COUNTRY REPORTS 2006:
BELARUS, MOLDOVA, RUSSIAN FEDERATION AND UKRAINE
SITUATION FOR REFUGEES, ASYLUM SEEKERS AND INTERNALLY DISPLACED PERSONS (IDPS)

ECRE

Contents

Introduction

This report on the situation for refugees, asylum seekers and internally displaced persons in Belarus, Moldova, Russia and Ukraine in 2006 has been written by national refugee-assisting NGOs in each country. The reports have been edited but no substantial changes have been made to their content as reported by the agencies involved.

The report has been produced as part of the European Council on Refugees and Exiles' Programme "The Protection of Refugees, Asylum Seekers and Forced Migrants", which is generously funded by the European Union Aeneas programme.

In each country section, NGOs cover relevant legislative changes, the refugee status determination procedure, case law, returns, vulnerable groups and integration.

From the information provided by NGOs it is clear that 2006 was a challenging year for refugees, asylum seekers and migrants living in Belarus, Moldova, Ukraine and the Russian Federation. In Russia and Ukraine NGOs report restricted access to asylum procedures, violations of the international principle of non-refoulement, detention of asylum seekers because of a lack of documentation at different stages of the refugee status determination procedure and increasing incidents of racism and xenophobia. In all four countries the economic situation or effects of government legislation mean that there are serious barriers to integration for refugees.

Each country section ends with recommendations for the national authorities and the international community.

ECRE would like to thank all the organisations involved for their input and assistance in producing this report.

The Republic of Belarus

Statistics

According to statistics from the Department for Citizenship and Migration, 89 applications for refugee status were submitted in the Republic of Belarus in 2006. 81 applications were registered, in nine cases the registration of the application was refused, 13 people were granted refugee status and 93 people had their applications rejected.[1] As of 1st January 2007, a total of 796 people had been granted refugee status in the Republic of Belarus and there are currently 673 refugees residing there.

Decisions made by the Department for Citizenship and Migration of the Ministry of Interior of the Republic of Belarus (as at 1st January 2007), including minors. [2]

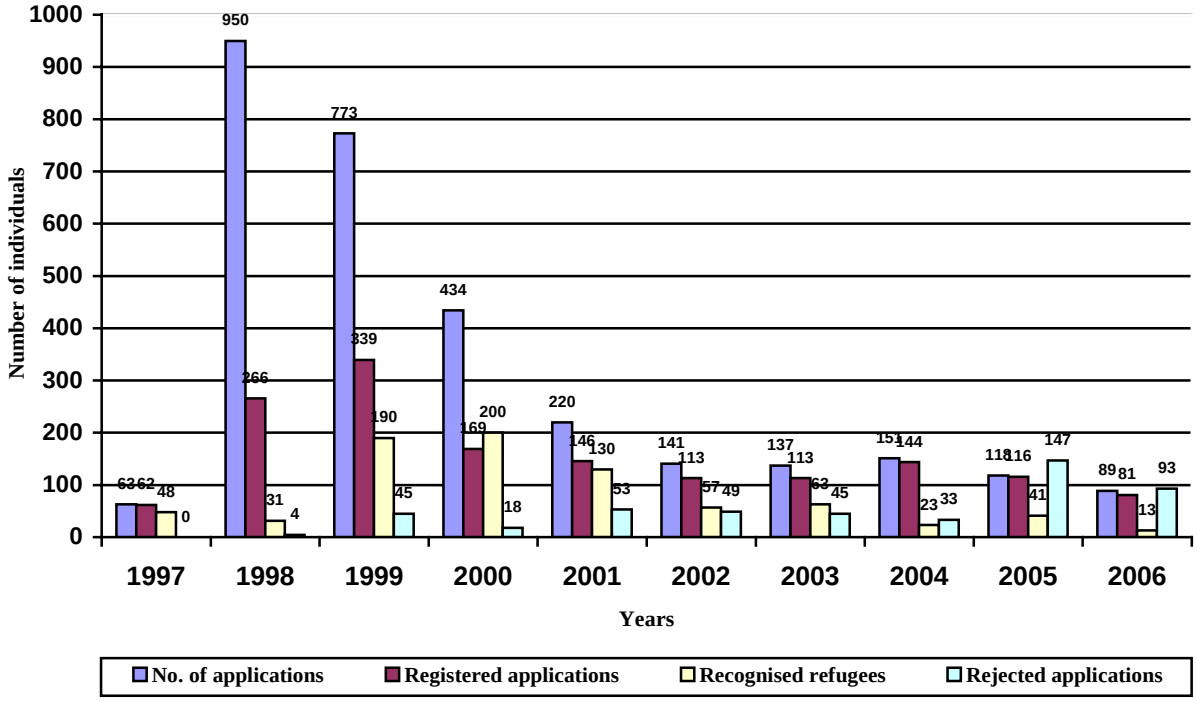
State	Applications received	Decisions made on applications				Refugee status expired or withdrawn	Natural loss	**Total number of refugees in the Republic of Belarus**	Application in the process of examination
		Total	Refugee status granted	Refugee status refused	Examination of applications suspended				
Azerbaijan	1 / 43	2 / 42	0 / 29	2 / 12	0 / 1			**29**	1
Armenia	4/ 18	4 / 18	0 / 1	4 / 16	0 /1			**1**	0
Georgia	6/ 192	19 / 190	7 / 130	12 / 54	0 / 6	8 / 9	0 / 1	**120**	2
Ukraine	4 / 9	6 / 9		5 / 6	1 / 3				
Afghanistan	53 / 935	56 / 927	6 / 561	48 / 268	2 / 98	30 / 85	1 / 5	**471**	8
Israel	3 / 3	3/3		3/3					
Iraq	8 / 25	8 / 25	0 / 1	8 / 22	0 / 2			**1**	
Italy	1 / 1	1 / 1		1 / 1					
Latvia	3 / 5	0 / 2		0 / 2					3
Liberia	1 / 2	1 / 2	0 / 1	1 / 1				**1**	
Lebanon	2 / 2	2 / 2		2 / 2					
Nigeria	2 / 7	2 / 7		2 / 5	0 / 2				
Poland	3 / 3	3 / 3			3 / 3				
Sudan	2 / 6	2 / 6		2 / 6					0
Total	**93 / 1432**	**112/ 1418**	**13 / 796**	**93 / 487**	**6 / 135**	**44 / 114**	**1 / 9**	**673**	**14**

[1] These statistics can be found on the website of the Ministry of Interior of the Republic of Belarus: http://mvd.gov.by/modules.php?name=Content&pa=showpage&pid=222
[2] Ibid.

In comparison with 2005, the number of applications for refugee status decreased by 29 (118 in 2005); the number of refusals to register applications decreased by 35 (86 in 2005); the number of applicants who were granted refugee status decreased by 28 (41 in 2005); the number of applicants who were refused refugee status decreased by 54 (147 in 2005).

It is essential to note that since 1998 the number of applications for refugee status has continually decreased, which is demonstrated by the table below.[3]

Statistics on the recognition of foreigner citizens as refugees in the Republic of Belarus from the beginning of the refugee determination procedure



Subsidiary protection

In the first six months of 2006, 17 people were granted subsidiary protection in the Republic of Belarus.[4]

Legal and procedural changes

The main legislative act regulating issues of refugee status and asylum in the Republic of Belarus is the Law of the Republic of Belarus "On Refugees" from 22nd February 1995 No. 3605 – XII. The latest version of this law was adopted and entered into force in 2006. This version of the law gives responsibility for the refugee status

[3] Ibid.
[4] Newspaper "Na strazhe": http://mvd.gov.by/modules.php?name=News&file=article&sid=2321

determination procedure to the Department for Citizenship and Migration of the Ministry of the Interior of Belarus.

Presidential Decree No. 204 from 5th April 2006 aimed to improve the refugee status determination procedure, and define giving foreign citizens and stateless citizens asylum in Belarus, the regulations for the expiry of this status and its withdrawal. This Decree details the status determination procedure, confirms the categories of people who are not eligible for asylum in Belarus and sets out the reasons for having refugee status revoked. Paragraph 5 of the Decree states that foreign citizens who have already been refused asylum in Belarus because of a lack of grounds to show fear of persecution in his/her country of origin or previous country of usual residence for reasons of race, religion, citizenship, nationality, belonging to a particular social group or political persuasion cannot be granted asylum. Before this decree came into force any foreign citizen who had been refused refugee status was not automatically excluded from receiving asylum in the Republic of Belarus at a later date. The decree also sets time limits for review of a refugee claim – this period cannot exceed 30 days.

According to Act No. 141 of the Council of Ministers of the Republic of Belarus from 3rd February 2006, foreign citizens and stateless persons who apply for refugee status, and also those who have been recognised as refugees in the republic of Belarus are exempt from payment of fees for registration[5] or extension of registration, and for temporary residence permits. The Act also overturned the Regulations on the Process for the Deportation of Foreign Citizens and Stateless persons from the Republic of Belarus. At present the procedure for deportation is regulated by the Law of the Belarusian Republic "On Immigration" from 29th December 1998, which does not, however, regulate all aspects of the deportation procedure**. It is, therefore, necessary to adopt a new normative act on this issue, to ensure the whole procedure is covered.**

Refugee Status Determination Procedure

The main body responsible for the refugee status determination procedure is the Department for Citizenship and Migration of the Ministry of Internal Affairs of the Republic of Belarus (DCM). The Main Directorate of Internal Affairs of the Executive Committee of the City of Minsk[6] and the 6 regional departments of internal affairs all report to this body. Departments of the border troops and other bodies of internal affairs play their role (as well as the DCM and departments working on citizenship and migration).

In 2006 there were no changes to the functions or structures of the authorities responsible for reviewing and deciding asylum claims.

There is free access to the refugee status determination procedure in the Republic of Belarus. Asylum seekers can apply to one of the Citizenship and Migration offices with an application for refugee status. The border troops most usually come into contact with asylum seekers when they detain people for trying to cross the border

[5] At place of sojourn
[6] Mingorispolkom

illegally or for illegally crossing the border of Republic of Belarus. The different bodies of internal affairs usually have dealings with asylum seekers when foreign citizens are detained for staying on the territory of the Republic of Belarus illegally. In both cases individuals have their legal situation explained and are informed about the Belarusian Law on Refugees and the refugee status determination procedure. Asylum seekers are put into contact with Citizenship and Migration offices and also with UNHCR in Belarus. If the asylum seeker does not speak Russian or Belarusian, they are provided with an interpreter.

The refugee status determination procedure is made up of the following stages: registration of applications with Citizenship and Migration offices; review of the application by Citizenship and Migration offices; review of the application in the central office of Citizenship and Migration of the Ministry of Internal Affairs and decision on the case.

There are no time limits for the submission of applications for refugee status on the territory of Belarus.

In the case of a negative decision on the asylum claim, the applicant has the right to appeal the decision to a court within 30 days of receiving notification of the negative decision. If the court rules to leave the decision in force, the applicant has 10 days from the moment of receiving notification of the court decision in which to appeal against the court's decision.

Practice shows that the main reason for refusing refugee status in the Republic of Belarus is the fact that the case does not meet the criteria of the definition of a refugee (Para. 2.2 Law of the Republic of Belarus " On Refugees": a refugee is a person who is not a citizen of the Republic of Belarus and is on its territory as a result of well-founded fear of becoming a victim of persecution in the State of citizenship for reasons of race, religious conviction, citizenship, nationality, belonging to a particular social group or political convictions, and, as a result of these risks cannot or does not wish to benefit from the protection of that state.) Refusals are also given in cases of unfounded refugee claims, which misuse the status determination procedure (in the opinion of the migration bodies of the Republic of Belarus). Another reason for refusal of refugee status is the fact that an asylum seeker arrived in Belarus from a safe third country.

The concept of "safe third country" is included in the law of the Republic of Belarus "On Refugees". In accordance with this legislation a safe third country is a state, where the foreign citizen stayed before arrival on the territory of Belarus (with the exception of cases of transit), and could have applied for refugee status or asylum. The legislation defines a safe third country as one which observes international standards of human rights in relation to asylum, which has adopted international legislation, including legislation relating to the prevention of torture, inhuman or degrading treatment or punishment, which observes international principles on the protection of refugees, which is a party to the Convention on the Status of Refugees of 1951 and its 1967 Protocol, and which respects the principle of non-refoulement. The state should also have national legislation that regulates asylum and refugee issues and state bodies responsible for implementing the status determination procedure.

Groups of particular concern

Afghans remained by far the largest group of asylum seekers and refugees in Belarus. Some Afghans arrived directly from Afghanistan but others arrived from the Russian Federation, where it has become increasingly difficult for some Afghans to legalise their stay.

