes the following categories of citizens from the scope of compensation payments for lost housing (Article 4.a.):

- Citizens who already received in-kind alternative housing for permanent residence in replacement for lost housing from the State, municipal or corporate housing fund;
- Citizens who received financial compensation for lost housing under the Interim Procedure on compensation payments and other social guarantees of 20 May 1995, with the exception of those citizens whose housing was destroyed repeatedly;
- Citizens who received compensation for lost housing under the Procedure for additional compensation payments of 5 November 1995, with the exception of those citizens whose housing was destroyed repeatedly;
- Citizens who received compensation for lost housing under the RF Government Decree # 510 of 30 April 1997, as well as citizens who received grants (subsidies) for construction or purchase of housing under Decree # 492 of 1 July 2002;
- Citizens whose housing was restored in the course of the implementation of the Federal Programme of Restoration of Economy and Social Sphere of the Chechen Republic in 2001 (approved by governmental Decree # 96 of 9 February 2001) and of the Federal Programme of Restoration of Economy and Social Sphere of the Chechen Republic in 2002 and following years (approved by governmental Decree # 889 of 21 December 2001);

- Citizens who purchased housing that was completely destroyed after 12 December 1994 as a result of the resolution of the crisis in the Chechen Republic, with the exception of those who restored this housing after which it was destroyed again, as well as citizens who resided in the territory of the Chechen Republic in hotel, dormitories and official premises on conditions of temporary rent.

Under Article 4.b. of the Regulation, the following citizens are excluded from compensation payments for lost (movable) property:

- Citizens who received financial compensation for lost property under the Interim Procedure on compensation payments and other social guarantees of 20 May 1995, with the exception of those citizens whose housing was destroyed repeatedly;
- Citizens who received compensation for lost property under the Procedure for additional compensation payments of 5 November 1995, with the exception of those citizens whose housing was destroyed repeatedly;
- Citizens who received compensation for lost property under RF Government Decree # 510 of 30 April 1997;
- Citizens who received one-time material allowance for lost property under Decree # 492 of 1 July 2002;
- Citizens who resided in the territory of the Chechen Republic in hotel, dormitories and official premises on conditions of temporary rent.

#### b. Procedure for submitting applications

Under Article 7 of the Regulation, an application (sample form is attached to the Regulation) is to be submitted to the Commission, personally or through a representative, on behalf of all persons registered in the living premises before it was destroyed. In addition to the application, the following documents must be submitted:

- Identity documents with copies of the applicant and his family members/other family members (all those registered in the living premises);
- Original document confirming ownership, possession or use of the lost housing, as well as a certified copy of the document. In case these original documents are not available, the applicant needs to establish the fact of property, possession or use of the living premises in court, and then submit the relevant court decision;
- A notarised document confirming the consent of all family members to the payment of the compensation to the applicant (in case of several members being registered in the living premises).

The Regulation does not oblige all family members to be present in person at the time of submission of the application for compensation. Under the procedure, an IDP family staying, for instance, in Ingushetia or Moscow, but who is registered at their place of residence in Chechnya, can entrust one of the family members to submit all relevant documents. Thus, the whole family does not need to return to Chechnya just to submit the application. However, the procedure might entail certain technical difficulties, for instance it is required to present original IDs of all family members upon submission of the application, which would leave the family members without valid ID for a certain period of time.

The application will be accepted only if the applicant's name and/or the name of his/her family members are included in "List of Destroyed Housing in the Chechen Republic". Neither the Decree, nor the Regulation provide for an appeal procedure in case the housing is

not included in the List. However, omission from the List can be challenged before the courts, provided that the owner establishes the fact of destruction.

Within 10 days of receiving the documents from the applicant, the Commission is to forward the documents to the Ministry of Interior of the Russian Federation (MOI). The MOI, within a 10-day period, is to verify the documents and to inform the Commission accordingly. Upon receiving verification results from the MOI, the Commission shall render a decision on the application for compensation within one week (Article 11 of the Regulation).

c. Modalities of payment

Upon receiving a positive decision, the applicant should open an account in the Savings Bank of the Russian Federation (Sberbank), on his name and within two weeks following the notification of the decision, and inform the Commission on the account number. Following this, the Commission is to notify the Government of the Chechen Republic within one week, for payment by the latter of the compensation amount to the applicant's account number in Sberbank (Article 13 of the Regulation).

This compensation programme is financed by the Federal Treasury of the RF Ministry of Finance, through cash transfers to the account of the Government of the Chechen Republic in the Office of the Federal Treasury in the Republic of Chechnya. The Government of the Chechen Republic is responsible to effect compensation payments to the beneficiaries through bank transfers and shall submit monthly a list of compensation recipients to the office of the Federal Treasury in the Republic of Chechnya (Article 15 of the Regulation).

The Regulation does not establish any time limits for the actual payment of the compensation amount. It also remains unclear what the average time period will be from the issuance of a positive decision on compensation to the actual funds transfer to the individual bank account.

Under Article 18 of the Regulation, the RF Ministry of Interior and the RF Ministry of Finance can propose to the RF Government to suspend the implementation of compensation payments in case of mis-implementation of the Regulation by the Commission or by the Chechen Government. This provision gives a right to the above-mentioned ministries to suspend the procedure of payment of compensations for an indefinite period of time.

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