



OPERATIONAL GUIDANCE NOTE

RUSSIAN FEDERATION

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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. Case owners must refer to the relevant Asylum 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 Asylum Instruction on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners 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 85 administrative units known as 'federal subjects'. This includes 21 republics linked to non-Russian minorities, 9 territories, 46 regions, 4 autonomous districts, one autonomous province and the federal cities of Moscow and St Petersburg.¹
- 2.2** Vladimir Putin was formally elected President on 26 March 2000. He kept the government he had inherited from President Yeltsin largely intact 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. President Putin won a second term on 14 March 2004 with a landslide majority, although the OSCE's election monitors criticised the elections as 'free but not fair'. Duma elections on 2 December 2007 gave an overwhelming victory for the incumbent majority party but were described as 'not fair' due to unbalanced media coverage and the use of state resources to favour United Russia. Presidential elections took place on 2 March 2008. Deputy Prime Minister Dmitri Medvedev won 70.2% of the vote and has appointed Vladimir Putin as Prime Minister.²
- 2.3** The law provides for an independent judiciary. However, the judiciary did not consistently act as an effective counterweight to other branches of the government.³ After judicial reforms in 2002, the government has made progress in implementing due process and holding timely trials. The legislation authorised courts rather than prosecutors to issue arrest and search warrants. Since January 2003, Russia's reformed criminal procedure code has allowed jury trials in most of the country.⁴ In 2007, judges allegedly remained subject to influence from the executive, military, and security forces, particularly in high profile or politically sensitive cases. In May 2007, the government enacted a law that substantially reduced prosecutorial oversight of criminal investigations and transferred investigative authority over many serious cases to a new body called the Investigation Committee. The committee is formally part of the General Procuracy but its chief is appointed directly by the president, not by the general prosecutor, and it therefore operates largely independently of the General Procuracy. From September, investigators no longer needed prosecutorial approval to open criminal investigations. In 2006 judges' salaries were increased by nearly 40% in an effort to combat corruption. However, there were continued reports of judges being bribed by officials and others. During early 2006, 39 judges were removed from the bench and 151 were given warnings.⁵
- 2.4** While human rights and civic freedoms have improved dramatically since the collapse of the USSR, some concerns remain. These include human rights violations in Chechnya and the North Caucasus, the rule of law, torture, the development of civil society, media freedom, xenophobic or racially motivated attacks and conditions in the armed forces.⁶
- 2.5** The United States Department of State (USSD) reported on events in 2007 that continuing centralisation of power in the executive branch, a compliant State Duma, corruption and selectivity in enforcement of the law, media restrictions, and harassment of some NGOs eroded the government's accountability to its citizens. The government improved its human rights performance in some areas, successfully prosecuting more cases; according to the NGO, SOVA Centre, there has been an increase in convictions for each of the last three years of ethnic, racial and religious hate crimes and mistreatment. The Defence Ministry took action to reduce the frequency and severity of hazing in the armed forces, which

¹ FCO Country Profile May 2008

² FCO Country Profile May 2008

³ USSD 2007

⁴ Freedom House: Freedom in the World Report 2008

⁵ USSD 2007

⁶ FCO Country Profile May 2008

reportedly declined 26% in the first 3 months of 2007. According to the Moscow prosecutor's office, 77 police officers were prosecuted and 1,692 disciplined in Moscow during the first six months of 2007. The internal security department of the Ministry of Internal Affairs stated that the number of police officers prosecuted and or disciplined increased by approximately 15%.⁷

