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OPERATIONAL GUIDANCE NOTE

Russian Federation

CONTENTS

1. Introduction	1.1 – 1.4
2. Country assessment	2.1 – 2.7
3. Main categories of claims	3.1 – 3.5
Chechnya	3.6
Minority ethnic groups	3.7
Minority religious groups	3.8
NGOs and journalists	3.9
Organised crime and corruption	3.10
Military service	3.11
Prison conditions	3.12
4. Discretionary Leave	4.1 – 4.2
Minors claiming in their own right	4.3
Medical treatment	4.4
5. Returns	5.1 – 5.2
6. List of source documents / Additional references	

1. Introduction

- 1.1** This document evaluates the general, political and human rights situation in Russia and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that country, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers must refer to the relevant Asylum Policy Instructions for further details of the policy on these areas.
- 1.2** This guidance must also be read in conjunction with any COI Service Russia Country of Origin Information at:
- http://www.homeoffice.gov.uk/rds/country_reports.html
- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance set out below. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the API on Article 8 ECHR. If, following consideration, a claim is to be refused, caseworkers should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

Source documents

- 1.4** A full list of source documents cited in footnotes is at the end of this note.

2. Country assessment

- 2.1** The Russian Federation is recognised in international law as continuing the legal personality of the former Soviet Union (USSR) which was dissolved on 31 December 1991.

The Russian Federation is currently divided into 89 administrative units known as 'federal subjects'. This includes 21 republics linked to non-Russian minorities, 6 territories, 49 regions, 11 autonomous regions, and the cities of Moscow and St Petersburg.¹

- 2.2** Vladimir Putin was formally elected President on 26 March 2000. He largely kept intact the government he had inherited from President Yeltsin although a reshuffle in March 2001 placed some of his own loyalists in key positions. Duma (Parliamentary) elections on 7 December 2003 saw an unprecedented win by United Russia, Putin's preferred party. United Russia with its allies now has a two third majority vote in the Duma, which could facilitate changes to the constitution if it so wishes. President Putin won a second term on 14 March 2004 with a landslide majority, although the OSCE's election monitors were critical of what they considered to be unbalanced media coverage heavily slanted in his favour.²
- 2.3** The law provides for an independent judiciary, and there were a number of indications of judicial independence in 2005; however, the judiciary did not consistently act as an effective counterweight to other branches of the government. The law provides for strengthening the role of the judiciary in relation to the prosecutor general by requiring judicial approval of arrest warrants, searches, seizures, and detentions. Judges allegedly remained subject to influence from the executive, military, and security forces, particularly in high profile or politically sensitive cases.³
- 2.4** While human rights and civic freedoms have improved dramatically since the collapse of the USSR, some concerns remain. These include concerns over freedom of expression and the media, conditions in Russian prisons and the Russian government's activities in Chechnya.⁴
- 2.5** The United States State Department (USSD) believes that the most notable human rights development during 2005 was the continued centralisation of power in the executive branch. According to the USSD there were also reports of significant human rights problems including alleged government involvement in politically motivated abductions, disappearances, and unlawful killing in Chechnya and elsewhere in the North Caucasus, torture, violence, and other brutal or humiliating treatment, arbitrary arrest and detention, and widespread governmental and societal discrimination as well as racially motivated attacks against ethnic minorities and persons from the Caucasus, Central Asia, Asia, and Africa.⁵
- 2.6** The law prohibits torture and ill-treatment, however, there were credible reports that law enforcement personnel frequently engaged in torture, violence, and other brutal or humiliating treatment or punishment to coerce confessions from suspects during 2005 and that the government did not consistently hold officials accountable for such actions. Cases of physical abuse by police officers usually occurred within the first few hours or days of arrest. Some of the methods reportedly used were: beatings with fists, batons, or other objects; asphyxiation using gas masks or bags (at times filled with mace); electric shocks; or suspension by body parts (for example, suspending a victim from the wrists which are tied together behind the back).⁶
- 2.7** The Russian NGO DEMOS reported that individuals who take their complaint to the police often experience inaction, disregard for their complaint or even brutality. However, some torture cases have been prosecuted. In March 2006, two policemen from Moscow were convicted in connection with a death in custody and in May 2006 four policemen in the town

¹ FCO Country Profile October 2006

² FCO Country Profile October 2006

³ USSD 2005 (Section 1)

⁴ FCO Country Profile October 2006

⁵ USSD 2005 (Introduction)

⁶ USSD 2005 (Section 1)

of Blagoveshchensk, in the Amur region of far-eastern Russia, were given suspended sentences for beating up a young detainee.⁷

- 2.8** There were other positive developments with regard to human rights. The judiciary demonstrated greater independence in a number of cases. Reforms initiated in previous years continued to produce improvements in the criminal justice system and the authorities sought to combat instances of racial and ethnic mistreatment through prosecutions of groups and individuals accused of engaging in this behaviour.⁸

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Russia. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)
- 3.5** All APIs can be accessed via the IND website at:

<http://www.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions/>

3.6 Chechnya

- 3.6.1** Most claimants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of the Russian authorities due to their Chechen ethnicity and/or their support for the separatist movement in Chechnya. Some claimants will claim that they cannot live in Chechnya because of the general situation in that region.
- 3.6.2 *Treatment.*** The conflict in Chechnya is currently the most serious in the territory of the former Soviet Union. The Russian authorities intervened in the Republic in 1999 after a short chaotic period of virtual Chechen self-rule after Russian troops withdrew in 1996. Much of the destruction of Grozny and other Chechen cities and towns was caused by

⁷ FCO Annual Human Rights Report October 2006 p.93

⁸ USSD 2005 (Introduction)

indiscriminate use of heavy artillery and aerial bombing by the Russian military. However, such attacks are now intermittent and the Russian response is becoming more targeted.⁹

- 3.6.3** Despite Moscow's claims of 'normalisation', fighting has continued with frequent attacks by militants on federal and local forces, especially in the highland south. Reports of human rights abuses remain high. There have been widespread and credible allegations of extra-judicial killings, disappearances, torture, rape and unlawful detention by all sides.¹⁰
- 3.6.4** Since the start of the Chechen conflict, there have been widespread reports that both sides have killed or tortured prisoners. The Russian armed forces and police units are also reported to have routinely abused and tortured persons in holding facilities where federal authorities sorted out fighters or those suspected of aiding the rebels from civilians. Federal forces and police units also reportedly ransomed Chechen detainees (and, at times, their corpses) to their families for prices ranging from several hundred to thousands of dollars.¹¹
- 3.6.5** Although, the statistics from both the authorities and NGO Memorial appear to point to a decline in abductions and disappearances in 2005 they continued to occur. Some of these disappearances can be attributed to federal forces or pro-Moscow Chechen forces.¹²
- 3.6.6** There has been a continued shift in Russian tactics away from operations involving Russian military formations and toward police operations, and from the use of federal forces toward reliance on paramilitary and police units of the Chechen Republic. There were fewer mopping-up operations, known as '*zachistki*,' in 2005 than in previous years, although more targeted operations, such as night raids, continued. According to the NGO Memorial, although in some cases *zachistki* were accompanied by abductions, looting, and beatings, most *zachistki* were conducted with no serious human rights abuses.¹³
- 3.6.7** Chechen security forces were nominally under the control of Chechen civilian authorities but also often conducted operations jointly with Russian federal forces. In reality, Chechen security forces were under the command of Chechen Prime Minister Ramzan Kadyrov and often appeared to act with relative independence. The limited measures taken by the federal and Chechen leaders to control these forces have been largely ineffective.¹⁴
- 3.6.8** According to Amnesty International Chechen security forces under the command of Ramzan Kadyrov and divisions of federal forces staffed by ethnic Chechens were increasingly implicated in arbitrary detention, torture and "disappearances" in Chechnya during 2005.¹⁵
- 3.6.9** Some action has been taken by the Russian authorities to tackle human rights abuses. According to statistics compiled by the general prosecutor's office, since 1999, 103 verdicts had been rendered in cases involving federal servicemen charged with crimes against civilians. Of these, 27 were given prison sentences of from 1 to 18 years in prison, 8 were acquitted, and 20 were amnestied. Sentences in the remainder were suspended or the guilty were fined. Government statistics also showed that 34 law enforcement officers were charged with crimes against civilians, with 7 sentenced to prison and the rest convicted and given suspended sentences. According to Minister of Justice Yuriy Chayka, from the start of the conflict through to November 2003, 54 servicemen, including 8 officers, had been found guilty of crimes against civilians in Chechnya.¹⁶
- 3.6.10** However, Amnesty international was aware of only two convictions for serious human rights violations committed in Chechnya during 2005. The majority of investigations into alleged