The legal situation for citizens from the Russian Federation wishing to apply for refugee status in Belarus remains unclear. The Agreement on the Creation of a Union State[7] between Russia and Belarus accords citizens of both states equal rights and obligations on the territory of the other if no other agreements are in place[8] and the identity documents from one state are valid in the other.[9] In practise this means that no applications for refugee status have been accepted from citizens of the Russian Federation.

Social integration

- **Housing**

The majority of refugees and asylum seekers in Belarus live in Minsk. The issue of housing is a difficult one. House prices in Minsk are rising, causing rental rates to rise also. Newly arrived asylum seekers are given a place in temporary accommodation centres where they pay a small fee for rent. All others pay for their accommodation themselves. Accommodation, and also residence registration are costly in Minsk, especially for families with lots of children. UNHCR and NGOs give small integration grants, which have the aim of improving the social integration of refugees, training and improving their chances of long term solutions – grants depend on family composition, housing and also give an opportunity for those refugees who wish to move to rural areas for work and permanent residence registration. Information on these grants and criteria are sent to the migration offices in all regions of Belarus, and passed to refugees directly.

Housing and residence registration (propiska) remains a serious issue for refugees. Each person tries to solve this problem individually as this documentation is needed in order to work legally and to receive government assistance. In order to obtain a propiska in the city of Minsk, Afghan families with many children (5 children and two parents), are required to pay a significant sum of money, which they often do not have. A solution to this issue needs to be found. This could be done by examining the possibility of issuing recognised refugees with registration at temporary accommodation centres, thereby facilitating their access to social benefits as foreseen in the legislation of the Republic of Belarus. It would also be important to see whether such a centre could be opened in the city of Minsk. The existing centres are the responsibility of the Department for Citizenship and Migration of the Ministry of Internal Affairs of the Republic of Belarus, the regional branches of

[7] See (in Russian) http://www.soyuz.by/second.aspx?uid=101

[8] Article 14.5
[9] Article 14.9

which are also responsible for controlling registration and propiska issues for people on the territory of Belarus.

- **Employment**

The question of refugee employment remains a difficult one. The majority of refugees, especially Afghans, prefer to live in towns because they see their only hope as working in the markets due to their circumstances (which include lack of qualifications and work experience, the low wages offered in available jobs, the language barrier, cultural differences which do not allow women to work and also the make up of families which often have 3 and more children). Nevertheless NGO project staff regularly gather information on job vacancies and housing in rural areas and provide this to refugee communities. NGO and UNHCR staff work with individual refugees, explaining the importance of finding a long-term solution. However, there is limited enthusiasm amongst refugees to train for jobs which are important in rural areas, and they prefer to stay in towns.

Regional job centres identify job vacancies. After 6 months on a job centre list a citizen has the right to receive a social allowance in Belarus. However, beneficiaries do not always take advantage of this possibility.

- **Accessible integration programmes – language and professional training**

Russian language courses are run throughout the year, based at the language faculty of the Belarusian State University. Four different levels of course are run. 24 people attend these courses, following a special syllabus.

Recommendations:

- Adoption of comprehensive legislation on the procedure for deportation
- A solution needs to be found for the problem of residence registration (propiska) for refugees, particularly in towns. This could be done by registering refugees at temporary accommodation centres and by providing such a centre in Minsk.

ECRE would like to thank the following NGOs for providing information for this report:
The Belarusian Movement of Medical Workers
The Belarus Red Cross

The Republic of Moldova

Statistics

The Statistics shown below were kindly provided by the Directorate for Refugees.

Origin	Applied during year	Decisions during year					Pending appl. end 2006
		Recognized		Rejected	Otherw. closed	Total decided	
		Convention Mandate	Other				
AFG	2	-	5	-	-	5	2
ARM	16	6	11	2	4	23	15
ARE	-	-	1	1	1	3	1
ANG	-	-	1	-	-	1	-
AZE	1	-	3	-	-	3	1
CHI	1	-	-	-	-	-	2
CMR	2	-	-	-	1	1	1
COB	-				2	2	-
ETH	2	-	5	-	-	5	-
GEO	2	-	3	1	5	9	1
GHA	1	-	-	-	-	-	1
IND	-	1	-	-	-	1	-
IRN	-	-	4	-	-	4	-
IRQ	-	-	2	-	-	2	-
ISR	1	-	-	-	-	-	1
KGZ	2	-	-	-	1	1	1
LEB	7	-	1	4	3	8	4
LBR	-	-	-	-	-	-	1
NIG	1	-	-	1	-	1	2
JOR	6	-	-	3	1	4	11
PAK	1	-	-	1	-	1	2
PAL	1	-	6	-	2	8	-
RUS	5	-	4	-	4	8	3
SLE	-	-	1	-	-	1	-
SUD	4	-	5	1	2	8	10
SYR	2	1	8	3	5	17	2
TKM	1	1	-	-	-	1	1
TNZ	-	-	1	-	-	1	-
TJK	-	-	4	1	1	6	-
TUR	11	-	2	3	5	10	14
UZB	2	-	1	-	1	2	1
YUG	-	4	-	-	-	4	1
ZBW	-	-	1	-	-	1	-
TOTAL	71	13	69	21	38	141	78
-% female	22,54%	38,46%	20,29%	4,76%	15,79%	17,02%	14,1%

5 recognized refugees were voluntarily repatriated: 4 to Serbia and 1 to Russia.[10]

Legal and procedural changes

In December 2001, Moldova acceded to the 1951 Convention relating to the status of refugees, and its 1967 Protocol, which entered into force on 1 May 2002 and 31 January 2003 respectively. The Law on the Status of Refugees was adopted in July 2002 and entered into force on 1 January 2003. With the exception of a few articles, which require further amendment, the 2002 Refugee Law is in line with the 1951 Convention.

On 26 May 2005, Parliament adopted amendments to the Law on the Status of Refugees, which entered into force on 7 July 2005. The proposed amendments concerned the *introduction of Humanitarian Protection as a form of complementary protection* and adjustment of provisions on exclusion and cancellation clauses, which go beyond the 1951 Convention, as well as ones related to the welfare of refugees and asylum seekers.

The other improvements brought to the Refugee Law include: the right to work for asylum seekers regardless of their stage in the determination procedure (provided that the person has insufficient means of subsistence); a single procedure for refugee and subsidiary status determination; equal right for refugees and beneficiaries of humanitarian status; basic rules for family reunification and repatriation procedures.

On 28 June 2005, the Government of Moldova adopted legislation regarding documentation of the refugees in compliance with the Moldovan Law on refugee status and the 1951 Convention. The adopted by-law approved models of identity cards and travel documents for refugees, as well as amendments to the existing law regulating the issue of identity documents. The Governmental decision stipulated that identity cards would be issued to refugees and their children for a period of 5 years and travel documents for one year. For the beneficiaries of humanitarian protection identity documents would be issued for one year (renewable for the period of humanitarian protection guaranteed). As of 16 December 2005 the Main Directorate of Refugees (MDR) started issuing the first identity cards to recognized refugees. Protection from refoulement was ensured for asylum-seekers through the MDR, which issues time-limited "temporary identity documents" as a legal basis for stay. Documentation will increase refugees' prospects for integration and self-sufficiency by facilitating their access to labor market, social services, etc.

The central governmental asylum authority is the Directorate for Refugees, which was established in 2001 and is responsible for co-ordinating Government activities in the field of asylum, including, by the Decision of the Government Nr.529 from 17.05.2006, activities under the Ministry of Interior. The Director of the Directorate of Refugees reports to the Director General of the Bureau for Migration and Asylum and to the Minister of Interior. Another development in the

[10] **(Legal Centre for Advocates -LCA)**

establishment of a comprehensive asylum system was the construction of the first reception centre for asylum-seekers with a contribution to UNHCR from the EU TACIS programme, which was finalised in June 2005 and has a capacity of housing about 200 persons.

Despite progress, the asylum system is still far from satisfactory. The most important problems are related to the need for further amendments to the Refugee Law, and very slow process in the implementation of the Refugee Law (despite the 6-month deadline for bringing related laws into harmony with the new Refugee Law), with related consequences for the socio-economic rights of refugees and their prospects for local integration. Furthermore, the Government's limited financial resources are hampering progress in building the capacity of government structures (including difficulties of retaining trained employees) and have a negative impact on the implementation of the legislation.

Further efforts to bring national legislation in line with international standards remains a priority.

Existing laws should be amended and new legislation developed in accordance with international standards.

Status Determination Procedure

As of January 2003 all active cases were transferred from UNHCR to the Directorate for Refugees (DR). Since January 2003, first instance status determination procedures have been conducted by the DR. In May 2006, the National Bureau for Migration was dissolved, and the responsibility for refugee/asylum matters was transferred to the Migration and Asylum Bureau under the Ministry of Interior, i.e. the Refugee Directorate (RD) replaces the Main Directorate for Refugees (MDR). The Refugee Directorate will maintain autonomy in taking refugee status determination decisions.

Although there were no reports of cases of refoulement in 2004 -2006, the UNHCR office and NGOs continue to monitoring of border entry points and detention centers in order to ensure the rights of seeking asylum and to prevent refoulement.

Asylum claims should be submitted immediately at a border checkpoint, or to the Refugee Directorate, if an asylum seeker is already on Moldovan territory. Asylum seekers are registered and issued with individual identification documents.

The quality of decisions on asylum applications is satisfactory. Rejections of asylum claims are for reasons that asylum seekers do not meet the criteria for refugee status or humanitarian protection.

The Court of Appeal and the Supreme Court of Justice examine appeals against the decisions of the Directorate of Refugees. Negative decisions are appealed before the Court of Appeal within one month and the negative decisions of the Court of Appeal are appealed in before the Supreme Court of Justice within 20 days. Deserving cases get free legal aid provided by qualified lawyers from the NGO "Law Centre of Advocates". The main reasons for rejection of claims are that asylum seekers do not

meet the criteria provided by the 1951 Convention. For example, from those 64 rejected asylum seekers represented before the Court of Appeal in 2006, 10 got humanitarian protection and 4 - refugee status. From the 14 asylum seekers represented before the Supreme Court of Justice, only one got the humanitarian protection, the others were rejected.

Rejected asylum-seekers are obliged to leave the country within 15 days following the final decision on their case.

The appeal courts as well as refugee status determination staff still have insufficient capacity and training on refugee law.

Government officials, judges, prosecutors, police, border guards should participate in protection awareness and capacity building training and be aware of national refugee legislation and international standards. Border guards, police and security services need increased training on the rights of asylum seekers and refugees.

Important precedents on national and international level (for example, the European Court of Human Rights)

In 2006 no applications were lodged before the European Court for Human Rights in this field.

As far as national jurisprudence is concerned, there is one case of a Palestinian that started in 2006 and finished at the beginning of 2007. He appealed the fact he was given humanitarian status to the Court of Appeal requesting to be granted refugee status. The Court of Appeal granted him refugee status. The Directorate for Refugees appealed this decision to the Supreme Court of Justice. The Supreme Court of Justice allowed UNHCR to provide comments on the application of Article 1D of the 1951 Convention Relating to the Status of Refugees before finally ruling to uphold the Court of Appeal decision.

We should mention that national jurisprudence is not yet established on refugee cases. The Legal Centre for Advocates, by means of its activities and with the assistance of UNHCR's Office in Moldova, is working towards the establishment of national jurisprudence that will be in compliance with national and international standards.

Vulnerable Groups

- **Chechen asylum seekers**

In Moldova, out of 161 recognized refugees 31 persons originate from the Russian Federation, Chechnya (data as of 30th November 2006). In 2005, the asylum authorities registered 17 asylum seekers of Chechen origin and in 2006 - 3 asylum seekers (data as of 30th November 2006). The Refugee Law of July 2005 introduced complementary forms of protection and those Chechen asylum seekers who were considered not to meet the 1951 Convention definition were granted humanitarian status.

Social Rights

The Republic of Moldova is a major transit country for irregular migrants and asylum-seekers to Western Europe.

For economic reasons, despite the fact that 2004 brought some economic improvements, the situation in Moldova remains critical and the World Bank classified Moldova as the poorest country in Europe again. For this reason, the number of Moldovan citizens applying for asylum or looking for work in Europe has remained high, exceeding 5,000 in 2004.

A large percentage of the population, in particular in rural areas, lives below subsistence levels (as high as one third according to some estimates). The reliance on international support remains strong. In view of high levels of unemployment and under-employment, many Moldovans have been forced to seek employment (mostly illegally) in other countries, and their remittances are estimated to amount to 27% of GDP. Consequently, integration and self-sufficiency prospects for refugees are limited in Moldova.

- **Work**

According to national legislation, recognized refugees in Moldova have full access to the same social and economic rights enjoyed by Moldovan citizens. However, for the reasons given above, asylum seekers and refugees have many problems finding work, both in the formal and in the informal sectors of the economy. UNHCR, therefore, continues to cover the basic needs of asylum seekers and vulnerable refugees and there are no prospects that this situation will change in the near future.