- 2.6** The government's human rights record remained poor in the North Caucasus, where the government in Chechnya forcibly reined in the Islamist insurgency that replaced the separatist insurgency in Chechnya as the main source of conflict. Government security forces were allegedly involved in unlawful killings, politically motivated abductions, and disappearances in Chechnya, Ingushetiya and elsewhere in the North Caucasus. Disappearances and kidnappings in Chechnya declined in 2007 as Chechen President, Ramzan Kadyrov, established authoritarian and repressive control over the republic, and federal forces withdrew. Although there was improvement in some areas of the internal conflict in the North Caucasus, anti-government forces continued killing and intimidating local officials. There were reports of rebel involvement in terrorist bombings and politically motivated disappearances in Chechnya, Ingushetiya, and elsewhere in the North Caucasus during 2007.⁸
- 2.7** 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 2007 and that the government did not consistently hold officials accountable for such actions. There were reports of torture and other ill-treatment by federal or local government security forces in connection with the conflict in Chechnya. 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).⁹
- 2.8** Amnesty International reported that victims of human rights violations were frequently afraid to submit official complaints. In some cases the victim or their lawyer was directly threatened not to pursue a complaint. Human rights groups publicising violations and offering assistance to victims came under pressure from the authorities. When investigations were opened they were often ineffectual, and suspended for failure to identify any suspect. Very few cases reached trial. However, during 2007 a number of police officers were found guilty of crimes relating to torture and ill-treatment during investigations and interrogations. In several ECtHR rulings the Russian government was found to be responsible for serious human rights abuses in Chechnya and failure to launch meaningful investigations.¹⁰
- 2.9** In August 2008, tensions between Russia and Georgia escalated into a full-blown military conflict after Georgian troops mounted an attack on separatist forces in South Ossetia. Russia sent thousands of troops into South Ossetia and launched bombing raids on targets in other parts of Georgia. After more than a week of hostilities, the two sides signed a French-brokered peace agreement. Russia withdrew most of its combat troops but stated that it would maintain forces in a buffer zone around Abkhazia and South Ossetia. Moscow has unilaterally recognised the independence of South Ossetia and Abkhazia, a move which has been strongly condemned by Georgia and the West.¹¹

⁷ USSD 2007

⁸ USSD 2007 (Introduction)

⁹ USSD 2007 (Section 1)

¹⁰ Amnesty International Report 2008

¹¹ BBC Regions and territories: South Ossetia 27.08.08

3. **Main categories of claims**

- 3.1** This Section sets out the main type 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 Asylum Instruction 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 Asylum Instructions, but how these affect particular categories of claim are set out in the guidance 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 Asylum Instruction on Considering the Asylum 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. Case owners will need to consider credibility issues based on all the information available to them. (For guidance on credibility see the Asylum Instructions on 'Considering the Asylum' and 'Assessing Credibility in Asylum and Human Rights Claims').
- 3.5** All Asylum Instructions can be accessed on the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:

<http://www.bia.homeoffice.gov.uk/policyandlaw/>

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 Russian Government intervened in Chechnya in 1999 after a short, chaotic period of virtual Chechen self-rule following withdrawal of Russian troops in 1996. Much of the republic's urban and rural infrastructure has been destroyed in fighting between separatist rebels and federal troops allied with local forces loyal to Moscow, especially through the indiscriminate use of heavy artillery and aerial bombardment by the Russian military. While large-scale military action by federal troops has now ceased, low intensity fighting involving local Chechen forces continues, especially in the highland south. There are frequent reports of explosions and shootings in the republic and elsewhere in Southern Russia carried out by rebel groups, including attacks on federal and local law-enforcement bodies.¹²