⁹ FCO Country Profile October 2006

¹⁰ FCO Country Profile October 2006

¹¹ USSD 2005 (Section 1)

¹² USSD 2005 (Section 1)

¹³ USSD 2005 (Section 1)

¹⁴ USSD 2005 (Section 1)

¹⁵ AI Annual Report 2006 & FCO Annual Human Rights Report October 2006 p.87

¹⁶ USSD 2005 (Section 1)

violations were ineffective and the prosecution of the handful of cases that came to court was flawed. Applicants to the European Court of Human Rights faced serious reprisals including intimidation, death threats, killing and “disappearance”.¹⁷

3.6.11 Chechen rebel fighters also committed numerous serious human rights abuses during 2005. They committed terrorist acts against civilians in Chechnya and elsewhere in the country, killed civilians who would not assist them, used civilians as human shields, forced civilians to build fortifications, and prevented refugees from fleeing Chechnya. In several cases Chechen fighters killed elderly ethnic Russian civilians for no apparent reason other than their ethnicity. Chechen rebels also committed a number of terrorist acts involving bombings during the year.¹⁸

3.6.12 *Sufficiency of protection.* As this category of claimants’ fear is of ill treatment/persecution by the state authorities they cannot apply to these authorities for protection.

3.6.13 *Internal relocation.* All adults in the Russian Federation are issued with internal passports, which they must carry while travelling, and they are expected to register with the local authorities within 90 days of their arrival in a place. Corruption in the registration process in local police precincts was a problem and although the fees for permanent and temporary registration remained low, police demanded bribes when processing registration applications and during spot checks for registration documentation.¹⁹

3.6.14 The current advice from the Foreign and Commonwealth Office is that any returnee who is the holder of a valid Russian passport (indicating former residence on Russian territory) should be able to resettle in any of a number of regions in the Russian Federation, even after a prolonged absence.²⁰

3.6.15 In general, as this category of claimants’ fear is of ill treatment/persecution by the state authorities relocation to a different area of the country to escape this threat is not feasible and Chechens who fear the Russian authorities will not be able to internally relocate. However, internal relocation is an option for those Chechens who do not fear or are not wanted by the Federal authorities. The IAT found in a number of cases that although Chechens face societal discrimination and have difficulties finding accommodation and employment these difficulties on their own do not make it unduly harsh for a person to internally relocate.

3.6.16 *Caselaw.*

RM (Young Chechen male – Risk IFA) Russia CG UKAIT 00050 date heard 16 May 2006, date promulgated 12 June 2006 The Tribunal accepted that those who were wanted by the Russian authorities for being connected with or supporting the rebels would be entitled to asylum (subject to exclusion clauses) and protection under Article 3. The Tribunal then went on to consider the position for those ethnic Chechens who were not ‘wanted’ by the authorities.

- The Tribunal firstly considered the position of such people at the point of return (at St Petersburg or Moscow airports). It was accepted that a person of Chechen appearance and with a Chechen name would be identifiable as such. On arrival such a person may be detained for questioning during which some harassment may take place. However, there was a lack of evidence to suggest that detention would be prolonged or that it would incur a breach of Article 3.
- In considering whether someone who left illegally would face imprisonment that would breach Article 3 the Tribunal found that this was not the case and concurred with ZB (Russian prison conditions) Russian Federation CG [2004] UKIAT 00239 that prison conditions in Russia are not so severe as to breach Article 3.
- There was a viable rail link to Chechnya and although ethnic Chechens may face some security checks en route this would not amount to a breach of Article 3.

¹⁷ AI Annual Report 2006

¹⁸ USSD 2005 (Section 1)

¹⁹ USSD 2005 (Section 2)

²⁰ FCO letter August 2005

- The Tribunal also found that the conditions in Chechnya itself were not such that Article 3 would be engaged.
- In considering internal relocation the Tribunal applied the principles of *Januzi v Secretary of State for the Home Department* [2006] UKHL 5. They found that the conditions in the neighbouring republic of Ingushetia did not amount to a breach of Article 3.
- This case considered more up to date objective evidence than that which was considered in *MR (Chechen – Return) Russia CG [2002] UKIAT 07562* and therefore replaces it as Country Guidance.

The Tribunal found that a young Chechen male would not as such be at risk of persecution or a breach of Article 3 on return to Russia or Chechnya. They also found there to be a viable internal relocation option in Ingushetia. There would however, be a real risk on return to a Chechen who was wanted in connection with or for supporting the Chechen rebels. If the applicants actions were such as to engage Article 1F he would not be a refugee.

OA ((IFA – Unduly Harsh – Chechens - Relocation) Russia CG [2002] UKIAT03796, Date heard: 05/07/2002, Date notified: 15/08/2002. The Appellant was a mixed ethnicity Russian from Chechnya – a pilot who refused to help the Chechen rebels. Internal relocation to Ingushetia was found to be unduly harsh due to the difficult conditions there coupled with the appellants own mixed ethnic and religious background. In Rostov the local circumstances and difficulties with the propiska system were not sufficient to make relocation there unduly harsh. However, the appellants own circumstance of being a pilot and his mixed ethnicity could make him subject to suspicion from the Russian officials which rendered relocation to Rostov unduly harsh.

AV (IFA – Mixed Ethnicity Relationship – Russian/Chechen) Russia CG [2002]UKIAT05260, Date heard: 26/09/2002, Date notified: 15/11/2002 The Appellant was an ethnic Russian with a Chechen boyfriend who faced problems with both ethnic Russian and ethnic Chechens because of her mixed relationship. The only issue before the Tribunal is the question of internal relocation and the Tribunal found that it would not be unduly harsh for the Appellant to relocate in the Rostov area. It is for the Appellant to make her case and she has not demonstrated that she cannot obtain an external passport from the Russian Embassy and an internal passport to live in Rostov from the embassy in the United Kingdom.

3.6.17 Conclusion. The Russian authorities have committed serious human rights abuses including torture, rape, kidnappings and extra judiciary executions in Chechnya. Chechen rebels have also been involved in serious human rights violations including major acts of terrorism outside Chechnya and summary executions of civilians. Those who are involved or who are suspected of being involved with Chechen rebels face a serious risk of persecution from the Federal authorities. Where an individual is able to demonstrate that they are at serious risk of facing such persecution on account of their activities a grant of asylum will be appropriate.

3.6.18 However, as found in the AIT case **RM (Young Chechen male – Risk IFA) Russia CG UKAIT 00050** Chechens from Chechnya who simply fear the general situation can internally relocate to another area of the Russian Federation and will therefore not qualify for a grant of asylum of Humanitarian Protection and are likely to be clearly unfounded.

3.6.19 Caseworkers should note that Chechen separatists have been responsible for numerous serious human rights abuses and terrorist acts some of which amount to war crimes and crimes against humanity. If it is accepted that a claimant was an active operational member or combatant for any of the Chechen separatists groups and the evidence suggests he/she has been involved in such actions, then caseworkers should consider whether one of the Exclusion clauses is applicable. Caseworkers should refer such cases to a Senior Caseworker in the first instance.