The problem of employment remains a crucial one for refugees/asylum seekers in Moldova. The language barrier and a lack of job opportunities are the main reasons for difficulties in finding work. Also, those with humanitarian status and asylum seekers do not have the necessary documents allowing them to be legally employed.

Solutions have to be found in order to improve refugees' ability to find durable solutions in Moldova and to give them more rights and job opportunities.

The limited possibilities for local integration due to the weak economic situation leads many asylum-seekers and refugees to move westwards.

- **Accommodation**

In the Republic of Moldova the majority of refugees and asylum seekers live in the reception centre built out of the city centre. The others are either in the town or dispersed throughout the country. In addition there is a temporary shelter at the premises of the Charity Centre for Refugees (NGO) for urgent cases.

- **Demographic Data by Population of Concern Group (Current Situation) as of 1 December 2006**

Name of Population of Concern:	Refugees and others of concern					
Age Group	**Male** (in absolute numbers)	(in %)	**Female** (in absolute numbers)	(in %)	**Total** (in absolute numbers)	(in %)
0-4	**2**	1,24	**5**	3,11	**7**	4,35
5-17	**15**	9,32	**14**	8,70	**29**	18,01
18-59	**100**	62,11	**21**	13,04	**121**	75,16
60 and >	**2**	1,24	**2**	1,24	**4**	2,48
Total:	**119**	**73,91**	**42**	**26,09**	**161**	**100**
Major locations:	Chisinau and dispersed throughout the country					

Name of Population of Concern:	Asylum Seekers					
Age Group	**Male** (in absolute numbers)	(in %)	**Female** (in absolute numbers)	(in %)	**Total** (in absolute numbers)	(in %)
0-4	**0**	0,00	**0**	0,00	**0**	0,00
5-17	**0**	0,00	**0**	0,00	**0**	0,00
18-59	**65**	84,42	**10**	12,99	**75**	97,40
60 and >	**1**	1,30	**1**	1,30	**2**	2,60
Total:	**66**	**85,71**	**11**	**14,29**	**77**	**100**
Major locations:	Chisinau and dispersed throughout the country					

By the end of 2006, according the data from the DR, 71 new asylum seekers were registered. Only 13 persons received refugee status according to the 1951 convention and its protocol of 1967, and 69 persons were granted humanitarian status.

- **The role of NGOs**

Due to weak Government policy in implementing the necessary rules and procedures to ensure the protection of refugees and their rights, refugees still rely on the moral, social, cultural and legal assistance provided by NGOs. The "Charity Centre for refugees" (CCR), "Save the Children" Moldova (SC), "Law Centre for Advocates" (LCA) all carry out activities as part of the UNHCR programme in Moldova. The Society for Refugees of the Republic of Moldova provides an informational service on refugee issues producing a journal on legal issues and a quarterly magazine. The Moldovan Helsinki Federation is an advocacy organisation for human rights and refugee rights.

- **Cultural adaptation and integration**

The NGO - Charity Centre for Refugees (CCR) aims to provide cultural, social and moral assistance to refugees and asylum seekers living in the Republic of Moldova and to offer them a place where they can meet, discuss their common interests, share their opinions, and find solutions to common problems. The average number of visitors/beneficiaries of the CCR during the year 2006 rose to 25-30 persons daily. CCR's work is focused mainly on the facilitation of the pre-integration of vulnerable categories into the society, i.e. organising cultural orientation and extra-curricular activities. In co-operation with other NGOs, CCR implemented various cultural and social activities for refugees/asylum seekers with a view to help them better integrate into Moldovan society, to encourage their community building and self-sufficiency.

Recommendations to the government of Moldova and the international community:

1. Further efforts to bring national legislation on refugees and asylum seekers in line with Moldova's international commitments and international standards remain a priority.

2. Urgent capacity building training is still required on refugee law for judges and staff involved in refugee status determination procedures.

3. Government officials, judges, prosecutors, police, border guards should participate in protection awareness and capacity building training and be aware of national refugee legislation and international standards. Border guards, police and security services need increased training on the rights of asylum seekers and refugees.

4. Solutions have to be found in order to improve access to the labour market for refugees and asylum seekers and encourage integration.

ECRE would like to thank the following NGOs for contributing to this report:

The Charity Centre for Refugees, the Legal Centre for Advocates, Save the Chilldren Moldova and the Society for Refugees of the Republic of Moldova

The Russian Federation

2006 saw a fall in migration flows in all regions of the Russian Federation. The situation for migrants in Russia remained difficult and there was no sign of improvements in the work of the migration services towards migrants in Russia.

Statistics

According to FMS statistics, in 2006 1170 applications for refugee status were reviewed, and 41 people were recognised as refugees. The number of recognised refugees was 397 at the end of 2006, including 241 people from Afghanistan and 101 from Georgia. 1104 applications for temporary asylum were considered, 275 people received temporary asylum. At the end of 2006 FMS figures showed 1,019 people with temporary asylum including 961 Afghans.

The following tables show the patterns of granting asylum in recent years.

Table 1: The number of recognised refugees according to the FMS as at the end of 2006

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Number of refugees	239359	128360	79727	26065	17902	13790	8725	614	458	397
Number of Georgians (Alanii)	28086	26210	24124	19650	15150	11534	6688	229	110	101

Table 2: number of applications submitted

Year	2001	2002	2003	2004	2005	2006
Refugee/ temporary asylum applications	1684/822	876/789	737/756	910/819	960/890	1170/1104

Table 3: number of people who received asylum

Year	2001	2002	2003	2004	2005	2006
Refugee status/ temporary asylum	137/389	45/850	107/358	122/252	21/184	41/275

The number of refugees and those with temporary protection is becoming significantly smaller, temporary asylum is sharply dropping, and only a handful of

individuals are recognised as refugees from amongst the relatively small number of asylum applications.

Legal and Procedural Changes

- **New Migration Legislation**

Two pieces of legislation were passed on 18 July 2006 that came into force in January 2007. The law "On Migration (registration) of foreign citizens and stateless persons in the Russian Federation" and "On the introduction of amendments and changes to the Federal Law On the legal situation of foreign citizens in the Russian Federation".

1. Migration registration

The first law introduced a system of registration of foreign citizens, which does not include any right of refusal by the authorities. The law requires any foreign citizen legally present on the territory of the Russian Federation to send an application form informing the authorities of his presence in Russia within three days of his arrival. This can be done in person or can be sent by post using a special form from the post office. There is a tear-off section that needs to be stamped at the post office.

A foreign citizen can apply to be registered either at a place of residence or a workplace. The notification has to be referenced by the landlord (rental agreement) or the employer (contract of employment). This record, which replaces registration (prospika) practically removes the propiska regime and as such must be welcomed. However, there are dangers that the employer, for example, might not be under any obligation to provide his employee with acceptable accommodation. This situation already exists, and now it has been legalised. Recent experience shows that law enforcement officials still stop people on the streets and ask to see their passports and the migration cards, which foreign citizens receive upon crossing the border and stamped application forms. Thus, the same practice of verification of documents continues to occur - illegally.

2. Right to temporary residence

The second law should improve the situation for CIS citizens who have the right to travel to Russia without visas, with the exception of citizens of Georgia and Turkmenistan.

The system of temporary residence permits is much simplified now. Applicants are required to submit fewer documents:

1) Application for temporary residence;
2) Identity document ;
3) Migration card ;
4) Proof of payment (400 Roubles – approximately $15.5 USD) for legal expenses.

After a month CIS citizens are required to submit proof of being free from infectious and drug-related illnesses. It is only one year after arrival in the Russian Federation that a person is required to submit a document certifying they are a taxpayer. This is very important as up until this time applicants have had to submit all the necessary documentation to prove he or she was able to support him/herself and dependants with the original application. Medical certificates quickly expired. It was difficult or

illegal to find well-paid work before receiving temporary residence status and without work no one had the required amount of savings in the bank to prove self-sufficiency.

In addition, after three months any CIS citizen who had arrived with no visa was required to leave Russia and return again simply in order to receive a new migration card. Now an application for temporary residence allows a person to extend their stay in the Russian Federation on the basis of the old migration card.

Refugee Status Determination Procedure

Access to the refugee determination procedures is problematic, as even the very first step of getting the blank application form can be difficult. In some of the regions of the Russian Federation the migration authorities do not work at all with foreign citizens, meaning they do not accept applications for asylum from them. Registered refugees are only present in 11 regions, and there are asylum seekers in only 27 regions of the Russian Federation. Verbal refusals to accept applications are usually given rather than written ones; therefore it is difficult to appeal against them.

Since 2005 it has been the practice in Moscow to postpone the acceptance of asylum applications for two or three years. In 2006 the Migration authorities began to distribute permits with dates and interview times for 2008-2009. These permits serve to some extent as documents legalising the presence of the foreign citizen in the Russian Federation. Some asylum seekers have been successful in challenging in court this refusal to accept their applications. Then in mid 2006 the authorities stopped distributing these permits all together, and those that had them had them destroyed when they were detained. Officials from the Migration services have confirmed that the permits they issued do not have any judicial value and the bearers of such cards are not in the asylum procedure. Every day asylum seekers are detained on the streets, taken to police stations where they are often made to pay bribes and suffer cruel treatment from law enforcement officials.

Access to asylum at international airports

During the course of 2006, the authorities systematically deported improperly documented passengers at Sheremetevo airport, before they were able to file asylum claims with the Federal Migration Service. This included people who demonstrated a well-founded fear of persecution in their countries of origin. Airlines, fearing fines if an undocumented passenger was admitted to the country, returned them to their point of departure as quickly as possible. The treatment of asylum seekers in the transit zone was harsh, the housing facilities which had existed in a nearby hotel to the transit zone were no longer available as the hotel was sold. NGOs are not aware of any cases of asylum seekers arriving at Sheremytevo-2 Airport being accepted into the asylum procedure since 1999.

Important legal presidents in national and international legislation (ECtHR for example)

In February 2006 the European Court of Human Rights ruled on the first six cases from the Chechen Republic, finding the Russian government had violated the right to life, the prohibition of torture, the rights to an effective remedy and the peaceful enjoyment of possessions. The cases concerned the Russian federal forces' indiscriminate aerial bombing of a civilian convoy of refugees fleeing Grozny in October 1999; the "disappearance" and subsequent extra judicial execution of five individuals in Grozny in January 2000; and the indiscriminate aerial and artillery bombardment of the village of Katyr-Yurt in February 2000.

The European Court also intervened on 14th August 2006 under Rule 39 to prevent the extradition of 13 ethnic Uzbek asylum seekers, held in Ivanovo detention centre since July 2005. The men were held on charges of participation in the Andijon uprising. Despite having been recognised as in need of international protection by the UNHCR their applications and appeals for political asylum in Russia were refused. On August 3rd the Russian authorities announced their intention to extradite them, having received assurances from the Uzbek authorities that the men would not be harmed. Following the intervention of the European Court Russia suspended the extraditions but the men remained in detention at the end of 2006.

Return of refugees from the Russian Federation to their country of origin or other countries

Administrative expulsion remained a serious problem for asylum seekers in Russia in 2006, with thousands of people being deported for committing administrative offences such as not having a registration document. These documents were difficult for foreigners to obtain, due to needing agreement from a landlord, minimum living space etc. There is no requirement under Russian law prohibiting the expulsion of someone who is at risk of torture in their country of origin who has committed an administrative offence in the Russian Federation.

In 2006, asylum seekers were left exposed to the dangers of deportation and detention on administrative grounds in Moscow and other regions of the Russian Federation when they were refused refugee or temporary asylum status and had their asylum documents confiscated until the appeal hearing. Without documents, asylum seekers were unable to register with the Ministry of the Interior, despite having followed the correct appeals procedure (the appeals procedure takes 3 months). Therefore, without documents they found themselves detained, taken from police stations to court where the decision on their deportation for violation of the administrative code were taken quickly. They were detained pending the implementation of the court decisions. On appeal to the higher courts the order for deportation given by regional courts was often changed, but the orders to pay a fine remained unchallenged (fines vary from 1,500 – 3,000 roubles).

A typical case in 2006 concerned the detention of a refugee from Palestine, a stateless person, who applied for refugee status in St Petersburg. The department of the Federal Migration Service sent the request for his deportation to the Derzhinsky regional court. Thanks only to his defence lawyers in court, the order for deportation was revoked and the case closed.