¹² FCO Country Profile May 2008

- 3.6.3** Extremists associated with Chechen rebel groups have been linked to several high-profile terrorist attacks in the region, including the Beslan school siege in September 2004, and in Moscow. In the past two years there has been a sharp decrease in the numbers of terrorist incidents outside of the North Caucasus. Russian forces claim to have eliminated many rebel groups and fighters.¹³
- 3.6.4** A Moscow-initiated political process launched in March 2003 promising more autonomy, reconstruction and stabilisation, has made some progress, especially with high-profile rebuilding work. However, social and economic conditions remain poor. The political process was initiated with a constitutional referendum in March 2003 which received a substantial 'yes' vote. However, serious international concerns were raised over election conditions for the referendum. This was followed by presidential elections in October 2003, which elected Akhmad Kadyrov as president of Chechnya. The assassination of President Kadyrov in May 2004 brought renewed instability. Ramzan Kadyrov, Akhmad's son, became President in February 2007.¹⁴
- 3.6.5** Instability within Chechnya has affected neighbouring republics, particularly Ingushetia and Dagestan, where the frequency of violent incidents has increased in recent years. The whole North Caucasus remains fragile and vulnerable to human rights violations. Difficult socio-economic conditions across much of the region, together with widespread corruption, ethnic and clan tensions, and religious divisions continue to fuel this instability.¹⁵
- 3.6.6** There have been widespread, credible allegations of extra-judicial killings, forced disappearances, torture, rape and arbitrary detention by all sides.¹⁶ The role and number of federal forces has decreased considerably, leaving most security operations to local forces. Federal and local security forces were implicated in the excessive use of force to quell insurgencies and engaged in human rights abuses, including torture, summary executions, disappearances and arbitrary detentions. Chechen rebels also committed human rights abuses, including major acts of terrorism and summary executions. Abductions and disappearances reportedly continued to decline in Chechnya during 2007. However, despite some decreases in disappearances and killings, the human rights record overall remained poor. Unrest continued in and around the Chechen Republic and worsened considerably in the Republic of Ingushetiya.¹⁷
- 3.6.7** The government improved its human rights performance in some areas, successfully prosecuting more cases; according to the NGO SOVA Centre there has been an increase in convictions for each of the last three years of ethnic, racial, and religious hate crimes and mistreatment. The Independent Commission on Human Rights in the Northern Caucasus, headed by the chairman of the State Duma Committee on Legislation, has reduced the number of its offices in Chechnya. The commission heard hundreds of complaints but was not empowered to investigate or prosecute alleged offences and had to refer complaints to military or civil prosecutors.¹⁸
- 3.6.8** Amnesty International noted that the European Court of Human Rights (ECtHR) ruled that Russia was responsible for enforced disappearances, torture and extrajudicial executions in 15 judgments relating to the second Chechen conflict which began in 1999.¹⁹
- 3.6.9** Thousands of people remained internally displaced as a result of the second Chechen conflict and continued to live in temporary accommodation centres in the North Caucasus which reportedly failed to meet international standards. At the end of 2007, an estimated

¹³ FCO Country Profile May 2008

¹⁴ FCO Country Profile May 2008

¹⁵ FCO Country Profile May 2008

¹⁶ FCO Country Profile May 2008

¹⁷ USSD 2007

¹⁸ USSD 2007

¹⁹ USSD 2007

120,000 persons were still displaced in Chechnya; approximately 12,000 lived in temporary accommodation centres, all of which President Kadyrov ordered closed in 2007.²⁰

3.6.10 Sufficiency of protection. If this category of claimants' fear is of ill treatment/persecution by the state authorities they cannot apply to these authorities for protection.

3.6.11 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.²¹

3.6.12 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.²²

3.6.13 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 AIT 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.

3.6.14 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.
- 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.

²⁰ USSD 2007

²¹ USSD 2007

²² FCO letter August 2005

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.

3.6.15 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.

3.6.16 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.

3.6.17 Case owners 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 case owners should consider whether one of the Exclusion clauses is applicable. Case owners 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, minorities were subjected to frequent discrimination by government officials, and there continued to be a steady rise in societal violence and discrimination against minorities, particularly Roma, persons from the Caucasus and Central Asia, and dark skinned persons, as well as foreigners. Skinhead groups and other extreme nationalist organisations fomented racially

motivated violence; the number of hate crimes increased in 2007. Racist propaganda was also a problem.²³