3.7 Minority ethnic groups

- 3.7.1** Most claimants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of Russian authorities or ordinary Russian civilians due to their Chechen or other minority ethnic origin.
- 3.7.2 *Treatment.*** The law prohibits discrimination based on nationality; however, Roma, persons from the Caucasus and Central Asia, dark skinned persons and foreigners faced widespread governmental and societal discrimination, which was often reflected in official attitudes and actions. Skinhead groups and other extreme nationalist organisations fomented racially motivated violence. Human rights observers noted that racist propaganda and racially motivated violence are punishable by law, but despite some increases in law enforcement efforts, the law was employed infrequently.²¹ In some cases a lack of trust in the police prevented victims from reporting any attacks.²²
- 3.7.3** Federal and local measures to combat crime continued to be applied disproportionately to persons appearing to be from the Caucasus and Central Asia in 2005. Police reportedly beat, harassed, and demanded bribes from persons with dark skin, or who appeared to be from the Caucasus, Central Asia, or Africa. Authorities in Moscow subjected dark-skinned persons to far more frequent document checks than others and frequently detained them or fined them in amounts that exceeded legally permissible penalties. Police often failed to record infractions against minorities or to issue a written record to the alleged perpetrators. Law enforcement authorities also targeted such persons for deportation from urban centres.²³
- 3.7.4** A report by the European Roma Rights Centre issued in May 2005 noted 'alarming patterns' of human rights abuse of Roma in the country including widespread police violence that was rarely reported to higher authorities.²⁴
- 3.7.5** During 2005 numerous racially motivated attacks took place against members of minority groups and foreigners, particularly Asians and Africans. According to MVD statistics, 11,100 crimes were committed against foreign citizens and persons without citizenship from January to October 2005. Private individuals or small groups that espoused racial hatred generally carried out such attacks.²⁵
- 3.7.6** Police investigations of such cases were frequently ineffective and authorities were often reluctant to acknowledge the racial or nationalistic element in the crimes. Many victims, particularly migrants and asylum seekers who lacked residence documents recognised by the police, chose not to report such attacks or experienced indifference on the part of police.²⁶
- 3.7.7** However, there were indications that the authorities were increasingly willing to acknowledge racial, ethnic, or religious motivations for such criminal acts. For example, in St. Petersburg authorities have recently been willing to acknowledge the role of ethnic hatred in such crimes. In September 2005, for the first time, a Primorskiy Kray jury convicted a defendant of a crime motivated by ethnic hatred. Skinhead leader Ivan Nazarenko was found guilty of murder motivated by ethnic hatred for the killing of a Korean man in September 2004 and sentenced to 13 years' imprisonment.²⁷
- 3.7.8** In August 2005 five skinheads were convicted of murdering migrants in Surgut, Khanty-Mansiysk Okrug. Two of the teenage defendants were sentenced to 9 years, the rest to 8 ½ years for murdering an Azeri and four Tajiks in separate incidents between December 2003 and September 2004. Also in August 2005 three skinheads were

²¹ USSD 2005 (Section 5)

²² AI Annual Report 2006

²³ USSD 2005 (Section 5)

²⁴ USSD 2005 (Section 5)

²⁵ USSD 2005 (Section 5)

²⁶ USSD 2005 (Section 5)

²⁷ USSD 2005 (Section 5)

sentenced to one year imprisonment for assaulting ethnic Yakuts in Yekaterinburg.²⁸ In March 2006 a 21-year-old man who went on a knife-wielding rampage at a Moscow synagogue, injuring eight people, was found guilty of attempted murder motivated by racial hatred and sentenced to 13 years in prison.²⁹

3.7.9 Sufficiency of protection. Discrimination against Chechens and other ethnic minorities in Russia is illegal and the federal government has appealed for tolerance. However, discrimination is widespread and ethnic minorities, especially Chechens, may not always obtain the full protection of the law and individual police officers may discriminate against them. Therefore there are limits on the effectiveness of any protection that the authorities are able or willing to offer.

3.7.10 Internal relocation. (See section 3.6.15 for more details on internal relocation)
Although Chechens and other ethnic minorities face societal discrimination in the Russian Federation and often have difficulties finding accommodation and employment these difficulties on their own do make it unduly harsh for a person to internally relocate. In general it is not unduly harsh for members of ethnic minority groups who are not wanted by the Federal authorities to internally relocate to another area of the Russian Federation.

3.7.11 Conclusion. There is widespread societal and official discrimination against Chechens and other ethnic minorities in Russia especially in the large cities of Moscow and St. Petersburg and some ethnic minorities may be subject to physical attacks. However, in general this discrimination does not amount to persecution. In some cases the authorities are willing to offer sufficiency of protection although the effectiveness of this protection may be limited by the actions of individual police officers/government officials. However, internal relocation is an option and it is not unduly harsh for Chechens or other ethnic minorities to relocate to another part of the Russian Federation. Therefore the majority of claims from this category are unlikely to qualify for a grant of asylum or Humanitarian Protection and are likely to be clearly unfounded.

3.8 Minority Religious Groups

3.8.1 Some claimants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of Russian authorities or ordinary Russian civilians due to their involvement with minority religious groups.

3.8.2 Treatment. The law provides for freedom of religion, and the authorities generally respected this right in practice during 2005, however, the authorities imposed restrictions on some groups. Although the law provides for the equality of all religions before the law and for the separation of church and state, the government did not always respect these provisions in practice³⁰ and there were indications that the security services increasingly treated the leadership of some minority religious groups as security threats.³¹

3.8.3 While religious matters were not a source of societal hostility for most citizens, members of minority and 'non-traditional' religions continued to encounter prejudice, societal discrimination, and in some cases physical attacks. Conservative activists claiming ties to the Russian Orthodox Church (ROC) disseminated negative publications and staged demonstrations throughout the country against minority religions. The authorities usually investigated incidents of religious vandalism and violence, but arrests of suspects were extremely infrequent and convictions were rare. Relations between non-traditional religious organisations and traditional ones frequently were tense, particularly at the leadership level.³²

²⁸ USSD 2005 (Section 5)

²⁹ BBC article March 2006

³⁰ USSD 2005 (Section 2)

³¹ USIRF 2006 (Introduction)

³² USSD 2005 (Section 2)