Violation of international commitments to non-refoulement

Despite the Russian authorities refraining from extraditing 13 Uzbek citizens detained in Ivanovo after direct intervention from the European Court of Human Rights, Uzbek asylum seeker Rustam Muminov was deported on October 24th, 20 minutes after the European Court of Human Rights had issued an injunction to stop the deportation. There is great concern for his safety in Uzbekistan. Muminov was arrested as he visited the NGO "Civic Assistance" in Moscow. The Federal Migration service issued a statement on December 5th, saying the extradition was "legal". Human Rights groups have serious concerns about the Uzbek secret services acting with impunity in the Russian Federation, taking part in questioning detained Uzbek asylum seekers, and more sinister allegations regarding them "kidnapping" people suspected of participating in the Andijon events and taking them back to detention in Uzbekistan.

There were other reports of Uzbek citizens being deported during 2006.
See below: CIS citizens – Central Asia.

Vulnerable Groups

- **The Situation for Afghans**

According to the UNHCR over 100,000 Afghans have lived in Russia for several years without being given asylum.

The live illegally in Russia, and the authorities constantly try to secure their deportation. Some of them are Afghans who came to Russia as orphans in the mid 1990s and lived in children's homes and boarding schools in the USSR. Despite the fact that they have lived in Russia for over 15 years, and lost all contacts with Afghanistan, they are still refused citizenship on the grounds that they did not have a residence registration or permanent right to reside for this time. They are given residence permits (vid na zhitelstvo) but cannot apply for citizenship until they receive registration at their place of residence.

In the official FMS report it says "*Contemporary afghan society is characterised by political tolerance (therefore) the majority of Afhgans do not have grounds to seek asylum as they have no reason to fear repercussions for thier past activities from the current authorities in Afghanistan"*.

Despite the fact that this statement does not correspond to reality, in 2006 the authorities stopped extending their temporary asylum permits. Instead they receive a document stating this status has expired in Russia for reason Article 12 p.1.p5 of the

Russian Law "On Refugees" and point 16a of the Presidential decree of 09.04.01 No. 274 "On temporary asylum and its expiry on the territory of the Russian Federation"., with the motivation "in connection to the change in circumstances which gave grounds for the granting of temporary asylum" .

Judges refuse appeals, noting in their decisions that at present many people who have sought asylum elsewhere are returning to Afghanistan. Instead, it is widely known that the current authorities in Afghanistan are not able to provide security for all people living in the country. Apart from this, the majority of Afghans in Russia ran away not from the Taliban but from the Northern Alliance who overturned Nadjibullah's regime in 1997.

In Volgograd oblast 19 Afghans were refused extensions to their temporary asylum permits, and were told that they should leave Russia or be deported In November 2006 in Traktorozavodsk market of Volgograd Afghans were prevented from working, their stalls were destroyed, leaving them with no means to support their families. Even Afghan refugees legally in Russia are worried about the Presidential Decree on foreign workers being introduced in 2007.

At the end of 2006 temporary asylum was extended and granted only to those who have families and children or who arrived in the USSR as children and studied in boarding schools there.

In Krasnodar the Tax Inspection authorities started to refuse government business registration to Afghans, including those who have temporary asylyum on the territory of Russia. According to the authorities they are only allowed to work for someone else.

- **CIS Citizens – Central Asia**

It is well known that in several CIS countries (Uzbekistan, Turkmenistan) torture and extrajudicial executions take place on a regular basis. However this is not taken into account by the Russian authorities. The law does not forbid the deportation or administrative extradition from Russia of foreign citizens to countries where they could be at risk of torture. *All Uzbek asylum seekers* receive refusals for asylum, despite the obvious danger of them returning to their country. Additionally, all Uzbek men living in Russia, not only refugees, are suspected of illegal activities by the Russian security forces. The attitude towards them amounts to persecution. This persecution is part of a widespread campaign against Muslims, who participate in the so-called "untraditional denominations" of Islam, instigated by the Russian security forces in 2004-2005 under the pretence of the fight against "international terrorism". This campaign continued in 2006.

The majority of falsified criminal cases on "Islamic extremism" in Central Russia, in the Povolzhie (Volga) region and Siberia were based on a decision by the Supreme Court from 14th February 2003 when 15 Islamic organisations (two were added to this list in 2006) were banned from Russia as being terrorist. This ruling was made in a closed court and not published.

The grounds for the persecution of Muslims are not limited to accusations of being the members of "untraditional" Muslim organizations. Those who provide humanitarian assistance to the convicted and their families are also subjected to

repression. The widespread accusations of "Wahhabism" in the North Caucasus have begun to be levelled at Muslims in the Povolzhie region.

As of the end of October 2006, 62 people had been tried, in 27 fabricated cases on Islamic extremism. 16 people were found guilty. Five other criminal cases were in progress. In 2006 the courts showed a clear tendency to issue increasingly severe sentences in these cases. If the maximum sentence issued in such cases in 2004 was for 8 years imprisonment, this rose to 15.5 in 2006. It is important to mention that torture is used by the authorities in at least 40% of cases relating to Islamic extremism.

The number of extradition cases of Uzbek citizens has risen, following requests by the Uzbek government on religious or political grounds. The Russian security forces are also active in trying to hand over Uzbeks whose extradition is not possible. Thus they avoid the complicated legal process of extradition and instead deport Uzbek citizens for small administrative offences. They are not just told to leave Russia, however, but are given directly to the Uzbek security forces.

An additional danger in 2006 was the practice of the kidnapping of and illegal removal from the territory of the Russian Federation of Uzbeks wanted by the Uzbek authorities on fabricated charges of Islamic extremism.

The case of Rustam Muminov

Rustam Muminov was an Uzbek citizen who had been living legally in Russia since 2000 in Lipetsk. He was detained in February 2006 by the authorities of the Ministry of the Interior and security forces on a fabricated charge of belonging to the organisation "Hizb ut-Tahrir" and participating in the events in Andijon. Whilst in detention he applied for temporary asylum to the migration service in Lipetsk, and then for refugee status. He was refused on both applications but, as he was in detention and did not have access to a lawyer, he was unable to appeal the refusals until August when an NGO lawyer helped him. At the end of September 2006 the General Procurator refused to extradite Muminov to Uzbekistan and he was released from detention.

However, the migration service refused to extend his registration document, which expired when he was in detention. Fearing he would be deported, he went to Moscow and on 5th October asked UNHCR to give him international protection. On the 17th October he was detained in the office of the NGO "Civic Assistance" for not having a registration document and taken away in a car. Eventually the NGO was able to find out that the Tversky Court in Moscow had already issued an order for his deportation to Uzbekistan, depriving him of the right to legal assistance. He was taken to the detention centre at Severny on that day. On 19th October Muminov's lawyer appealed against the decision to deport him. His appeal was supported by the Human Rights ombudsman V.P.Lukin, who insisted that the administration of the detention centre gave a guarantee that Muminov would not be deported before the court decision on his appeal.

On 23rd October an appeal was sent to the European court of human Rights to implement Rule 39 and ask the Russian authorities to refrain from the deportation. On 24th October the Court issued this request and this information arrived in Moscow on 25th October at 19.00. On 26 October Moscow city court was due to hear the appeal case against the decision of the Tversky court for administrative deportation. Despite this on 25th Muminov was deported back to Uzbekistan on the 19.20 flight. As the centre director explained, he received the instruction for Muminov's deportation from the Federal Security Bureau and the FMS.

In their reply to the European court the Russian authorities acknowledged that the deportation had been illegal. A criminal case was instigated. On 2nd November Moscow city court overturned the ruling of Tversky court and sent the case back for re-examination. However the future fate of Muminov was already sealed.

- **The Situation for Meskhetian Turks in Krasnodar Krai**

According to Article 13 of the Russian law "On citizenship" from 1993-95, Meskhetian Turks living in Russia since 1989 should have been made Russian citizens. But the authorities of Krasnodar Krai not only refused to do this because they had no permanent residence permits and referred to them as "stateless people temporarily living on the territory of the Russian Federation", they also carried out a campaign of direct ethnic discrimination against them.

As of the end of 2006 over 9,000 Meskhetian Turks had been resettled to the USA under a resettlement programme. At the beginning of 2006 following complaints that amongst those resettled there were some who were not from Krasnodar region, the American authorities decided to stop resettlement apart from for the most vulnerable cases. Despite evidence of increased prices for fruit and vegetables since the Meskhetian Turks left, the Krasnodar authorities are continuing their administrative persecution of the remaining Meskhetian Turks. They are not given residence registration, they cannot change their passports. The law enforcement authorities arrest them for administrative offences (Article 18 Russian Administrative Code) and the judiciary issues rulings for them to pay fines or even for their deportation. They are not allowed the services of interpreters or lawyers at court cases.

The administrative pressure on groups of other ethnic minorities has also increased in the region, including on Armenians, Yezidis and Kemshili Turks.

- **The Situation for Baku Armenians in Moscow region**

Over the last 15 years neither the federal nor the Moscow authorities have found a solution to the problem of providing accommodation to the five thousand Baku Armenian refugees living in the capital.

In 2006 their situation worsened when the hostel where they lived went into private ownership. Until 2001 the owners had received some payments from the Moscow authorities for the refugees' accommodation, but this stopped. Much pressure was put on the Baku Armenians to leave their accommodation. Those who could, bought their own flats, some left Russia. One of the Baku Armenians who was left out on the

streets, killed himself in the beginning of 2006. A few hundred Baku Armenians still live in the hostel.

The administration of the Hostel "South" complained to the courts in order to evict Baku refugees without alternative accommodation but they lost the case and the original court decision held force. However, in early 2006 the new owners of the hotel tried several times, fairly roughly, to evict the 30 refugee families living there. Despite the severe cold, the electricity was turned off, as well as the water and telephone lines and people were trapped in the building. Refugees, pensioners, disabled persons and families with children were left in very dangerous conditions.

Memorial lawyers were able to stand up for the rights of Baku refugees and force the law enforcement officials to do their jobs. A court appeal was prepared because the water and lights were turned off illegally, they were detained and because of the deliberate non-implementation of a court decision. These appeals were sent to the General Procurator, the Moscow Procurator. The Procurator of Moscow initiated criminal proceedings against the owners of the hotel.

At the beginning of 2006 more than 70 Armenian refugees, living in hostels in Nizhny Pervomaisykaya street and in Novoperedelkina did not have their registration permits extended and had their social cards frozen, their pensions stopped and they were refused medical services. The Deputy mayor of Moscow V. Vinogradov stated "The Moscow authorities give the right to individual hostels to decide whether to register refugees or not, we cannot order them to do so".

The question of rehousing remains unsolved. The Federal and Moscow authorities do not wish to take responsibility for these citizens of Russia, whose situation could have been regularised many years ago.

- **The Situation in the Chechen republic and for internally displaced persons (IDPs) from Chechnya**

The situation in the Chechen republic remains extremely difficult. In 2006, Ramzan Kadyrov became the major force in Chechnya, and his forces have instigated a system of almost official bribery where they collect money from anyone who has a small business or who works for the state, supposedly as gifts to charity.

The Russian government's official line on Chechnya is that the situation has stabilised. In Grozny buildings are being rebuilt entirely. Families are doing up their homes, small businesses have started to function, cafés and shops are opening again. Educational institutions are starting to function again.

However, the main stabilisation in the Chechen republic concerns the stabilisation of lawlessness and fear. 2006 did not bring much change in this respect. Armed divisions, lead by Ramzan Kadyrov and others are formally the responsibility of the Federal forces and terrorize the population of the Chechen Republic. There is no security for the people living there: extra judicial acts are still carried out; people are detained during special operations by official armed forces. In the best case scenario, their relatives are able to buy them back alive or at least their bodies. In the worst case scenario, they disappear without trace.

Crimes are not investigated, even when the identity of the perpetrators is known.

Bulat Chilaev disappeared on the 9th April 2006 during a special operation in Sernovodsk. Bulat was a driver for the medical programme of the NGO "Civic Assistance."

Persecution of those who apply to the European Court of Human Rights continues, as does pressure on witnesses, torture of those in detention, forced confessions and long periods of detention imposed for crimes, which were not committed.

Temporary accommodation points in Chechnya, and places of compact settlement in Ingushetia and other regions are being closed. Chechen inhabitants are chased back, having been given neither compensation nor a place to stay. There is no possibility for Chechens to live elsewhere on the territory of the Russian Federation. They are being chased out of the temporary accommodation centres. All those who have had IDP status for over five years are now being refused an extension of that status and the administrations of the accommodation centres are applying to the courts for their removal.

Outside Chechnya, Chechens are losing their jobs, are at risk of being framed for crimes they did not commit, are detained by police on the streets, and insulted. They are not being protected from racist nationalist attacks. The police themselves are often racist and xenophobic and turn a blind eye to attacks on people from the Caucasus.