- 3.7.3** Federal and local law enforcement continued disproportionately targeting members of ethnic minorities. Police reportedly beat, harassed, and demanded bribes from persons with dark skin, or who appeared to be from the Caucasus region, Central Asia, or Africa. Authorities in Moscow continued to subject dark-skinned persons to far more frequent document checks than others and frequently detained 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.²⁴
- 3.7.4** Societal violence and discrimination on ethnic and racial grounds continued to be a serious problem. The government sent mixed messages - on the one hand officials made appeals for tolerance, and, on the other, efforts on issues such as migration at times exacerbated the problem. Numerous racially motivated attacks took place against members of minority groups and foreigners, especially those of Central Asian, Caucasian, or African ethnicity. During 2007, the Moscow Bureau for Human Rights reported 230 xenophobic attacks and conflicts, in which 74 persons died and over 317 were injured.²⁵
- 3.7.5** Skinhead violence continued to be a serious problem. Skinheads primarily targeted foreigners, particularly those from North Korea, China and Uzbekistan, and individuals from the Northern Caucasus, although they also expressed anti-Muslim and anti-Semitic sentiments. According to the Ministry of Internal Affairs, neo-fascist movements had approximately 15,000 to 20,000 members of which over 5,000 were estimated to live in Moscow.²⁶
- 3.7.6** ***Sufficiency of protection.*** The government has a mixed record combating the problem. Attempts at the national level to address xenophobia were limited but there was evidence that officials were addressing the problem at local level. However, there were indications that the authorities were increasingly willing to acknowledge racial, ethnic or religious motivations for criminal acts. During 2007, 24 persons were convicted for committing ethnically or racially motivated crimes, compared to 109 convictions in 2006. Police investigations were frequently ineffective, and authorities were often reluctant to acknowledge the racial or nationalistic element in the crimes, often calling the attacks 'hooliganism'. Many victims, particularly immigrants and asylum seekers who lacked residence documents recognised by police chose not to report an attack or experienced indifference on the part of the police.²⁷
- 3.7.7** ***Internal relocation.*** (See section 3.6.11 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.
- 3.7.8** ***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

²³ USSD 2007

²⁴ USSD 2007

²⁵ USSD 2007

²⁶ USSD 2007

²⁷ USSD 2007

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.

Treatment. Russia does not have an official state religion, and the law recognised Russian Orthodoxy, Islam, Judaism and Buddhism as “traditional”. The Russian Orthodox Church (ROC) is the dominant faith in the country, and while no faith holds legal privileges or advantages, in practice the Russian Orthodox Church maintains a pre-eminent status and a number of formal and informal agreements with government ministries on matters such as guidelines for personal education, religious training for military personnel, and law enforcement and customs decisions.²⁸

- 3.8.2** The constitution provides for freedom of religion, and the authorities generally respected this right in practice during 2007. 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 practice. Conditions improved for some minority religious groups while remaining largely the same for most, and government policy continued to contribute to the generally free practice of religion for most of the population.²⁹
- 3.8.3** Some human rights groups and religious minority groups criticised the procurator general for encouraging legal action against some minority religions and of giving official support to materials that were biased against Muslims, Jehovah’s Witnesses and others. There were credible reports that individuals within the federal security services and other law enforcement agencies harassed minority religious groups. Some federal agencies and many local authorities continued to restrict the rights of a few religious minority groups. Some regional officials used contradictions between federal and local laws and varying interpretations of the law to restrict the activities of religious minorities. The federal Government intervened occasionally to prevent or reverse discrimination at the local level. There continued to be some restrictions on establishing, building, or maintaining places of worship and training sufficient clergy to serve believers. The Jehovah’s Witnesses had difficulty getting permits to build assembly halls in some regions. Various minority religious organisations encountered similar difficulties in obtaining or renovating property. The US Department of State International Religious Freedom Report (USIRF) 2007 noted that many of the difficulties that religious communities face are rooted in bureaucratic obstacles and corruption, not religious bigotry. While it is nearly impossible to discern if groups are being targeted because of their religious beliefs or because they are vulnerable to demands by corrupt officials, the net effect is a restriction on their ability to worship freely.³⁰
- 3.8.4** During 2007, President Putin spoke several times on the need to combat inter-ethnic and inter-religious intolerance. Federal and regional officials participated actively in, and in many cases strongly supported, a range of government and NGO organised programmes to promote tolerance. In March 2007, President Putin visited the Vatican and discussed with Pope Benedict XV1 ways to improve relations between the ROC and the Roman Catholic Church. Tensions between the Vatican and the ROC notably decreased during 2007. Jehovah’s Witnesses officials in St Petersburg told consulate staff that the situation in North West Russia had improved. Reports of the harassment of evangelicals and Pentecostals dramatically decreased.³¹