- 3.8.4** Available information suggests that 70% of Russia's 142.8 million inhabitants consider themselves Russian Orthodox Christians, although the vast majority are not regular churchgoers. There are an estimated 14 to 23 million Muslims, constituting approximately 14 percent of the population and forming the largest religious minority. By most estimates, Protestants constitute the third largest group of believers. An estimated 600,000 to 1 million Jews remain in the country and approximately 80 percent live in Moscow or St. Petersburg. In practice, only a small minority of citizens identify strongly with any religion. Many who identify themselves as members of a faith participate in religious life only rarely, or not at all.³³
- 3.8.5** A 1997 law on 'Freedom of Conscience' requires all religious organisations registered under the previous 1990 law to re-register by 31 December 2000. A January 2005 amendment to the law requires all registered local religious organisations to inform the Federal Registration Service Department (FRSD) within three days of any change in leadership or legal address, which brought the treatment of religious organisations into conformity with that of other non-governmental organisations. If a local organisation fails to meet this requirement on two occasions, the FRSD may file suit to have it dissolved and stricken from the registry.³⁴
- 3.8.6** The MOJ reported that, as of May 2004, there were 21,664 registered organisations. Local courts largely upheld the right of non-traditional groups to register or re-register and while such cases were often successful, administrative authorities were at times unwilling to implement court decisions.³⁵
- 3.8.7** A more serious legal step than denying registration to an organisation is banning, which prohibits all of the activities of a religious community. The June 2004 decision of the Moscow city court resulted in a city-wide ban of the Jehovah's Witnesses. The ban has had far-reaching consequences not just in Moscow and many local congregations throughout the country reported that rental contracts on their buildings had been cancelled or appeared to be at risk of cancellation.³⁶
- 3.8.8** The treatment of religious organisations, particularly minority denominations, varied widely in the regions, depending on the decisions of local officials. In some areas local authorities prevented minority religious denominations from re-registering as local religious organisations, subjecting them to campaigns of legal harassment. However, instances in which local officials detained individuals engaged in public discussion of their religious views remained isolated and were usually resolved quickly.³⁷
- 3.8.9** Popular attitudes toward traditionally Muslim ethnic groups remained negative in many regions, and there were manifestations of anti-Semitism as well as societal hostility toward Catholics and adherents of newer, non-Orthodox, religions during 2005.³⁸
- 3.8.10** However, many in the Jewish community said that conditions for Jews have improved, primarily due to the absence of official 'state-sponsored' anti-Semitism and because the Jewish community has undergone a major institutional revival. Nonetheless, anti-Semitic incidents continued to occur. There was a reported increase in anti-Semitic attacks in late 2004 and the first months of 2005, but this trend did not continue through the rest of the year.³⁹
- 3.8.11** Some anti-Semitic statements have been legally prosecuted and the authorities have publicly denounced nationalist ideology and expressed support for legal action against anti-

³³ USIRF 2006 (Section I)

³⁴ USSD 2005 (Section 2)

³⁵ USSD 2005 (Section 2)

³⁶ USSD 2005 (Section 2)

³⁷ USSD 2005 (Section 2)

³⁸ USSD 2005 (Section 2)

³⁹ USSD 2005 (Section 2)

Semitic acts; however, some lower-level officials remained reluctant to call such acts anything other than 'hooliganism.' The support of federal authorities, and in many cases of regional and local authorities, facilitated the establishment of new Jewish institutions. Work began on the construction of a complex, on land donated by the Moscow city government that will house Jewish community institutions including a school, a hospital, and a major new museum devoted to the history of Russia's Jews, the Holocaust, and tolerance.⁴⁰

3.8.12 Sufficiency of protection. In general the Federal authorities are able to offer sufficiency of protection to members of religious minorities. Most of the problems experienced by minority religious groups are at a local level and the Federal authorities and the courts are willing to over rule legal and administrative barriers imposed by local authorities and although convictions are rare the police are willing to investigate cases of religious vandalism and violence.

3.8.13 Internal relocation. (See section 3.6.13 for more details on internal relocation) Although some members of religious minorities do face some societal discrimination from ordinary Russians and may be subject to harassment or sometimes violence these difficulties on their own do make it unduly harsh for a person to internal relocate. In general it is not unduly harsh for members of minority religious groups who are not wanted by the Federal authorities to internally relocate to another area of the Russian Federation.

3.8.14 Caselaw.

IM (Article 3 - Orthodox Jew – Military Service) Russia CG [2002]UKIAT05952, Date heard: 02 September 2002, Date notified: 08 January 2003 This case relates mainly to military service, however, the IAT did find that there are no substantial grounds for believing that the appellant would suffer ill treatment of any kind on account of his religion or ethnicity as a result of his refusal to serve in the army.

3.8.15 Conclusion. There is some societal discrimination against religious minority groups in Russia and some local authorities have imposed legal restrictions on these groups impeding them from registering or re-registering with the authorities. However, in general this local discrimination does not amount to persecution and the federal authorities are active in preventing or reversing discriminatory actions. Internal relocation is an option and it is not unduly harsh for members of religious minorities to relocate to another part of the Russian Federation. Therefore the majority of claims from this category are unlikely to qualify for a grant of asylum or Humanitarian Protection and are likely to be clearly unfounded.

3.9 NGOs and journalists

3.9.1 Some claimants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of Russian authorities due to being journalists or members of Non-Governmental Organisations (NGOs) who are involved in campaigning against human rights abuses in Chechnya.

3.9.2 Treatment. Although a number of domestic and international human rights groups operated in the country, investigating and publicly commenting on human rights problems, official harassment of NGOs increased during 2005. Authorities harassed some NGOs that focused on politically sensitive areas and other official actions and statements indicated a declining level of tolerance for unfettered NGO activity, particularly for those NGOs that received foreign funding. NGOs operating in the Northern Caucasus were at times hampered, although these organisations had wider access than in the past.⁴¹

3.9.3 The authorities' attitude towards human rights NGOs appeared to depend on the perceived threat to national security or level of criticism that an NGO might offer. Some government

⁴⁰ USSD 2005 (Section 2)

⁴¹ USSD 2005 (Section 4)

officials viewed the activities of some NGOs working on Chechnya with suspicion. For example, on 15 June 2005, Lema Khasuyev, the Chechen Republic's human rights ombudsman, stated that he would not co-operate with the human rights NGO Memorial, claiming that it was working in the interests of foreign donors. In his May 2004 State of the Nation speech, President Putin suggested that 'far from all [NGOs] are geared toward defending people's real interests. For some of these organisations, the priority is rather different—obtaining funding from influential foreign or domestic foundations. For others it is servicing dubious group or commercial interests.'⁴²

- 3.9.4** Human Rights Watch reported that the pressure on NGOs escalated and NGOs that worked on human rights issues in Chechnya came under increasing pressure in 2005. These groups, the activists who lead them, and the people they work with increasingly faced administrative and judicial harassment, and, in the most severe cases, threats, and physical attacks. For example, the authorities opened two criminal cases against the Russian-Chechen Friendship Society, accusing it of inciting racial hatred and violating tax laws.⁴³
- 3.9.5** Although harassment of critical NGOs that do not work on Chechnya was less severe, the working environment deteriorated significantly in 2005. Government officials at both the federal and regional level stepped up their verbal attacks on these groups. In a number of regions, officials used legislation that prohibits extremism to shut down NGOs while in others they selectively used registration procedures or audits to harass groups of which they disapproved.⁴⁴
- 3.9.6** However, other officials, such as Human Rights Ombudsman Vladimir Lukin, regularly interacted and co-operated with NGOs. Government and legislative officials recognised and consulted with some NGOs on account of their expertise in certain fields, and such groups participated, with varying degrees of success, in drafting legislation and decrees.⁴⁵
- 3.9.7** Regional human rights groups, which generally received little international support or attention, often suffered from inadequate funding. They reported that although at times local authorities obstructed their work they were generally free to criticise government and regional authorities. Local human rights groups in the regions had some opportunities to interact with legislators to develop draft laws; however, local authorities excluded some organisations from the process entirely.⁴⁶
- 3.9.8** On the 10 April 2006 a new law came into effect requiring all Russian NGOs to register or re-register with the federal authorities within 6 months. Proponents of the law state that it is designed to reduce illegal activity within the NGO community, however, critics of the law point out that the text of the law is ambiguous and could be used to close down NGOs.⁴⁷
- 3.9.9** The law provides for freedom of speech and of the press, however, the authorities pressure on the media persisted, resulting in numerous infringements of these rights during 2005. Faced with continuing financial difficulties, as well as pressure from the authorities and large private companies with links to the authorities, many media organisations saw their autonomy further weaken. There were indications that this pressure frequently led reporters to engage in self-censorship. Nonetheless, on most subjects, the public continued to have access to a broad spectrum of viewpoints in the print media and, for those with access, on the Internet.⁴⁸

⁴² USSD 2005 (Section 4)

⁴³ HRW 2006

⁴⁴ HRW 2006

⁴⁵ USSD 2005 (Section 4)

⁴⁶ USSD 2005 (Section 4)

⁴⁷ FCO Annual Human Rights Report October 2006 p.91

⁴⁸ USSD 2005 (Section 2)