A serious problem for Chechens living in rented accommodation in other parts of Russia is registration with the Ministry of the Interior. The registration of Chechens is limited in almost all regions. The most severe restrictions occur in Moscow region, Krasnodar region and Kabardino-Balkariya. Without a registration document people are at risk of being detained, are not able to access medical help or state support, they are unable to work or to get their children into schools and nurseries. Compensation payments for IDPs have practically been stopped.

- **The Situation for Forced Migrants**

In 2006 the migration services in all regions refused to extend forced migrant status on the grounds that people had received compensation for their property and belongings in Chechnya. In July 2006 there were 152,000 people on the FMS lists [of forced migrants], 16,000 less than at the beginning of the year. In the Belgorodsky region 2,353 people lost their status in 2006, in Stavropol over 2,147.

The courts no longer solve issues relating to the extension of forced migrant status. Forced migrants are rarely provided with accommodation: 48,000 vulnerable people are on waiting lists for accommodation. The FMS is able to provide accommodation to 2.5 thousand families per year. At this rate, it will take 20 years to re-house everyone.

Detention

In 2006, undocumented asylum seekers continued to face problems with law enforcement bodies over their status. Asylum seekers, awaiting reviews of their claims are not always given official documents legalising their presence in Russia, and as a result they remained vulnerable to fines and detention for violation of the administrative code. Detention by law should not exceed 48 hours without official charge or sanction, although there were cases in 2006 of people being held for longer periods.

Conditions in detention are notoriously harsh and asylum seekers often report being subjected to ill-treatment and threats.

The case of the treatment of Georgian migrants in 2006 illustrates this:

A campaign linked to the tensions between Russian and Georgia in September 2006 lead to a campaign of organized persecution against ethnic Georgians living in Russia. On 5 October Russian authorities introduced changes for foreign citizens arriving into the Russian Federation. These included a limitation on the amount of time a person with a multi entry visa could stay in Russia (to 180 days) and a removal of the quotas of Georgians allowed to work - meaning they were unable to obtain work permits and temporary stay permits in Russia. And as a consequence cannot apply for a citizenship.

In October directions from the Department of Interior Affairs in St Petersburg came to light that referred to order No. 0125 calling on the internal affairs authorities to "carry out a widespread exercise to locate and deport the maximum number of Georgian citizens illegally on the territory of the Russian Federation". Internal Affairs departments were asked to report daily on the number of Georgians who had committed various crimes, using a special form. Ethnic Georgians and Georgian citizens were subjected to checks on the legality of their stay in Russia, work permits, education rights, business permits. Businesses were closed if they were found to have Georgian staff; Georgians had their visas annulled for no reason; residence registrations were not extended. People were detained on the streets and taken to court in large groups where rulings on deportation because of administrative violations were issued without the presence of a defense lawyer or investigation into the circumstances of the cases. Marriages with Russian citizens were not taken into account, nor were the presence of children with Russian citizenship. Those deported had their passports stamped saying they would only be allowed back into Russia after 5 years. More often than not, it was the man of the family who was deported, leaving families without the main breadwinner.

The campaign targeted not only stateless people and Georgian citizens, but also Russian citizens who were ethnic Georgian. There are many cases of them being deported from Russia, having their businesses closed down and being stripped of their Russian citizenship. Former inhabitants of Abkhazia were in a particularly difficult situation, having arrived in Russia in 1992-3 after the conflict. They are unable to return to Abkhazia and have no alternatives in Georgia.

According to the Georgian consulate in Moscow between September and the end of 2006 over 1.5 thousand Georgian citizens were deported. In the month of November alone, Russia deported over 940 ethnic Georgians. In detention centres, cells were overcrowded and the conditions appalling. Some detainees were kept in train carriages in St Petersburg. There were several cases of deaths of people being deported due to lack of proper medical care. It is important to note that the anti-Georgian campaigns did not take place in every region of Russia. Exceptions included Pskov oblast, Perm region and the Chuvash republic.

Social integration

Circumstances influencing integration in 2006

- **Documentation of asylum seekers**

As described above, in mid 2006 the migration authorities stopped distributing permits with dates and interview times for 2008-2009. These permits served to some extent as documents legalising the presence of the foreign citizen in the Russian Federation, and without them asylum seekers are vulnerable to detention, fines, and possible deportation.

- **Housing**

Most asylum seekers and refugees rent housing. In 2006 the cost of rent rose by a third in Moscow, which lead to many people no longer being able to afford their accommodation. They were instead forced to live in overcrowded conditions with several families in one flat or else rent accommodation on the outskirts of Moscow.
See section on IDPs from Chechnya for additional information.

- **Education**

Although the Federal Law provides access for all children to education, asylum seeker children were frequently denied access to schools across Russia if they did not have residence registration documents.

According to the paper "Education News", from 1989 to 2002 11 million people arrived in the Russian Federation – the majority of them from the CIS and half a million people from further abroad. Moscow attracts the greatest number of migrants. Migrants from the CIS and further abroad (mainly Afghanistan) arrive in Moscow with their children. Therefore, the issue of education and integration of refugee and migrant children is a very important one, as education plays an important role in the integration and adaptation process.

The majority of child migrants and asylum seekers do not speak Russian, and either have not had regular schooling in the past or have never attended school. Therefore specialist education programmes are necessary before the pupils are ready to join Russian schools. Textbooks, educational materials and specialised teachers are also

needed. It is also important to increase lessons on tolerance towards foreigners and others with a different language and culture amongst Russian pupils in schools.

Between 1993 – 2000 Russian schools were not ready to accept child migrants. Asylum seeker children were not accepted into schools in Moscow because of the lack of official documents, lack of knowledge of Russian and a low educational level for their age.

The Moscow based NGO EquiLibre-Solidarnost, with support from UNHCR, has been working to solve this problem, setting up a cultural educational centre for children from countries such as Afghanistan and Africa. This centre allowed children to learn Russian, learn about their own culture and also other subjects. From the beginning of 2000 the situation for asylum seeker children changed as they were accepted into schools if their parents were registered with the UNHCR. This approach respected Russia's international commitments including under the UN Convention on the Rights of the Child.

It is mainly the children of Afghan asylum seekers who study in Moscow schools at present. In Moscow a network of schools educating child migrants and asylum seekers has been established. A programme of language and cultural adaptation has been devised. Children of all ages learn Russian with special courses and textbooks. For early and middle school children, it is guaranteed that they will successfully follow the government curriculum in all subjects and also follow a Russian language course. Younger children have less difficulty in adapting to the new educational system and are taught alongside Russian children.

The problem for school age asylum seeker children is now solved, but pre-school access for asylum seeker children is still problematic. Amongst migrant children with refugee status only 20% attend a kindergarten. This is linked with the lack of legal documents and a lack of places in kindergartens. Some asylum seekers do not want their children to attend kindergarten, and others use the children to help them travel across the city, (they are less likely to be detained for lack of documents if they have a child with them). The cost of kindergartens is also a barrier. In Moscow from 1st April 2006 the cost of attending a kindergarten rose considerably and for a person who is not a Russian citizen the cost can be anything from between 3000-5000 Roubles a month ($115 - $192). Therefore asylum seeker children are not benefiting from preparation for school nor being helped with adapting to Russian life.

- **Employment**

Introduction of migration quotas for 2007

The introduction of the law passed in 2006 "On the legal situation of foreign citizens in the Russian Federation" seemed to introduce positive changes for migrants and asylum seekers in the labour field. Work permits were to be given by the FMS or the regional migration services after a simple application procedure and on submission of the following documents;

1. application from foreign citizen for a work permit
2. identity document
3. migration card with stamp from border guards or migration office;

4. proof of payment of government fee (1000 roubles – approximately $38)

Applicants would receive a reply within 10 days, and have the right to appeal a refusal.

Article 13, p. 4 of the law "On the legal situation of foreign citizens in the Russian Federation" stated:

"A foreign citizen only has the right to work if they have a work permit.

This does not apply to foreign citizens:
1) who permanently reside in the Russian Federation;
2) temporarily staying in the Russian Federation (i.e. those who have temporary residence permits)".

However, following concern by the authorities in many regions of the Russian Federation, point 2) has now been amended to refer not to those with temporary residence permits but only to those " who belong to government programmes of support for voluntary resettlement to the Russian Federation of compatriots living abroad and their families returning with them to the Russian Federation."

In this way a strange situation has arisen, whereby a foreign citizen can receive the right to stay for 3 years in the Russian Federation but does not have the right to work. This means that they either have to be supported by someone else or have enough savings to live on for this time.

The concerns raised by the local authorities and the debate on a simplified procedure for legalizing foreign citizens led to the Presidential Decree of 15th November 2006 "On the introduction of quotas for foreign workers, agricultural workers and traders in the Russian Federation for 2007". In 2007 the quota for work places is 6 million for the whole of the Russian Federation, including those who already work there. The decree forbade foreigners from selling alcohol including beer and pharmaceutical products. The quotas for foreign traders in markets, kiosks should be no more than 40% and 0% by April 2007. Thus, this decree completely undermined the positive changes introduced in the legislation for foreign citizens, as many of them work as traders and in some regions constitute over 90% of the market traders. Inevitably, this decree will primarily affect migrants, who work in the markets, where the hours are long and the work is poorly paid. NGOs comment that this decree will not mean that migrants will stop working on markets, but that they will have an additional burden in the form of bribes to police to enable them to continue. This legislation will also affect refugees and asylum seekers as work is very difficult to find in the Russian Federation and many of those who do work, engage in some sort of market trade. It will effectively leave many living in Russia without any means of survival.

- **Medical Assistance**

The cost of medical assistance rose by 25-30% in 2006. Asylum seekers have to pay for their medical treatment.

Recommendations

The Russian Federation should:

- Ensure that all those seeking international protection in Russia have access to a comprehensive and fair refugee status determination procedure;
- Ensure all asylum seekers are issued with documents, which recognise their status and guarantee them the right to legally stay in Russia until their applications for refugee status have been considered, and they have had opportunity to exhaust all appeal stages;
- Issue written refusals if an application for asylum is not accepted to allow the asylum seeker to appeal the ruling;
- Uphold its international obligations to provide effective protection against refoulement and to not return people to countries where their life could be at risk or where they could be at risk of torture, inhumane or degrading treatment;
- Ensure that asylum seekers and refugees have full and unimpeded access to the labour market and that any discriminatory legislation or restrictions are removed;
- Improve pre school access for asylum seeker children to facilitate language learning and easy integration;
- Respect the concept of internally displaced persons as defined in the 1998 United Nations Guiding Principles on Internal Displacement and as recommended by the Council of Europe,[11] and ensure that all IDPs have access to rights as set out in those Guiding Principles;
- Take active measures to halt the gross violations of human rights currently taking place in Chechnya;
- Take all possible measures to address the issue of discrimination, racism and xenophobia in the Russian Federation.

The international community should:

- Not return any Chechen seeking international protection to the Russian Federation or promote voluntary repatriation to the Russian Federation as a durable solution at the present time;
- Increase quotas to resettle those in need of international protection out of the Russian Federation to third countries

[11] 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

Postscript: How the European Union Can Influence the State of Human Rights in Russia

An open dialogue is required between the Russian Federation and the international community with the participation of representatives of civic organizations. This dialogue may take on various forms, including the development of programmes for monitoring, analysing and preparing recommendations on improvements to the human rights situation in Russia, as well as educational programs.

Some human rights problems are characteristic not only of the Russian Federation but also the European Union. These include problems of asylum, defence of migrants' rights, constraints on human rights within the context of the fight against terrorism, the rise of xenophobia. Certain approaches to resolving these problems need to be developed and see changes dictated by modern day demands. This perhaps should be the approach to discussions on the spirit of Dublin II Regulations and their application within an expanding European Union.

An effective dialogue may be achieved only if it is fairly direct and impartial. Political correctness should not become a cover for egotism. Indifference to the state of human rights in Russia carries with it a deep and serious threat not only to its population, but also to the future development of the situation across the world, and first of all in Europe.

Therefore the European Union must clearly define its priorities, moving democratic values into first place and expressing readiness to forgo its own economic interests to a certain extent in areas where there are wide human rights infringements towards certain social groups, such as refugees and asylum seekers.

If a readiness to sacrifice a part of its personal comfort does not become a part of the European community's ideology, then influencing the situation in Russia will become an unattainable task.

There are means independent of Russia for expressing an attitude toward what is happening to the citizens of discriminated groups. To this end, in part, may become a decision to extend asylum to these groups' members.

Human rights consultations between the European Union and Russia must expand, deepen and grasp more widespread civic groups and subjects. In such a case, their influence may become very tangible.

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Ukraine

Statistics

According to official statistics (published on the website of the State Committee on Nationalities and Migration) there were 2,275 registered refugees in Ukraine as of 1st January 2007. In 2006 1,959 applications for refugee status were submitted, 180 of which were not accepted; 1,237 people were given refusals to process their applications for refugee status and 488 people were refused refugee status. The State Committee on Nationalities and Migration recognised only 44 people as refugees, and an additional 13 people received refugee status following intervention from the courts (a rate of 24% of positive decisions).