²⁸ USSD 2007

²⁹ USSD 2007

³⁰ USIRF 2007

³¹ USIRF 2007

- 3.8.5** Racially motivated violent attacks against Jews decreased during 2007 despite an increase in racist violence targeting other ethnic groups. However, anti-Semitism remained a serious problem. Vandals desecrated several synagogues, Jewish community centres, cemeteries and memorials during 2007. The Euro-Asian Congress noted that in 2006 prosecutors recorded the highest number of attempts to prosecute purveyors of anti-Semitic propaganda. While the Government has publicly denounced nationalist ideology and supported legal action against anti-Semitic acts, the reluctance of some lower-level officials to call such acts anything other than “hooliganism” remained an impediment. Federal authorities and in many cases regional and local authorities, facilitated the establishment of new Jewish institutions.³²
- 3.8.6** There were reports of societal abuses and discrimination based on religious belief or practice, including some physical attacks against individuals and communities because of the victims’ religious affiliation. Groups that monitor hate crimes reported in 2007 at least 70 incidents of vandalism against religious targets, including 36 aimed at Jews, 12 against Russian Orthodox and 11 against Muslims. Terrorism and events related to the war in Chechnya have given rise to negative popular attitudes toward traditionally Muslim ethnic groups in many regions. It was often difficult to determine whether xenophobia, religion or ethnic prejudices were the primary motivation. In Muslim-dominated regions, relations between Muslims and Russian Orthodox believers were generally harmonious. Extremely traditional orthodox versions of Islam were often associated in the public mind with terrorism and radical Muslim fighters in the North Caucasus.³³
- 3.8.7** There were many attacks against houses of worship, meeting halls and cemeteries across the country. Attacks ranged from threats and graffiti to arson. Often, even in the face of blatant anti-religious signs, local authorities investigated the cases as “hooliganism” and not under the stronger anti-hate laws, although there were signs that prosecutors were using the hate-crime laws more often. In April 2007 the Government amended the Criminal Code to increase punitive measures for hate crimes and extremism. According to new legislation, an individual convicted of committing an act of vandalism motivated by ideological, political, national, racial and religious hatred enmity can be sentenced for up to 3 years.³⁴
- 3.8.8** **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.
- 3.8.9** **Internal relocation.** (See section 3.6.11 for more details on internal relocation)
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.
- 3.8.10** **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.
- 3.8.11** **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 did

³² USIRF 2007

³³ USIRF 2007

³⁴ USIRF 2007

intervene on occasion to prevent or reverse 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 continued during 2007. 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 severely restricted.³⁵ Government representatives and state-controlled media repeatedly accused human rights defenders of working for foreign interests and being “anti-Russian”. A crackdown on civil and political rights was evident throughout 2007 and in particular during the run-up to the State Duma elections in December.³⁶
- 3.9.3** In 2006 the government enacted legislation that strictly regulates NGOs and requires them to register with the Federal Registration Service. The law has more stringent registration requirements for local affiliates of foreign NGOs than for domestic NGOs, but requires all NGOs to file extensive reports on their structure, activities, leadership and finances. The government continued to scrutinise organisations that it considered to have an opposition political agenda and continued to target the Russian-Chechen Friendship Society which it ordered closed in October 2006. Regional human rights groups generally received little international support and often suffered from inadequate funding. Government and legislative officials recognised and consulted with some NGOs, primarily those focused on social issues, and select groups participated in drafting legislation and decrees.³⁷
- 3.9.4** Government human rights institutions challenged local government activities, promoted the concept of human rights, and intervened in selected abuse complaints. The Human Rights Ombudsman’s office had approximately 200 employees and several specialised sections responsible for investigating complaints. During 2007, it published reports on human rights issues. As of mid-2007, 40 of the country’s 85 regions had regional human rights ombudsmen. The Presidential Council on Promoting the Development of Institutions of Civil Society and Human Rights promoted NGO concerns and worked to advance human rights in the country. In January 2006 the Public Chamber of the Russian Federation began operation. It was established to channel public and civil society input into legislative decision-making.³⁸
- 3.9.5** The constitution provides for freedom of speech and of the press but in practice government pressure on the media persisted, resulting in numerous infringements of these rights. The government used its controlling ownership in major national television and radio stations, as well as the majority of influential regional ones, to restrict access to information about issues deemed sensitive. There were indications that government pressure led reporters to engage in self-censorship, particularly on issues critical of the government. Three of the 14 national newspapers are owned by the government or state-owned companies, as are more than 60% of the country’s 45,000 registered local newspapers and