- 3.9.10** While the authorities generally respected citizens' rights to freedom of expression, it sometimes restricted this right with regard to issues such as the conduct of federal forces in Chechnya, discussions of religion, or controversial reforms in the social sector. Harassment of journalists by the authorities was not limited to Caucasus-related coverage. The Glasnost Defence Fund (GDF) and other media freedom monitoring organisations reported numerous abuses of journalists by police and other security personnel elsewhere, including physical assault and damaging of equipment. In most instances, however, the mistreatment appeared to have been at the initiative of local or provincial officials.⁴⁹
- 3.9.11** According to the GDF, 60 journalists were physically attacked during the first 11 months of 2005 and 6 were killed. At least three of the deaths may have been related to their work in journalism. In most cases authorities and observers were unable to establish a direct link between the assault and those who reportedly had taken offence at the reporting in question. Independent media NGOs still characterised beatings of journalists by unknown assailants as 'routine,' noting that those who pursued investigative stories on corruption and organised crime found themselves at greatest risk.⁵⁰ In October 2006 the investigatory journalist Anna Politkovskaya, a critic of President Vladimir Putin, was found shot dead at her apartment building. Ms Politkovskaya was one of the few Russian journalists to write about human rights abuses in Chechnya, and many Russians believe her murder was a contract killing.⁵¹
- 3.9.12** Legal actions against journalists and journalistic organisations were another tool employed by authorities at the federal and local levels, primarily in response to unfavourable coverage of government policy or operations. The GDF estimated that more than 100 such cases were brought during the first 6 months of 2005. However, the utility of this tool was partially diminished as a result of a decision by the Supreme Court in December 2004 prohibiting courts from imposing sentences in libel and defamation cases that would bankrupt the media organisation being sued. However, one NGO reported that the decision was not always implemented properly on the local level. The court's order stated that compensations 'should be commensurate with the damage and not infringe upon press freedom.'⁵²
- 3.9.13** *Sufficiency of protection.* As this category of claimants' fear is of ill treatment/persecution by the state authorities they cannot apply to these authorities for protection.
- 3.9.14** *Internal relocation.* (See section 3.6.13 for more details on internal relocation)
In general, as this category of claimants fear is of ill treatment/persecution by the state authorities' relocation to a different area of the country to escape this threat is not feasible.
- 3.9.15** *Conclusion.* There is some government harassment of NGOs and journalists and those who are investigating human rights rights abuses in Chechnya face particular difficulties, which may in some case amount to persecution. Where an individual is able to demonstrate that they are at serious risk of facing such persecution on account of their activities a grant of asylum due to imputed political opinion will be appropriate. However, in the majority of cases this harassment will not amount to persecution and therefore the claimant will not qualify for a grant of asylum or Humanitarian Protection.

3.10 Organised Crime and Corruption

- 3.10.1** Some claimants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of organised criminal gangs and/or corrupt officials.

⁴⁹ USSD 2005 (Section 2)

⁵⁰ USSD 2005 (Section 2)

⁵¹ BBC Article Funeral for shot reporter (10 October 2006)

⁵² USSD 2005 (Section 2)

- 3.10.2 *Treatment.*** Corruption was widespread throughout society in 2005, and was extensive in the executive and legislative branches of government. Manifestations included bribery of officials, misuse of budgetary resources, theft of government property, extortion, and official collusion in criminal acts. Many public institutions remained weak. The media lacked a strong tradition of investigative journalism, although a number of journalists throughout the country reported on corruption cases, sometimes resulting in prosecution of the alleged offenders. In general, however, citizens lacked a broad range of outlets to voice their views concerning corruption or to lodge complaints about its existence.⁵³
- 3.10.3** President Putin and senior government officials frequently addressed corruption in public statements, and many jurisdictions throughout the country established local anti-corruption committees. Various initiatives were undertaken at the federal level, with indeterminate results. Most anti-corruption campaigns tended to be limited in scope and focused mainly on lower level officials. Allegations of corruption were also used as a political tactic, which made it more difficult to determine the actual extent of corruption.⁵⁴
- 3.10.4** No new major corruption convictions occurred during 2005. However, there was a widely publicised allegation of major corruption in October 2005 involving the videotaped handover of \$1 million (28.5 million rubbles) to a federal tax inspector by an official with the Central Bank. Both individuals were charged and detained. In June 2005 a senior auditing official in the Ministry of Industry and Energy was arrested and indicted for allegedly accepting a bribe.⁵⁵
- 3.10.5** Organised criminal gangs participated in human trafficking during 2005. Information from foreign prosecutions, academic researchers, and law enforcement sources suggested that criminal groups carried out most trafficking with the assistance of front companies and more established organised crime groups. Traffickers often used their ties to organised crime to threaten victims with harm to their families should they try to escape. They also relied on ties to organised crime in the destination countries to prevent the victims from leaving and to find employment for the victims in the local sex industry. Trafficking organisations typically paid domestic organized crime entities a percentage of their profits in return for "protection" and for assistance in identifying victims, procuring false documents, and corrupting law enforcement.⁵⁶
- 3.10.6 *Sufficiency of protection.*** The high levels of corruption within the Russian Federation may limit the effectiveness of any protection that the authorities are able or willing to offer to those that fear organised crime.
- 3.10.7 *Internal relocation.*** (See section 3.6.13 for more details on internal relocation) Internal relocation to another part of the Russian Federation may be an option where the claimant fears corrupt local police or local criminal gangs. The IAT found in **[2003] UKIAT 00073 C** (below) that given localised interest in the appellant, the general constitutional provision for freedom of movement and the uneven local registration requirements imposed by local authorities in Russia that it would be open to the appellant to safely relocate to another part of his country.

3.10.8 *Caselaw.*

[2003] UKIAT 00073 C (Russia) Heard 1 July 2003, promulgated 16 September 2003

The appellant was involved in an argument with a policeman and was subsequently taken to the police station and beaten. The Respondent made a formal complaint about the conduct of the policeman but all efforts to pursue this were persistently blocked by superior officers up to the level of the chief of the local police department.

⁵³ USSD 2005 (Section 3)

⁵⁴ USSD 2005 (Section 3)

⁵⁵ USSD 2005 (Section 3)

⁵⁶ USSD 2005 (Section 4)

The IAT found that due to the adverse interest in the appellant being localised in nature, the absence of credible evidence of any continuing interest, and given the general constitutional provision for freedom of movement and the uneven local registration requirements imposed by local authorities in Russia on new residents (there are areas in the Russian regions which implement registration regulations less strictly than in some of the major cities), the Tribunal are satisfied that it would be open to the appellant to safely relocate to another part of his country.

3.10.9 Conclusion. Despite government efforts to crack down on corruption and organised crime, both remain widespread within the Russian Federation. If organised criminal gangs have connections and influence with the local police force or other state agents then claimants may not be able to seek the protection of the authorities or be able to internally relocate to another area of Russia. In a very small proportion of cases where both adequate state protection and internal relocation are not feasible, the grant of Humanitarian Protection may be appropriate. However, the majority of claimants are unlikely to qualify for Humanitarian Protection.

3.10.10 In cases of low level criminal activity perpetrated by criminal gangs or corrupt officials at a local level, i.e. street robbery/extortion in which there are no links with the authorities or where local officials are acting without the knowledge of higher authorities, the claimant will be able to seek the protection of the authorities and internal relocation to another part of the Russian Federation is an option. Therefore it is unlikely that these cases will qualify for a grant of asylum or Humanitarian Protection and are likely to be clearly unfounded.

3.11 Military Service

3.11.1 Some claimants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of Russian authorities due to their refusal to perform military service. Claimants will usually claim that they cannot perform military service for one or more of the following reasons:

- (i) They are conscientious objectors and refuse to perform military service on moral or religious grounds.
- (ii) They fear being sent to fight in Chechnya and engage in acts contrary to international law.
- (iii) The particularly violent bullying that they will suffer in the Russian military is such that it will lead to a breach of article 3 of the ECHR.