Additional forms of protection status in Ukraine do not exist, therefore, people are obliged to apply for refugee status or nothing. The authorities can both refuse to accept their asylum applications or else give refusals to process the documentation for a full application for refugee status. In these cases people have no choice but to appeal to the courts.

In 2006 893 appeals were made to the courts, of which 159 were appeals against a refusal to accept asylum applications and 734 appealed a refusal to process their documents for refugee status.

Legal and Procedural Changes in 2006

Refugee related issues are regulated by the Constitution of Ukraine, the Law of Ukraine "On Refugees", other normative and legal acts of Ukraine, as well as international treaties, the binding nature of which has been ratified by the Verkhovna Rada of Ukraine. In 2006 Ukrainian legislation on refugee issues, as well as legislation on migration issues, was not essentially changed. No laws, nor amendments or revisions to the actual legal acts in these fields were adopted during the reporting period (2006).

In 2006 the Ukrainian Law "On refugees" as adopted on 21 June 2001 (further amended on 03 April 2003 and 31 May 2005) remained one of the central legal instruments, regulating refugees issues.

The Law of Ukraine "On Refugees" determines the legal status of a refugee in Ukraine, the procedure for granting, loss, and withdrawal of refugee status and sets forth the state guarantees of protection for refugees.

The most substantial amendments to the Law 'On refugees' were introduced on 31st May 2005. These amendments touched upon the provisions of Articles 9 and 12, regulating the procedure of applying for refugee status and the preliminary consideration of applications.

Until these amendments were adopted the Law stipulated strict time limits for submission of applications for refugee status: 5 days for asylum seekers, who crossed

the Ukrainian border legally and 3 days for those, who crossed the border illegally (Para. 1 Art.9). After the law was revised, Para.1 Art.9 was taken out and the time limit for applying for refugee status was changed to "without delay".[12]

The provisions of Art.9 were also amended by the addition of an exhaustive list of grounds for refusing to accept an application. A migration service body may refuse to accept an application in cases where an applicant poses as another person; if the applicant has already received a rejection of their asylum claim because they do not fulfil the criteria set out in Para 2 Art.1 of the Law;[13] or if the applicant has received an earlier refusal for their asylum application to be accepted or their documents to be processed because of an abuse of procedure, except in cases when the applicant has provided reliable information about his identity.

The amendments, introduced to the Law on 31 May 2005, also touched upon the provisions in Art.12 of the Law, which regulate the procedure for the preliminary consideration of applications for refugee status. In particular they established a term of 15 days (instead of 3 days) for the consideration of the applications by the migration service bodies.

Thus, the Law 'On Refugees' was essentially revised in 2005 and since then no amendments have been introduced. Despite the fact that the amendments as well as the Law "On Refugees" in general could be said to be positive and to correspond with international standards in this sphere, some issues remain unsolved. For example, there is currently no subsidiary protection status for those persons who are not recognized as refugees under the 1951 Convention, but need some form of protection as they cannot be returned to their countries of origin.

In 2006 there were no significant changes to legislation, regulating the refugee status determination procedure and the rights and duties of refugees on the territory of Ukraine. Despite the lack of legislative changes, the question of refugees was raised in the context of some legislation that came into force in 2006. The Cabinet of Ministers of Ukraine, for example, addressed the refugee issue in its Decree from 24th June 2006 "On the confirmation of a strategy for democratic development in the period to 2015". The issue of refugees was raised in the context of the implementation of migration policies, in particular, in relation to the development of programmes for refugee integration.

In 2006 the "Law on the Enforcement of Judgments and Application of Case law of the European Court of Human Rights" came into force. The Law defines the need to

[12] Persons, intending to acquire refugee status in Ukraine who crossed or attempted to cross Ukrainian border illegally, should apply for refugee status to the appropriate migration service body 'without delay' through the representative of this body or through the official of State Border Guard or internal affairs body and provide Ukrainian border guards with explanations on the reasons for illegally crossing the border or attempting to do so.

[13] "Refugee" shall mean a person who is not a citizen of Ukraine and who, on account of a well-founded fear of becoming a victim of persecution for reason of race, religion, ethnicity, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or is unwilling to avail himself of the protection of this country owing to the said fear; or, having no nationality and being outside the country of his previous habitual residence, is unable or is unwilling to return to such country on account of the said fear.

eliminate factors that mean Ukraine is sometimes in violation of the Convention on the Protection of Human Rights and Fundamental Freedoms and its protocols, and to integrate European human rights standards into the judicial systems and administrative practice of Ukraine. This law offers new opportunities to protect asylum seekers' rights, as it obliges courts to take the European Convention and the case law of the European Court of Human Rights into account as a source of law. However, the fact that there are so few precedent cases on asylum issues translated into Ukrainian could be an obstacle to using European case law in this way.

Presidential Decree №588/2006 from 27th June 2006 introduced mechanisms for the implementation of changes to the Ukrainian law "On Ukrainian Citizenship", in particular, Para. 3.8. Now any foreign citizen living in Ukraine legally who has a child here has the right to register his child as a Ukrainian citizen. The child will be registered as a Ukrainian citizen and will receive a citizenship certificate within 3 months of submission of the application. This gives the child an opportunity to be granted the right to reside in Ukraine without being included in immigration quotas. Asylum seekers and "war refugees" from Abkhazia can make use of this option.

On 8th December 2006 the Ukrainian Committee of Ministers established a commission to re-organise the State Committee on Migration as the State Committee on Nationalities and Religion. Over the last two years multiple reforms of the migration services have led to the regional migration services losing significant numbers of trained personnel, and have meant that migration offices have not been established in the Donetsk, Zaporoshsky, Kirovogradsky, Ternopolsky, Ivanovo Frankivsk and Cherkassi regions (a decision to create these branches was taken in Summer 2006 but in practice many migration service branches in the regions never started their work for organisational reasons). The current reforms will not be the last, for the simple reason that there is no clear migration policy with supporting legislation. Each reform is preceded by a discussion on setting up a united migration service. Until the necessary laws are passed, reforms of the administrative structures will continue and asylum seekers will be the first to suffer as they receive unfounded refusals. The high rate of reform leads to a situation whereby staff from the migration services anticipate the closure of their service, and therefore do not wish to take long term responsibility for making decisions on peoples' fates.

Refugee Status Determination Procedure

Despite the fact that on the whole the legal system concerned with refugees issues can be described as positive and corresponding to international standards, Ukraine continues to lack an effective system of adjudication, reception and resettlement of asylum seekers and refugees and an effective program of integration of refugees into society.

Up until 31st May 2005 the Law of Ukraine "On Refugees" stipulated strict time limits for submitting an application for refugee status - 5 days for asylum seekers, who crossed the Ukrainian border legally and 3 days for those, who crossed the border illegally (Para. 1, Art.9). On 31st May 2005 amendments to the Law were introduced. Consequently, Para.1 Art.9 was taken out and the time limit for applying for refugee status was replaced by the definition 'without delay' (see footnote 1).

In addition to this, an exhaustive list of reasons for refusing to accept applications for refugee status was established.

Although some of the amendments were positive and in keeping with international standards, practical conditions for asylum seekers and refugees in Ukraine remained poor. Ukraine's migration service bodies remained largely dysfunctional through most of 2006.

According to the Law documents should be processed in order to carry out the refugee status determination procedure upon receipt of a personal application by a foreign citizen or a stateless person or by a lawful representative thereof, which is submitted to the migration service body in the Autonomous Republic of Crimea, the oblasts (administrative region) or the cities of Kyiv or Sevastopol (depending on the place of temporary residence of the applicant). The migration service body, which receives the application for refugee status, should issue a certificate confirming receipt of the application for refugee status and should conduct a personal interview with the applicant within 15 working days of the date of registration of the claim. They should assess the information provided and other relevant documents and make a decision on whether to process the documents to grant refugee status or to refuse to process them further.

A refusal to process the documents can be appealed to the central body of executive power for migration within 7 working days of receipt, or to a court in compliance with the legislation (within 1 year as determined by the Code of Administrative legal procedures). In practice the most widespread reason for rejection at this stage is that the application is manifestly unfounded.

Decisions on granting refugee status should be made by the central body of executive power for migration within one month of receiving the personal file of the applicant and the written conclusion from the migration service body that reviewed the application.

The most widespread reason for refusal to grant refugee status is a decision that the application does not correspond to the conditions established by Para.2 Art.1 of the Law. This decision can be appealed to the Administrative Court. These appeals are heard by a collegium of three judges.

There are three stages to the refugee status determination procedure in Ukraine. At the first stage, an asylum seeker submits his application for refugee status to the office on Nationalities and Religions (migration service offices) as well as his supporting documents. The Migration service registers the asylum claim and issues him with a confirmation form, fingerprints him and opens his case file.

At the second stage the migration service carries out a preliminary interview with the asylum seeker, evaluates the evidence and then takes a decision on whether to process his documents for refugee status. The asylum seeker is then issued with a document to register with the Ministry of Internal Affairs for two months while the application is considered, the asylum seeker is interviewed again and the evidence examined. The

migration office then sends written recommendations on the case to the State Committee of Ukraine on Nationalities and Religions.

In the third step the State Committee of Ukraine on Nationalities and Religions studies and evaluates the case within a month and takes a decision on whether to grant refugee status.

At all stages of the procedure an asylum seeker has the right to appeal a negative decision of the migration service. In the first and second stages of the procedure, the applicant can appeal to the State Committee of Ukraine on Nationalities and Religions and a refusal of refugee status can be appealed to a court. In all appeal cases the asylum seeker is issued with documentation that will allow him/her to register with the authorities of the Ministry of Internal Affairs.

However, in practice, apart from the lack of migration service branches in many regions of Ukraine, there are many issues, which complicate access to the refugee status determination procedure, such as the provisions of Article 9 and 12 of the Ukrainian Law "on Refugees". These Articles allow the applicant to be refused access to the procedure on formal grounds (for example, if a person has previously applied for refugee status; does not correspond to the criteria for refugee status), without a detailed study of the circumstances of the case. The lack of qualified interpretation into languages spoken by many asylum seekers also negatively affects the process if the applicant does not speak English or does not speak enough English to explain his or her reasons for seeking asylum.

Despite the fact that the time limits for submitting an asylum application were removed from Ukrainian refugee legislation in 2005, and replaced with the term "without delay" – this is in practice interpreted literally and can still be given as a reason for a refusal to accept an asylum application on formal grounds.

The Migration Service refused to consider the substance of almost 70% of applications for refugee status in 2005-6 on formal grounds, using Article 12 of the Ukrainian law "On Refugees" – which means they refused the applicant not at the first stage but at the second, after the preliminary interview on the grounds that their applications were unfounded. In the majority of cases refusals are made for formal reasons. According to Para. 6 of Article 12 decisions to refuse to process documents for an application for refugee status can be made in cases which are manifestly unfounded, i.e. if the applicant has no grounds for seeking refugee status as detailed in Article 1.2 of the Law on Refugees (if he cannot be considered a refugee because he does not fit the criteria); if he pretends to be someone else, or if he has already been refused asylum and there are no new circumstances in the case. In practice the migration services often argue that asylum seekers have not submitted the necessary level proof for them to take a decision on the case. The migration service officials refer to the UNHCR position from 16th December 1998 "On the responsibilities and standards of proof in refugee claims" saying:

"The facts of the asylum claim are decided by the proof and documentation presented by the applicant. Proof can be oral, as well as documental. In accordance with general legal principles, the burden of proof is on the person, who makes the allegation.

Therefore, in a refugee application the burden of proof is on the applicant to prove his case and the accuracy of the facts which give grounds for refugee status".

The officials responsible for evaluating the refugee case should have a good knowledge of the situation in the country of origin, but at present most of them either have not studied the country of origin situation in any detail or have just ignored it. This situation is a result of the existing legislation, which does not oblige government officials to study the country of origin information in detail.

As a result of this situation people in need of protection do not receive refugee status.

In September 2005 the Administrative Code on Legal Proceedings in Ukraine came into force, which regulates the appeals procedure on the actions and decisions of representatives of the government authorities. According to this Code an applicant wishing to appeal against a decision of the authorities, submits an appeal to his local court, (this is different from the former Code, in which the appeals procedure went ahead in the court nearest to the authority who made the decision). These changes have had a positive effect on the refugee status determination procedure, as the court appeal process is more accessible, and cases are processed more quickly. The time limits for submitting appeals have also changed – the new legislation allows an asylum seeker one year from the ruling on the case to appeal.