³⁵ USSD 2007

³⁶ Amnesty International Report 2008

³⁷ USSD 2007

³⁸ USSD 2007

periodicals. The government continued selective attempts to influence the reporting of independent publications. There are fears that the Law on Extremist Activity, which was amended in July 2007, expanding its scope, is being used to unfairly curtail criticism of the government's policy in Chechnya and the North Caucasus. National television channels continue to broadcast a narrow range of political views on sensitive issues and access to important media outlets is often difficult for opposition figures.³⁹

- 3.9.6** Increased risks to the security of journalists continued to undermine media freedom. The murder of journalist Anna Politkovskaya in October 2006 brought renewed attention to the dangers faced by journalists in Russia. In August 2007, the authorities announced the arrest of 10 suspects in connection with the murder. Other journalists have died in suspicious circumstances and received death threats during 2007. According to the Glasnost Defense Fund, which monitors media freedom, 74 journalists were physically attacked and eight killed during 2007.⁴⁰
- 3.9.7** ***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.
- 3.9.8** ***Internal relocation.*** (See section 3.6.11 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.
- 3.9.9** ***Conclusion.*** There is some government harassment of NGOs and journalists and those who are investigating human rights abuses in Chechnya face particular difficulties, which may in some cases amount to persecution. Where an individual is able to demonstrate that they are at serious risk of facing 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.
- 3.10.2** ***Treatment.*** Organised and other forms of crime remain a serious problem. The Ministry of the Interior (MVD) registered more than 3.8 million crimes in 2006, an 8.5% increase over 2005, but since then the official figures have shown a decrease: down 7.1% in 2007 and 7.5% for the first quarter of 2008 compared with the same period the previous year. While in part these figures do represent a genuine decline, they also reflect a decline in popular willingness to report crimes. Although the domestic security situation in Russia has improved in recent years, traditional organised crime groups remain strong. Although they are less prone to overt gangsterism, they still regularly resort to targeted murders of rivals, business people and officials. Russia has also become a hub for transnational crime, in particular the smuggling of drugs and people.⁴¹
- 3.10.3** The organised crime of the so-called 'mafiya' remains a serious criminal threat. There are some 12 to 15 key mafiya groupings in Russia, forming loose networks of criminal activity embracing every element of society, from senior leaders and politicians down to homeless beggars and members of street gangs. Official statistics indicate that the mafiya has a total membership of some 20,000 to 25,000, although independent sources put the figure closer to 100,000.⁴² Russian organised crime is described as an intricate network throughout Russian society whose operations include extortion, fraud, cargo theft, prostitution, drug-

³⁹ USSD 2007 and FCO Human Rights Report 2007

⁴⁰ FCO Human Rights report 2007 and USSD 2007

⁴¹ Jane's Sentinel Country Risk Assessment: Russia: Security updated 28.08.08

⁴² Jane's Sentinel Country Risk Assessment: Russia: Security updated 28.08.08

and arms-trafficking and more. The Russian mafiya has penetrated business and state-run enterprises to a degree unheard of in the West. Moreover, its reach in the business realm extends throughout the former Soviet Union.⁴³