3.11.2 Treatment. Conscription is enshrined in Article 59 of the 1993 Constitution and is further regulated by the 1998 Law on Conscription Obligation and Military Service. The length of military service is 24 months, and 12 months for graduate students of higher education institutes. All men between the ages of 18 and 27 are liable for military service. Reservist obligations apply up to the age of 50. All male citizens are entered into the military register at the age of 17, after which they receive a summons to appear at the local draft commission for medical examination at the age of 18. There are two call-up periods per year, during spring (April-June) and during autumn (October-December).⁵⁷

3.11.3 The Constitution mandates the availability of alternative military service to those who refuse to bear arms for religious or other reasons of conscience. The law on alternative civil service took effect in January 2004, and two supplements to the law were issued in March 2004. The first supplement listed 722 organisations to which draftees may be assigned for the alternative service, and the second listed 283 activities that draftees were permitted to perform. In June 2004, Prime Minister Fradkov signed regulations on the implementation of the law on alternative civilian service. According to the regulations, the standard alternative service term is 42 months (versus the regular service term of 24 months) but the term will be shortened to 36 months if the draftee is assigned to a military organisation. The required service for university graduates is 21 and 18 months in these situations. Some human

⁵⁷ WRI 2005

rights groups have complained that the extended length of service for draftees requesting alternative assignments acts as a punishment for those who choose to exercise their religious or moral convictions.⁵⁸

- 3.11.4** Draft evasion and desertion are widespread, which is prompted by the fear of being sent to serve in Chechnya and poor conditions and human rights violations within the armed forces. There are several means of draft evasion. Many young men obtain false medical documents through bribery and are consequently exempt from service for health reasons. Others simply do not respond to call-up papers. According to the Ministry of Defence, there were 21,000 draft evaders in 2004 and 25,000 in 2003. According to estimates, there are approximately 40,000 deserters at any given time in the Russian Federation.⁵⁹
- 3.11.5** Draft evasion and desertion are punishable under the Criminal Code. Draft evasion is punishable by a fine, arrest for three to six months or up to two years' imprisonment (Article 328). Desertion is punishable by up to seven years' imprisonment, up to ten years in case of an armed conflict or collective desertion (Article 336). Leaving a military unit is punishable by up to six years' imprisonment or up to two years' sentence in disciplinary battalions (Article 337). Criminal prosecution may be waived if the non-authorized absence or desertion is committed for the first time or if the desertion was caused by a combination of grave circumstances (Article 338).⁶⁰
- 3.11.6** The Russian authorities maintain several means of monitoring draft evasion. The military and police authorities regularly conduct search operations for draft evaders and deserters. When recruitment officials fail to hand over the draft summons to draft age men they inform the police. The police then stop and detain them at home or in the streets, and hand them over to the military authorities. The majority of these conscripts are sent to military units on the same day as their detention. There are no detailed figures available on the criminal prosecution of draft evaders but because of its scale, it is probably practically impossible for the Russian authorities to prosecute all draft evaders. Even when caught some draft evaders may avoid criminal prosecution through bribery.⁶¹
- 3.11.7** In recent years the Russian authorities have announced several amnesties for draft evaders and deserters. The latest amnesty was announced in 2003 following the adoption of the Constitution of the Chechen Republic when the State Duma passed a series of resolutions on the amnesty of persons who 'committed socially dangerous acts'. This amnesty regulation also applied to draft evaders and deserters who reported themselves to the authorities by 1 September 2003. Despite the declared amnesty, NGOs have reported that many Russian soldiers released in Chechnya are still being held in Russia and are under criminal investigation for desertion.⁶²
- 3.11.8** Various abuses against military servicemen, including but not limited to the practice of *dedovshchina* (the violent, at times fatal, bullying of new junior recruits in the armed services, MVD, and border guards) continued in 2005. Press reports cited serving and former armed forces personnel, the Main Military Prosecutor's Office (MMPO), and NGOs monitoring conditions in the armed forces as indicating that such mistreatment often included the use of beatings or threats of increased bullying to extort money or material goods. Government officials announced that approximately 25 percent of the 11,500 crimes committed in the army during 2004 were related to bullying. The main military prosecutor stated that in 2004, 246 servicemen committed suicide and that many of these deaths were linked to bullying. According to defence ministry figures, there were 218 suicides in the military between January and October 2005.⁶³

⁵⁸ USIRF 2006 (Section II)

⁵⁹ WRI 2005

⁶⁰ WRI 2005

⁶¹ WRI 2005

⁶² WRI 2005

⁶³ USSD 2005 (Section 1)

- 3.11.9** As of October 2005, the Moscow Committee of Soldiers' Mothers registered 700 complaints from conscripts, mostly related to beatings. Servicemen also complained about sexual abuse, torture, and enslavement. Soldiers often did not report bullying to either unit officers or military prosecutors due to fear of reprisals, since in some cases officers reportedly tolerated or even encouraged such bullying as a means of controlling their units. Officers reportedly also used beatings to discipline soldiers. Bullying reportedly was a particularly serious problem in units that had previously served in areas of military conflict.⁶⁴
- 3.11.10** Both the Union of Soldiers' Mothers Committee (USMC) and the MMPO received numerous reports about 'non-statutory relations,' in which officers or sergeants physically assaulted or humiliated their subordinates. Despite the acknowledged seriousness of these problems, the leadership of the armed forces made only superficial efforts to implement substantive reforms in training, education, and administration programs within units to combat abuse.⁶⁵
- 3.11.11** Prosecutors opened an investigation of the Committee of Soldiers' Mothers in November 2004 following the committee's announcement that it intended to meet with Chechen rebel leader Aslan Maskhadov or his emissary Akhmed Zakayev. State Duma deputies had called for an investigation of the group and its finances. Tax inspectors later conducted an investigation, but reportedly found no violations.⁶⁶
- 3.11.12** The Ministry of Defence signed a memorandum of understanding with the human rights ombudsman that allows for monitoring of human rights conditions in military bases. It also announced that it would start regularly publishing information on deaths in the armed forces.⁶⁷
- 3.11.13 Sufficiency of protection.** As this category of claimants' fear is of ill treatment/persecution by the state authorities they cannot apply to these authorities for protection.
- 3.11.14 Internal relocation.** As this category of claimants fear is of ill treatment/persecution by the state authorities' relocation to a different area of the country to escape this threat is not feasible.
- 3.11.15 Caselaw.**

SEPET & another [2003] UKHL 15 – The ground upon which the appellants claimed asylum was related to their liability, if returned to Turkey, to perform compulsory military service on pain of imprisonment if they refused. The House of Lords in a unanimous judgement dismissed the appellants' appeals. The House of Lords found that there is no internationally recognised right to object to military service on grounds of conscience, so that a proper punishment for evading military service on such grounds is not persecution for a Convention reason.

[2004] UKIAT 00294 AK Russia - (Russia-Chechnya deserter) - The Tribunal considered the issue of deserters from the Russian Army fighting in Chechnya in a case remitted by the Court of Appeal. The Tribunal applied the test set out by the Court of Appeal and allowed the case on asylum grounds. This test is that a Refugee Convention reason can be demonstrated where punishment would arise for a deserter whose service would have required him to participate in actions that would be contrary to the basic rules of human conduct. The assessment was made by considering the objective evidence that related to the period at which the appellant had deserted in 1999/2000 and it concluded that the wide range of available evidence showed that low ranking frontline soldiers were obliged to participate in human rights abuses that were widespread and contrary to the basic rules of human conduct. The decision is reported only for what it says about Chechnya and Russian deserters from 1999 to 2000.