Despite the positive changes in procedural legislation, issues remain concerning appealing decisions of the migration services in courts. An asylum seeker, having received a refusal to either accept his application for refugee status, process his documents or grant him refugee status, has one year in which to appeal the negative decision. However, having received a refusal the asylum seeker has his migration service documents confiscated, the documents which gave him the legal right to stay in Ukraine. In accordance with the Ukrainian Law "On Refugees" in cases of court appeal the asylum seeker should receive a corresponding document from the migration service. However, this document is issued by the migration services only once the court has confirmed that the appeal has been lodged. In practice considerable time can pass between the refusal and the lodging of the appeal. During this time the asylum seeker is at risk of deportation, as he/she has no documents confirming his/her legal right to be in Ukraine.

Important legal precedents on the national and international levels (such as the ECHR)

In June 2006 the Pystomytovsky Regional court of Lvov oblast reviewed case No. 2-a-36 – an appeal by a citizen of the Democratic Republic of Congo against a refusal to grant refugee status. The applicant left his country of origin because he feared persecution because of the activities of his father who belonged to the political opposition. The situation in the Democratic Republic of Congo is characterised by a lack of a functioning system of legal protection, corruption and a system of totalitarian political control. Having studied in detail not only the information submitted by the applicant in his application for refugee status, but also statistics and information on the Democratic Republic of Congo from reports from the UK Ministry of Internal Affairs, Human Rights Watch, UNHCR and Amnesty International, the

court reached its decision. The court ruled that as the applicant's father and brother had been kidnapped, the applicant had a well-founded fear of becoming a victim of persecution upon his return to his country of origin. Acknowledging this, the court followed Part 43 of the Instructions on the Procedure and Criteria for Refugee Status Determination (in accordance with the Convention on the Status of Refugees and its Protocol), wherein it is stated that fear of political or other persecution should not only be based on the personal experience of the individual who is seeking asylum, but also on what has happened to friends, relatives and members of the family, which can be used as proof of a well-founded fear that sooner or later he or she will him or herself become the victim of persecution. The court also took into account that the sister of the applicant had received refugee status in the UK. In this way, the court familiarised itself with all the details of the applicant's case and the situation in the country of origin and overturned the decision of the State Committee to refuse the applicant refugee status. This decision sets a highly positive and important precedent for jurisprudence in Ukraine.

Return of refugees from Ukraine to countries of origin or other countries

One major problem for refugees in Ukraine occurs when a person receives a refusal either to be accepted into the refugee status determination procedure or following the preliminary interview receives a refusal to have their documents processed in a substantive review of the case. When this happens all of the refugee's documentation is confiscated and s/he is given a paper entitled "Information on a refusal to accept an asylum application" or "Information on a refusal to process documents for review of refugee status". This paper does not have a photograph, or a place for a residence registration stamp and is the only identity document the asylum seeker is left with. This leaves asylum seekers in this position vulnerable to being made to pay fines for lack of registration, to illegal detention and even deportation. Hundreds of asylum seekers can find themselves in this legal vacuum between the time they receive notification of the negative decision from the migration services and documentary confirmation from the court that they have appealed against this decision.

For example, on 7th February 2006 the Security Services of Ukraine detained 11 people in two different places in the Autonomous Republic of Crimea on the basis of an extradition order issued by the General Procurator of Uzbekistan. According to reports, the detained were then taken to a detention centre run by the Ministry of Internal Affairs in Simferopol, after which the 11 asylum seekers, who had sought international protection in Ukraine, were prematurely returned to their country of origin, where they were at risk of torture, unfair trials and possibly the death penalty.

It is internationally recognised that the Uzbek Government represses any form of freedom of thought, freedom of speech, religion or peaceful public meeting. It could be said that the Ukrainian authorities handed the Uzbek asylum seekers straight into the hands of their persecutors. In November 2006 it became known that all 11 returned asylum seekers had been unfairly tried and then given prison sentences. The actions of the Ukrainian Security Service, responsible for deporting the asylum seekers, were severely criticised by UNHCR, OCSE, US State Department, Human Rights Watch, Amnesty International and other

international organisations. Ukrainian NGOs published a letter criticising the action of the Ukrainian Security Service as a cynical violation of national and international law and attack on fundamental human rights. The Ministry of Justice of Ukraine reached a similar conclusion after an enquiry.

Vulnerable Groups

- **Unaccompanied minors**

Unaccompanied children, who are separated from their families for various reasons, represent a group at risk and need special protection and basic care.

According to the Law of Ukraine "On refugees", an unaccompanied minor is a person under eighteen years of age who arrives or has arrived onto the territory of Ukraine without parents or a parent, grandfather or grandmother, adult brother or sister, guardian or tutor appointed pursuant to the legislation of the country of the refugee's origin or other persons of full legal age who have voluntarily or due to traditions existing in the refugee's country of origin assumed responsibility for the upbringing of the child prior to arrival in Ukraine.

In general the Law "On refugees" establishes the procedure whereby unaccompanied minors can apply for refugee status. According to the law, when a minor separated from his or her family crosses the Ukrainian State border and claims refugee status the officials of state border guard service should immediately inform the migration service bodies and childcare authorities (social services). The same law obliges the migration service bodies together with childcare authorities to provide temporary accommodation for such children with appropriate foster families or in a children's home.

Unaccompanied minors apply for refugee status through a representative. The childcare authorities act as their legal representatives. However in practice the provisions of the Law, regarding unaccompanied minor asylum seekers are not fully implemented. The difficulty for unaccompanied minors in accessing the refugee status procedure arises from the inability of the migration service bodies to accept and process such cases. As a result the majority of unaccompanied minors are denied access to the refugee status determination procedure.

During 2006 the Legal Protection Services programme of the NGO HIAS was approached by a total of 58 unaccompanied minor asylum seekers, mainly from Somalia (80 %). Only 2 of them managed to apply for refugee status at Kyiv migration service and a few of them to the Vinnitsa migration service.

This issue needs resolving and access to the procedure of refugee status determination should be granted to all unaccompanied minors, seeking asylum in Ukraine. Moreover the state should ensure that unaccompanied minor refugees and asylum seekers receive the full range of assistance, care, and services.

- **Chechen Refugees**

Ukraine granted temporary protection to Chechen refugees from 1995 to 1997. Up until 2001, the average recognition rate of Chechen asylum seekers was 32.6 %. However, since the beginning of 2005, it has been 0 %.

Organisations working with refugees in Ukraine argue that there is a lack of access to asylum procedures in Ukraine and often it is even difficult for ethnic Chechens to have access to the country as they are regularly returned back at the border, while as citizens of the Russian Federation they should be allowed visa-free access.

Ukrainian non-governmental organisations also report that Chechens are returned to Ukraine, mainly by the Slovak Republic and sometimes by Poland, even when they have sought to apply for asylum in these countries, although this tendency has reportedly decreased in 2006.

Ukraine and the EU completed negotiations on bilateral visa facilitation and readmission agreements in October 2006 and are due to sign both agreements in 2007. NGOs are concerned that the readmission agreement does not provide sufficient safeguards for refugees and asylum seekers, which would protect them from being returned to countries where they could be at risk of torture or inhuman or degrading treatment.

Ukraine and the Russian Federation have also recently agreed a bilateral readmission agreement. NGOs are alarmed that this agreement, as far as the draft agreement is concerned, does not include any special provisions relating to the protection of refugees and asylum seekers. Moreover, deportations of Chechens from Ukraine to the Russian Federation were reported to take place on a regular basis even before this agreement was finalised. Once the EU-Ukraine and Ukraine-Russia readmission agreements come into force, the risk of "chain *refoulement*" of Chechen refugees through Ukraine to the Russian Federation is imminent. Refugee-assisting NGOs and Chechen refugee groups claim that, in 2006, there have been several cases whereby Chechens they considered in need of international protection were deported back to the Russian Federation.

Ukrainian NGOs report that in 2006 one Chechen asylum seeker was detained while attempting to cross the border to the Slovak Republic, escorted by Ukrainian border guards to Kharkiv where she was handed over to Russian border guards. In October 2006, Ukrainian NGOs reported that a family of six Chechen asylum seekers were deported from Donetsk to Russia, and another family of four, including two children, were reportedly deported back to the Russian Federation in 2006.

Despite the fact that Chechen refugees should be able to integrate relatively well into Ukrainian society due to the knowledge of Russian language and shared Soviet cultural traditions, in practice, it is not possible for Chechens to obtain a legal status which would enable them to stay in the country.

- **Abkhaz "war refugees"**

As a result of the interethnic conflict in the Autonomous Republic of Abkhazia of Georgia a large number of people (mainly ethnic Georgians) were forced to leave. Approximately 6,000 people arrived in Ukraine, war refugees from Abkhazia.

NGOs estimate that there are currently 3000 "war refugees" from Abkhazia living both officially and unofficially in Ukraine. On 17 January 2006, Deputy Gennadiy Udovenko said that there were 1,000 at a parliamentary hearing to vote on a draft law aimed at solving the situation of residence for Abkhaz war refugees. However, this figure did not include those who have not managed to obtain temporary papers [to reside in Ukraine] or those who managed to get temporary papers but who were unable to prolong their registration.

On 26th June 1996 the Ukrainian Cabinet of Ministers issued Order No. 674 allowing those who fled Abkhazia to obtain temporary papers which gave them the right to live in Ukraine temporarily, temporary rights to work, medical help and school and pr-school education for their children. On 25th August 2004 this Order was amended. Some of the war refugees had arrived in Ukraine with no identity documents and therefore were not able to receive temporary papers. This group of people remained citizens of Georgia and had to pay $120 USD to obtain national passports (several times the minimum wage in Ukraine). Therefore, these people have ended up living in Ukraine illegally for several years – with the elderly, socially vulnerable families and those with many children especially affected. There are cases of children under 18 who have been living with no documents and no rights.

The Ukrainian Law "On Immigration " which came into force on 7th September 2001 was an opportunity for those with temporary documents to obtain a residence permit [vid na zhitel'stvo], but not everyone was able to take advantage of this. The legislation introduced time limits on residence in Ukraine, and there was only 6 months in which applications could be processed. "War refugees" were not well informed about the process of receiving temporary residence, and another deciding factor was that the process for issuing residence permits was implemented very late, 8 months after the deadline for submitting applications.

After Order №674 was revoked, all those who had had temporary papers lost their rights to residence in Ukraine and became illegal migrants. Complaints lead to temporary permits being extended after 13 months until 1st April 2006 (Order of the Committee of Ministers No. 394 from 12th September 2005). Then the Committee of Ministers ruled to extend the permits until 1st May 2007.

War refugees cannot return to Abkhazia as their situation is not yet regulated at governmental level. Return to Georgia would be problematic as the majority of these people consider Abkhazia as their home and have never lived in other regions of Georgia. People have adapted to life in Ukraine, their children have grown up here, attended Ukrainian schools and do not speak Georgian. In Georgia, where the majority of Abkhazian refugees remain unsettled, they would have to start life over again. For many the present situation is a tragedy. The majority have lost any hope of receiving permanent resident status in Ukraine. The current legal status accords

people the rights of a foreign citizen temporarily residing in Ukraine - the rights as outlined by Order No. 674 are not always respected as the Order was revoked. Therefore, many people have been unable to extend their registration at the Ministry of Internal Affairs and despite the fact that the validity of their temporary permits has been extended, they remain in Ukraine on an illegal basis. Those who did manage to extend their registration with the Ministry of Internal Affairs remain under threat of it expiring after May 2007.

The introduction of legislation on additional forms of protection would solve the problem of legal status for those who could not receive temporary permits (the introduction of these additional forms of protection is a critical issue for the protection of different categories of migrants). The Georgian authorities could reduce the fee for Georgian identity documents (the present 23% reduction is not enough to make them affordable for everyone).

Detention

One of the main problems is a lack of knowledge on the Law "On Refugees" amongst officials of the border guard services and law enforcement agencies, who often treat asylum seekers who have been denied access to the procedure as "illegal immigrants" – this can lead to detention, administrative punishment and even deportation. The procedure for the transferral of applications of asylum seekers' detained by the police or the border guards has not yet been regulated and this can lead to a serious risk of deportation.

According to the law and to service instructions the law enforcement authorities and border guards should pass asylum applications to the migration services. However, at present the interior affairs authorities do not have clear instructions on the procedures for accepting asylum claims. Border guards and law enforcement officials often do not explain the refugee status determination procedure to detainees, do not provide pencils or pens, do not pass on completed applications to the migration services in time, and do not respect the confidential nature of the asylum applications. It is clearly forbidden by both national and international legislation to pass any information whatsoever on asylum seekers, even if they are verbally expressing their wish to seek asylum, to any diplomatic presence or other authorities of the country of origin of the applicant. However, both the police and the border guards systematically do this. In many cases they also refuse to let people who have already applied for asylum out of detention.