- 3.10.4** The mafiya is much less heavily involved in the kind of overt gangsterism that was a feature of the 1990s. When Putin came to power, he adopted a more forceful public stance than his predecessor, making it clear that he would not tolerate the kind of open anarchy once seen on Russia's streets. By 2000 the criminal and business climates were both changing. The turf wars of the 1990s had largely been resolved and the underworld had gone through a period of consolidation, which left little reason for indiscriminate violence. Russian business was also evolving, finding the courts increasingly useful in resolving disputes and also eager to adopt international standards. Nevertheless certain high-profile incidents serve to illustrate the continuing pervasive nature of organised crime in Russia and the risk it poses. The bombing of a bus in the city of Tolyatti in the Samara Oblast on 22 November 2007, which killed 8 people and left 56 injured, was most likely the work of organised crime gangs. Contract killings in particular remain a threat, especially for politicians, journalists and business people.⁴⁴
- 3.10.5** Corruption was a widespread problem throughout the executive, legislative and judicial branches at all levels of government and studies found it increased during 2007. Manifestations included bribery of officials, misuse of budgetary resources, theft of government property, kickbacks in the procurement process and extortion. The NGO INDEM (Information Science for Democracy) reported that other official institutions, such as the higher education system, health care, and the military draft system were also corrupt.⁴⁵
- 3.10.6** The government has designated the fight against corruption and the enforcement of law as priorities, and while the law provides criminal penalties for official corruption, the government acknowledged that it had not implemented the law effectively, and officials frequently engaged in corrupt practices with impunity. Overall, initiatives to address the problem have made little headway in 2007. While there were prosecutions related to bribery, the lack of enforcement in general remained a problem. Some high-level officials were charged with corruption during 2007 but most anti-corruption campaigns were limited in scope and focused on lower-level officials.⁴⁶
- 3.10.7** It was reported that on 31 July 2008, President Medvedev had approved a national plan to combat corruption. He was to sign off guidelines to enable new laws to tackle corruption to be introduced by the end of the year. President Medvedev stated that new laws on economic activity and the civil service would also be necessary.⁴⁷ On 30 September President Medvedev highlighted a key package of anti-corruption legislation to be introduced in the State Duma that week. At a meeting of the Anti-Corruption Council formed in May, the President said that the four bills being presented to the Duma were aimed at rooting out corruption by protecting property rights, strengthening the country's law enforcement and court systems and eliminating barriers faced by businesses. Under the plan, the prime minister, deputy prime ministers, federal ministers and their family members would be required to make public declarations of their assets and income. The legislation would require state officials to inform their superiors of any known cases involving corruption and would also require officials who leave government jobs to get permission from their former bosses before accepting jobs with companies they dealt with while in office. The package included a main anti-corruption bill and amendments to 25 current laws, among other measures.⁴⁸

⁴³ Statfor

⁴⁴ Jane's Sentinel Country Risk Assessment: Russia: Security updated 28.08.08

⁴⁵ USSD 2007

⁴⁶ USSD 2007

⁴⁷ <http://www.russiatoday.com/medvedev/news/27404>

⁴⁸ <http://www.cdi.org/russia/johnson/2008-178-2.cfm>

3.10.8 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.

3.10.9 Internal relocation. (See section 3.6.1 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.

3.10.10 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.

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.

3.10.11 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.

3.10.12 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.** In May 2006 the Russian Defence Minister announced sweeping plans to modernise the country's armed forces. Priorities would be to reduce the number of conscripts. Reforms were considered to be an important step in curbing indiscipline and endemic bullying. As part of the reforms, 70% of servicemen, and all non-commissioned officers, would be employed under contract in 3 years.⁴⁹ The commitment to the introduction of a non-conscript army was confirmed in a revised Military Doctrine published by the Ministry of Defence in March 2007.⁵⁰ As of July 2008, a draft military strategy called for the draft to continue up to the year 2030.⁵¹
- 3.11.3** Conscription is enshrined in Article 59 of the 1993 Constitution and is further regulated by the 1998 Law on Conscription Obligation and Military Service. It remains a universal obligation for men aged 18-27, and for women with a military proficiency qualification. In 2006, the government introduced an amendment to the law to shorten the duration of military service. In 2007, the length of service was cut from 24 months to 18 months, and to one year for conscripts with a higher education. In 2008, all conscripts, regardless of educational background would do one year's service. The law cancelled occupational deferrals and repealed provisions for the drafting of reservists. Reservist obligations remain until age 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).⁵²
- 3.11.4** 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. In 2007, alternative service for conscientious objectors remained at 1.75 times the length of conscription, 1.5 times for those willing to do civilian jobs in the military. Conscientious objectors had to apply for alternative service at the earliest stage of the conscription process, when they were only 16 or 17. Later requests were inadmissible.⁵³
- 3.11.5** A large shortfall in conscription numbers was reported each year. Several reasons were suggested for the shortfall. In the first quarter of 2006, only 5% of recruits in Moscow met the medical requirements for call-up, according to the official newspaper of parliament. Others were reported to be barely literate. Yet more evaded call-up because they feared bullying from older soldiers.⁵⁴
- 3.11.6** 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 2007. Such mistreatment often included beatings or threats to extort money or material goods. Cases were usually investigated only following pressure from family members or the media. According to the Office of the Military Prosecutor, the number of hazing incidents in the army decreased by about 26% during the first 3 months of 2007, compared to the same period in 2006. As of June 2007, 8,097 crimes and incidents occurred in the army and 6 deaths from hazing were reported. The defence ministry reported 417 non-combat deaths in the armed forces during 2007, 208 of