⁶⁴ USSD 2005 (Section 1)

⁶⁵ USSD 2005 (Section 1)

⁶⁶ USSD 2005 (Section 4)

⁶⁷ HRW 2006

VB (Desertion-Chechnya War-Hamilton) Russia CG [2003] UKIAT 00020 Date heard: 1 October 2002 Date notified 4 July 2003 (Case is also known as B) The basis of the appellants claim was that he had served in the Russian military and had trained as a communications specialist. He had deserted the army when he was informed he would be posted to Chechnya. He considered that the armed conflict there was internationally condemned and that punishment he would receive as a military deserter would be unduly harsh and disproportionate.

(i) The IAT found that although the sources paint a dismal picture of life for Russian conscripts, they do not by reference to figures establish a consistent pattern of gross and systematic violations of the basic human rights of conscripts. In the context of establishing whether a real risk of persecution or treatment contrary to human rights would ensue for a person returning to face compulsory military service in Russia, it did not think that anything less than evidence of abuses on such a scale of severity suffices. It agreed too with the Tribunal in **AK [2002] UKIAT01325** that the evidence concerning such abuses does not establish that serious abuses of the human rights of conscripts are endemic throughout the army.

(ii) The appellant also contended that the conditions of life in military service would be more difficult for him than for others because people would know he had objected to serving in Chechnya. However, from the objective country materials it is clear that unwillingness to serve in Chechnya is a widespread problem. There is no satisfactory evidence that the military authorities mete out significantly worse treatment to deserters known to be Chechen refuseniks.

(iii) The lack of international condemnation of the Chechen conflict taken together with the lack of evidence that violations of international law governing armed conflict are endemic in Chechnya led the IAT to conclude that the real prospect of having to perform military service in Chechnya would not expose this appellant to a well-founded fear of persecution on account of the repugnant nature of the armed conflict considered as a whole.

(iv) As regards the punishment for draft evasion there is some evidence to indicate that in practice evaders and deserters do not serve more than the minimum periods, but, even assuming they serve the maximum, the IAT did not think the abovementioned periods of imprisonment were in themselves disproportionate, particularly given that the duty of Russian citizens to perform military service was being enforced at a time when the Russian state faced significant problems of internal and external security. The IAT considered therefore that in the absence of clear evidence to show that draft deserters returning to Russia routinely and systematically faced conditions contrary to Article 3, the conclusion could not be drawn that the claimant could make out his case either under the Refugee Convention or Article 3 of the ECHR.

3.11.16 Conclusion. The House of Lords found in **[2003] UKHL 15** that there is no internationally recognised right to object to military service on grounds of conscience, so that a proper punishment for evading military service on such grounds is not persecution for a Convention reason. In addition there is an alternative to military service in Russia and there is no evidence that those who refuse to undertake military service (or substitute service) receive disproportionate treatment by the authorities on account of their religious beliefs or ethnic origin. Therefore it is unlikely that conscientious objectors would qualify for asylum or Humanitarian Protection and are likely to be clearly unfounded.

3.11.17 While serious human rights abuses have taken place in Chechnya (See section 3.6) there is no evidence that violations of international law governing armed conflict are endemic in Chechnya. Coupled with the lack of international condemnation of the conflict the IAT found in **[2003] UKIAT 00020** that the prospect of having to perform military service in Chechnya would not expose an appellant to a well-founded fear of persecution on account of the repugnant nature of the armed conflict considered as a whole. Therefore it is unlikely that a claimant in this category of claim would qualify for asylum or Humanitarian Protection and are likely to be clearly unfounded.

3.11.18 Violent bullying remains a serious problem in the Russian military and there is a risk that a person will face such bullying when conscripted into the Russian military. In the context of

establishing whether a real risk of persecution or treatment contrary to Article 3 would ensue for a person facing compulsory military service in Russia it would be necessary to show that these abuses were endemic. However, the IAT found in [2003] UKIAT 00020 that 'although the sources paint a dismal picture of life for Russian conscripts, they do not by reference to figures establish a consistent pattern of gross and systematic violations of the basic human rights of the conscripts, the evidence does not establish that serious abuses of the human rights of conscripts are endemic throughout the army.' Therefore it is unlikely that a claimant in this category of claim would qualify for asylum or Humanitarian Protection and are likely to be clearly unfounded.

3.12 Prison conditions

3.12.1 Claimants may claim that they cannot return to Russia due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in the Russia are so poor as to amount to torture or inhuman treatment or punishment.

3.12.2 The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason, or in cases where for a Convention reason a prison sentence is extended above the norm, the claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.

3.12.3 Consideration. Prison conditions remained extremely harsh and frequently life-threatening during 2005. The Ministry of Justice's (MOJ's) Federal Service for the Execution of Sentences (formerly the Main Division for the Execution of Sentences) administered most of the penitentiary system centrally from Moscow. The Federal Security Bureau (FSB) ran the Lefortovo pre-trial detention centre in Moscow and seven other pre-trial detention centres. There were five basic forms of custody in the criminal justice system:

- police temporary detention centres;
- pre-trial detention facilities, known as investigation isolation facilities (SIZOs);
- correctional labour colonies (ITKs);
- prisons designated for those who violate ITK rules; and
- educational labour colonies (VTKs) for juveniles.⁶⁸

3.12.4 As of 1 July 2005, approximately 797,500 persons were in the custody of the criminal justice system, including 48,600 women and 14,500 juveniles. On 16 December 2005, the MOJ reported that the number of the people held in custody in 2005 exceeded 800,000. In most cases juveniles were held separately from adults.⁶⁹

3.12.5 Abuse of prisoners by other prisoners continued to be a problem and violence among inmates, including beatings and rape, were common during 2005. There were elaborate inmate-enforced caste systems in which informers, homosexuals, rapists, prison rape victims, child molesters, and others were considered to be 'untouchable' and were treated very harshly, with little or no protection provided by the prison authorities.⁷⁰

3.12.6 Penal institutions frequently remained overcrowded, but there were reports of some improvements. For example, while many penal facilities remained in urgent need of renovation and upgrading, some reports indicated that these facilities were closer to meeting government standards, which include the provision of four square metres per inmate. Inmates in the prison system often suffered from inadequate medical care; however, there were some signs of improvement. The Public Council in the MOJ reported that during the 3 years ending in 2004, the number of sick prisoners and detainees decreased by 27 percent. According to the MOJ, as of 1 September 2005, there were

⁶⁸ USSD 2005 (Section 1)

⁶⁹ USSD 2005 (Section 1)

⁷⁰ USSD 2005 (Section 1)

approximately 49,000 tuberculosis-infected persons and 31,000 HIV-infected persons in SIZOs and correction colonies. Tuberculosis infection rates were far higher in detention facilities than in the population at large. The Moscow Centre for Prison Reform (PCPR) reported that conditions in penal facilities varied among the regions.⁷¹

- 3.12.7** Amnesty International reported that conditions in some overcrowded pre-trial detention facilities in 2005 were so poor that they amounted to cruel, inhuman or degrading treatment. Prisoners serving life sentences lived in conditions that amounted to ill-treatment and in some cases possibly torture.⁷²

Pre-trial detention facilities (SIZOs)

- 3.12.8** Conditions in SIZOs, where suspects were held until the completion of a criminal investigation, trial, sentencing, or appeal, remained extremely harsh and posed a serious threat to health and life in 2005. However, conditions within different SIZOs varied considerably. Health, nutrition, and sanitation standards remained low due to a lack of funding. Poor ventilation was thought to contribute to cardiac problems and lowered resistance to disease.⁷³
- 3.12.9** In 2004 according to official statistics approximately 2,000 persons died in SIZOs. Most died as a result of poor sanitary conditions or lack of medical care (the leading cause of death was heart disease). The press reported on individuals who were mistreated, injured, or killed in various SIZOs. Some of the reported cases indicated habitual abuse by officers.⁷⁴
- 3.12.10** According to the Federal Prison Service, the total number of detainees in the SIZO system increased by 31,000 as of 1 September 2005. As a result, facilities originally designed to house 130,000 held approximately 157,000 suspects.⁷⁵