Potential refugees are detained along with other foreign citizens who do not have documents. Sometimes they spend months in border guard or police detention facilities. In many of the detention facilities the food, sanitary conditions, medical treatment are inadequate.

It is also worth mentioning that people in detention are primarily those who were detained whilst illegally crossing state borders and who had no documentation with them. This creates another obstacle to accessing the asylum procedure, as such people cannot be released from detention without identity documents. Due to the lack of familiarity with the law "On Refugees" amongst law enforcement officials and

border guards, they are often not aware that a lack of identity documents is a reason to refer an asylum applicant to the migration services, as they are empowered to establish identity and issue the person with legal identity documents for the territory of Ukraine.

Social Dimension

- **Integration programmes**

Although an integration plan was approved by the Government of Ukraine in 2004, it has not yet been implemented in practice, neither it is comprehensive. While refugees are granted basic legal and social rights (in accordance with the Refugee Law), there are still many barriers that hinder their integration into Ukrainian society. Low standards of living in Ukraine and the lack of a developed policy of social protection even for nationals make it difficult for the national welfare system to provide adequate social protection for asylum seekers and refugees. National services in many ways remain poorly managed and were inadequate to effectively meet the needs of the most vulnerable groups.

- **Housing**

The issue of housing is a big problem for asylum seekers and refugees.

In Odessa, there is a temporary accommodation centre for refugees (TAC), with 130 places. People are only allowed to live in the centre for 3 months, although many people stay there for longer - the alternative being simply throwing them out onto the streets.

Ukrainian legislation foresees the provision of accommodation from special funds for socially vulnerable categories of people, including refugees (here the period of accommodation is for one year), but this is not implemented in practice as there is no budget for housing of this kind. Other problems include racism and xenophobia which are on the increase in Ukrainian society. NGOs working to house refugees come across this regularly as local people and the authorities are reluctant to allow refugees to live in the available accommodation.

- **Accommodation for unaccompanied minors**

In the course of 2006 the NGO ROKADA was approached by 83 teenagers:
- 51 unaccompanied minors from Somalia;
- 20 unaccompanied minors from Afghanistan;
- 4 – from Ghana, 4 – from Russia, 1 – from Nigeria, 1 – from DRC

90% of them are male. UNHCR and "ROKADA" pay special attention to unaccompanied minors, who get immediate social counselling, urgent financial assistance at the maximum available rate, food packages for newcomers and living essentials. ROKADA provides unaccompanied minors with qualified psychological assistance.

In 2006 there were several attempts to involve the state structures into the process of finding solutions for unaccompanied minors. A number of meetings were organized with representatives from the Department on Unaccompanied Minors, which is part of the Kiev City Administration. Upon agreement between the two parties two teenagers were given accommodation in the Kiev City Shelter for unaccompanied minors. The state bodies have not taken any responsibility for appointing the legal guardians, required to represent the interests of unaccompanied minors before the Migration Services. At present the state bodies take a passive role regarding unaccompanied minors, violating their rights of access to the refugee status determination procedure as well as their right to education. These children do not have adequate living conditions, very often they do not have sufficient food and suffer from hunger, they do not go to school, and they are suffering psychological trauma. There is still an urgent need for establishing a shelter for unaccompanied minors.

- **Citizenship**

Recognised refugees have the right to receive citizenship in Ukraine after three years of unbroken residence on the territory of Ukraine. Refugees have to pay a fee when they submit an application for citizenship, but do not have to provide documentary evidence of means of subsistence, as other foreign citizens do, nor do they have to have a temporary residence permit. The main obstacle to obtaining Ukrainian citizenship is the problem of language. Refugees who wish to apply for Ukrainian citizenship need to have a conversational level of Ukrainian. There are no precise criteria to test the level of language proficiency at present but for the past two years the SDCIR[14] has been preparing assessment criteria for citizenship cases, meaning that many refugees will have no chance of receiving citizenship. A State programme of teaching Ukrainian to refugees is urgently required.

- **Employment**

From a legislative point of view work is guaranteed for recognised refugees. However, there are a number of reasons that make it still very difficult for many refugees to find employment in Ukraine:

- The unemployment rate in the country is still very high.
- Gaps in the refugees' professional experience.
- Irrelevance of their education or experience to the current needs of the Ukrainian labour market.
- Discrimination by employers who prefer to hire locals.

The Refugee Law of 2001 accorded the same rights to refugees as to Ukrainian citizens and created the legal means to assist refugees to find employment. However, Ukraine's accession to the 1951 Refugee Convention in 2002 was not reflected in changes to the employment legislation (as explained below). A refugee's ability to exercise his right to employment as accorded by the Refugee Convention, the Ukrainian Constitution and Ukrainian Refugee Law is also hindered by a lack of awareness both by the authorities and potential employers. This is not only because of

[14] State Department of Citizenship, Immigration and Registration

an unwillingness to study employment legislation, but also because refugees are not included in the Employment Law and the Labour Code as a category of people who have the right to work. The situation is even worse for asylum seekers.

According to Article 8 of the Employment Law, refugees need to obtain a work permit, and this is quite expensive for the employer. Employers are fined for employing people without this permit. The same article determines the categories of foreign citizens who do not require permits but it does not specify refugees (the Employment Law was adopted before the Refugee Law of 1993, therefore, refugees are not included as a separate category). Since 1999 the issue of employment permits has been regulated by the Decree of the Cabinet of Ministers' № 2028. The Ministry of Employment and Social Policies of Ukraine, responsible for elaborating the draft decree, suggested making refugees exempt from requiring employment permits. But the approved text does not include these provisions and therefore refugees still require work permits.

Amendments need to be introduced to the vast majority of Ukrainian legal acts in order to protect refugees' interests (for example: provisions on the employment of foreign citizens who temporarily stay in the country in the Employment Law).

The refugee document is only valid for one year and has to be extended every year. Not all employers are willing to take on refugees on a temporary basis. In order to solve this problem once a refugee receives status they should also get the right to reside in Ukraine on a permanent basis.

Refugees are also discriminated against in the way that they are not eligible for provisions in Paragraph 5 of the Ukrainian Employment Law, which envisages additional guarantees for those who are not able to compete equally in the labour market. According to the text of the law, a refugee should be able to obtain additional guarantees if he/she is released from a place of confinement or is disabled, etc.

Asylum seekers at different stages of the refugee determination procedure have the right to work temporarily but this right is difficult to realize in practice due to conflicting legislation in Ukraine governing the right to work of foreign citizens (foreign citizens without a permanent place of residence and who have not been recognized as refugees require special permission to work, which is given for a maximum of one year). In order to obtain temporary employment, asylum seekers are required to provide documentation, which includes an identification code. It is impossible for asylum seekers to acquire the identification code as they need to provide a passport document, which has either been lost or taken away by the Migration authorities in accordance with the Refugee Law. Asylum seeker documents, issued by the Migration authorities have to be extended every month. Sometimes the documents are overdue or issued late and this type of inconvenience makes it difficult for asylum seekers to find employers willing to give them work.

There is an urgent need for the state to establish language courses and provide people with an opportunity to receive secondary and higher education. This should not be done after the person has been recognized as a refugee, but whilst his or her case is

being considered. For refugees with higher education the procedure for recognizing diplomas should be made easier.

Thus, the relevant amendments must be introduced to the Employment Law, Labour Code and State Employment Service Regulation to make it much easier for refugees to get employment and facilitate their integration into Ukrainian society. This would also mean that they would pay taxes to the Ukrainian budget.

- **Financial assistance from the State**

A one-off targeted financial payment of 17 UAH (approximately $3.4 USD) is given to buy living essentials (for those under 16 years old it is 10 UAH 20 kopecks – approximately $2 USD). This sum is only payable to recognized refugees. It is obvious that the amount of money is inadequate.

In the period from 1998 to 2006 there were no drastic changes to the Procedure of providing refugees with financial assistance and pensions as approved by the Cabinet of Ministers of Ukraine (Resolution No. 1016, dated 6th July 1998).

In spite of the insufficient size of the payments, the state provides these only to recognized refugees and does not consider asylum seekers to be in need of any pecuniary aid.

- **Pensions**

When submitting documents to be granted a state pension, refugees face problems because the special Law of Ukraine "On obligatory national insurance" does not specify refugees as a category of persons who have the right to a pension. This means that inspectors very often refuse refugees access to pensions because of a lack of understanding.

- **Social assistance**

Social guarantees

A recognized refugee in Ukraine has the right:

a) To get financial assistance.
b) To get a pension.
c) To get other types of social assistance in accordance with the procedures established by Ukrainian legislation.
d) To use the accommodation provided to him/her.

Allowances for families with children

Problems receiving maternity allowance concern only those refugees who are not officially employed or unemployed and, thus, are not included into the system of national obligatory social insurance. Therefore, the following comments relate only to receiving the allowance through the Department of Labour and Social Protection of the Population.

The Law of Ukraine "On state assistance to families with children" envisages several types of allowances. Some of the documents that need to be provided in accordance with the approved procedure for families with children to be granted state assistance can be provided only by those refugees who live in private flats or have a formal rent agreement for an apartment. In the majority of cases refugees do not live in private flats and there are no formal rent agreements. As a result refugees cannot obtain the required confirmation from the Housing and Communal Services. Refugees often face a situation whereby inspectors refuse to look for other ways to help despite the fact that the State should have obligations towards supporting children.

There are cases when refugees work for private entrepreneurs and pay their own tax. When the inspector of the Department of Labour and Social Protection of Population is provided with this information, s/he can demand, for instance, that a husband should get an allowance from his employer, which is illegal. As a rule, if a refugee makes an effort to do as the inspector demands, he loses his job.

Allowances to persons who do not have the right to a pension and for disabled people

NGOs believe that the Law "On state social assistance to persons who do not have the right to a pension and the disabled" contradicts the Constitution of Ukraine.

Refugees are most often told verbally that they are not entitled to this type of allowance. This is another illustration of bureaucratic incompetence. In addition, there is a problem with getting the required confirmation from the Housing and Communal Services (described earlier).

Another problem is that to qualify for this allowance a person needs to have insufficient means for living. If a refugee has a formal rent agreement for an apartment, the agreement will be registered with the taxation department. Based on the price of rent, the refugee will not be considered to have scarce means for living. On the other hand, without a rent agreement a refugee will not be able to submit the required documents.

The minimum size of the allowance is UAH 46.5 (approximately $9.3 USD) for men aged 63 and over and for women aged 58 and over. The maximum size of the allowance is UAH 165 ($33 USD) for disabled people with "1st category" (serious) disabilities.

- **Education**

On the whole asylum seekers and refugees in Ukraine have access to primary and secondary education.

Problems occur in the following areas:

- There is a lack of knowledge about legislation and refugees' rights to education – both amongst refugees and amongst those who work in the education system;
- Inconsistencies in the implementation of legislation;

- The fact that refugees do not have access to higher education in the same way as Ukrainian nationals. Refugees have access to paid higher education as all foreign citizens do – the fees are high, and therefore refugees are not able to cover them;
- The language barrier.

Recommendations

- The Ukrainian government should urgently review the situation of temporary accommodation for refugees and asylum seekers and to seek the means to provide more accommodation for the most vulnerable families
- Training should continue to be provided on the refugee status determination procedure for decision makers, border guards and judges
- The Ukrainian Government and international community should provide more funds for the translation of country of origin information and the case law of the European Court of Human Rights into Ukrainian
- A solution needs to be found to the lack of interpreters for refugees who do not speak Ukrainian or Russian, both in order to better identify those in need of international protection who may wish to apply for asylum and during the refugee status determination procedure itself
- The authorities should ensure that Ukraine respects its international obligations under Article 33 of the 1951 Geneva Convention, by carefully regulating the procedures for deportation, and ensuring that asylum seekers are not subject to deportation until their applications have been examined and they have had a chance to appeal a negative decision
- Subsidiary protection should be made available for those who cannot be granted refugee status according to Article 1 (A) of the 1951 Refugee Convention but who are in need of international protection and cannot be returned to their country of citizenship or habitual residence
- The Ukrainian authorities should ensure that unaccompanied minors, both refugees and asylum seekers, receive the full range of assistance, care, and services they need and that they have full access to the refugee status determination procedure in Ukraine
- There is an urgent need for the Ukrainian authorities to ensure that funds are made available for an integration programme that includes Ukrainian language courses for asylum seekers and refugees
- Refugees and their children should have the same rights to higher education as citizens of Ukraine
- Barriers to employment for refugees and asylum seekers should be removed by harmonizing the necessary legislation with the Law on Refugees
- Until there is an effective durable solution for refugees in Ukraine, the international community should work with UNHCR and NGOs to identify those vulnerable groups who would benefit from resettlement to a third country and should increase their quota for resettling refugees from Ukraine

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