Correctional labour colonies (ITKs)

- 3.12.11** ITKs held the bulk of the nation's convicts. As of 1 September 2005, there were 633,500 inmates in 762 ITKs, which provided greater freedom of movement; however, at times, guards humiliated, beat, and starved prisoners to break down their resistance. The country's 'prisons' - distinct from the ITKs - were penitentiary institutions for those who repeatedly violated the rules in effect in the ITKs.⁷⁶

Educational labour colonies (VTKs)

- 3.12.12** The 62 VTKs held juvenile prisoners from 14 to 20 years of age. Conditions in the VTKs were significantly better than in the ITKs, but juveniles in the VTKs and juvenile SIZO cells reportedly also suffered from beatings and rape. The PCPR reported that such facilities had a poor psychological atmosphere and lacked educational and vocational training opportunities. Many of the juveniles were from orphanages, had no outside support, and were unaware of their rights. While juveniles were generally held separately from adults, there were two prisons in Moscow where children and adults were not separated and boys were held with adults in small, crowded, and smoky cells. Schooling in the prisons for children was sporadic at best.⁷⁷
- 2.12.13** In August the NGO For Human Rights reported that it had been able to monitor prisons in 40 of the country's 89 regions during 2005; however, according to the group's executive director, it has become increasingly difficult for domestic observers to monitor prison conditions in the last five years. Beginning in September 2004, authorities refused to grant the International Committee of the Red Cross (ICRC) access, under ICRC's standard

⁷¹ USSD 2005 (Section 1)

⁷² AI Annual Report 2006

⁷³ USSD 2005 (Section 1)

⁷⁴ USSD 2005 (Section 1)

⁷⁵ USSD 2005 (Section 1)

⁷⁶ USSD 2005 (Section 1)

⁷⁷ USSD 2005 (Section 1)

criteria, to those detained as part of the conflict in Chechnya, and the ICRC subsequently suspended its detention visits.⁷⁸

3.12.14 Caselaw:

RM (Young Chechen male – Risk IFA) Russia CG [2006] UKAIT 00050 date heard 16 May 2006, date promulgated 12 June 2006 In considering whether someone who left illegally would face imprisonment that would breach Article 3 the Tribunal found that this was not the case and concurred ZB (Russian prison conditions) Russian Federation CG [2004] UKIAT 00239 that prison conditions in Russia are not so severe as to breach Article 3.

ZB (Russian Federation) CG [2004] UKIAT 00239 Heard 13 July 2004, Promulgated 27 August 2004 The IAT were concerned with whether the return of this Appellant would breach his Article 3 rights due to the prison conditions in which the appellant would be held in Russia. The IAT found that general conditions in prisons had improved since the case of **Kalashnikov v Russia (2002) 36 EHRR 587** and did not find that the harsh regime was so harsh as to amount, in itself, to a breach of Article 3. In the appellants case the risk of ill-treatment from prison officers was regarded as nothing more than slight. The IAT concluded that there was no basis for concluding that the conditions in Russian prisons in 2004 were such as to amount to a breach of Article 3 for each prisoner.

European Court of Human Rights ECtHR, Mayzit v Russia. Number 63378/00 Date; 03 February 2005 The case considered conditions in Russia prisons in 2000. The Claimant was detained on suspicion of criminal offences in Russia and was held in pre-trial detention for 9 months in overcrowded in cells. The Court found that the overcrowded environment and the length of detention amounted to degrading treatment and therefore prison conditions in 2000 were a breach of Article 3.

European Court of Human Rights (ECtHR), Kalashinkov v Russia. Number 47095/99 Date: 15 July 2002. The case considered conditions in Russia prison in the late 1990s. The Court found that the applicant's conditions of detention, in particular the severely overcrowded and in sanitary environment and its detrimental effect on the applicant's health and well-being, combined with the length of the period during which the applicant was detained in such conditions, amounted to degrading treatment. Accordingly, there had been a violation of Article 3 of the Convention.

3.11.15 Conclusion. Prison conditions in the Russian Federation are poor with overcrowding and abuses from prison guards and other prisoners being particular problems. Conditions in pre-trial detention facilities (SIZOs) are particularly harsh and according to Amnesty International amounted to cruel, inhuman or degrading treatment. Amnesty were also concerned as to the conditions for those serving life sentences. However, despite these problems and concerns, taking into account the recent improvements as noted in **UKIAT 00239** general conditions are unlikely to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Russia a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the API on Article 8 ECHR.

⁷⁸ USSD 2005 (Section 1)

4.2 With particular reference to Russia the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave and the API on Article 8 ECHR.

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.

4.3.2 Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years or until their 18th birthday, whichever is the shorter period.

4.4 Medical treatment

4.4.1 Claimants may claim they cannot return to Russia due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

4.4.2 A basic health service is provided for all citizens in the Russian Federation. All health care in the Russian Federation was previously financed by the state, however in 1993, a health-insurance scheme, the Medical Insurance Fund, was introduced, funded by employers' contributions. In 1999 there were 213 members of the population per physician, and 87 per hospital bed. In 2000 federal budgetary expenditure on health care (including sport) was 23 million roubles (1.7% of the total).⁷⁹

4.4.3 The state dominates healthcare provision. The system is free at the point of use for a basic package of services. Excluded items include dentistry, and pharmaceuticals are only partly covered in certain circumstances. Most people are insured under compulsory medical insurance agreements. Private healthcare provision is growing, but remains small. Under funding of the state system has pushed those who can afford it to turn to the private sector and has also encouraged unofficial payments within the state system.⁸⁰ There are a number of therapeutic drugs generally available at the primary health care level in Russia.⁸¹

HIV/AIDS

4.4.4 The authorities record on combating HIV/AIDS has been mixed. Although high-level officials paid considerably more attention to the problem in 2005 than in previous years and increased budget allocations to address HIV/AIDS-related concerns, steps to undo a 2004 measure to decriminalize small-scale possession of narcotic drugs threatened to undermine HIV prevention work.⁸²

4.4.5 Persons with HIV/AIDS often encountered discrimination in 2005. Federal AIDS law contains anti-discrimination provisions, but these were frequently not enforced. Human Rights Watch reported that HIV-positive mothers and their children faced discrimination in accessing healthcare, employment, and education. Persons with HIV/AIDS found themselves alienated from their families, employers, and medical service providers. For

⁷⁹ Europa 2005

⁸⁰ EIU Jan 2005

⁸¹ WHO Project Atlas

⁸² HRW 2006

example, a 2003 study of 470 citizens with HIV found that 10 percent had been forced to leave home by their families, 30 percent had been refused health care and 10 percent had been fired.⁸³

4.4.6 Caselaw

MD (Medical Facilities-Adequate Treatment) Russia CG [2002] UKIAT 02678, Date heard: 12/06/2002, Date notified: 16/07/2002 The appellant was suffering from liver problems and had undergone a liver transplant in the UK. The appellant situation was improving and she was responding to treatment in a satisfactory manner. From a consideration of the objective evidence, the IAT found "that there would not be a breach of Article 3 or any other of the Articles within the ECHR should this appellant be returned to Russia. We do not have reasons to conclude that there is a real risk of this appellant suffering inhuman or degrading treatment on her return."

4.4.7 The Article 3 threshold will not be reached in the great majority of medical cases and a grant of Discretionary Leave will usually not be appropriate Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

5.1 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.

5.2 Russian nationals may return voluntarily to any region of Russia at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Russia. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Russia nationals wishing to avail themselves of this opportunity for assisted return to Russia should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

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