⁴⁹ BBC New: Russia plans wide military reform 24.05.06

⁵⁰ Child Soldiers Global Report 2008

⁵¹ CIA The World Factbook – Russia 2008

⁵² WRI 2005 and Child Soldiers Global Report 2008

⁵³ WRI 2005 and Child Soldiers Global Report 2008

⁵⁴ Child Soldiers Global Report 2008

which were recorded as suicides. In March 2006 the council of Europe reported that between 50-80% of all conscripts and young servicemen were reportedly subject to physical violence, initiation rites, beatings, rape or humiliation on the orders of superiors or their peers.⁵⁵

3.11.7 Regional Committees of Soldiers Mothers received a total of 3,500 complaints from 20 regions across the country in 2007. The complaints from soldiers and parents mostly related to beatings, but also concerned sexual abuse, torture and enslavement. Soldiers often did not report hazing to either unit officers or military prosecutors due to fear of reprisals, since in some cases officers allegedly tolerated or even encouraged hazing as a means of controlling their units.⁵⁶

3.11.8 There was evidence that the military was attempting to deal with its abuse problems. Between January and August 2007, approximately 1,700 officers and 2,455 were convicted of various crimes, most commonly abuse or physical assault, but continued serving in the army, according to the Federation Council Committee on Defence and Security. A series of high-profile demotions, firings and prosecutions were also made in response to a number of hazing incidents in Primorye in 2006. Former defence minister and current first deputy Prime Minister, Sergey Ivanov, ordered parent committees to be embedded in the army and in drafting commissions. As of 27 April 2007, 2,661 parent committees have been active in the army and 81 in the drafting commissions. Although in 2006 President Putin ordered the Ministry of Defence to create a military police force to end hazing and fight criminal activity in the armed forces, the defence ministry cancelled plans to create this police force in 2007.⁵⁷

3.11.9 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.

3.11.10 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.

3.11.11 Caselaw.

SEPET & BULBUL [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.

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

⁵⁵ USSD 2007

⁵⁶ USSD 2007

⁵⁷ USSD 2007

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.

3.11.12 Conclusion. The House of Lords found in **Sepet and Bulbul [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.

3.11.13 While serious human rights abuses have taken place in Chechnya (See section 3.6) there is no evidence that violations of international law are endemic in Chechnya. Coupled with the lack of international condemnation of the conflict, the IAT found in **VB [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 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 is likely to be clearly unfounded.

3.11.14 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 **VB [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 2007. 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. In April 2006 the State Duma passed a law prohibiting the Federal Security Service (FSB) from operating prisons and transferred all FSB prisons to the Ministry of Justice. 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.⁵⁸

3.12.4 As of 1 July 2007, approximately 889,600 persons were in the custody of the criminal justice system, including 63,000 women and 12,100 juveniles. In most cases juveniles were held separately from adults.⁵⁹

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 2007. 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.⁶⁰

3.12.6 Penal institutions remained overcrowded, but there were reports of some improvements. Federal standards call for a minimum of 4 square metres per inmate. By the end of 2006, only 48% of the SIZOs met or exceeded this minimum standard.⁶¹

Pre-trial detention facilities (SIZOs)

3.12.7 Conditions in SIZO pre-trial facilities where suspects are held until the completion of a criminal investigation, trial, sentencing, or appeal, remained extremely harsh and posed a serious threat to health and life. Conditions within different SIZOs varied considerably.

⁵⁸ USSD 2007

⁵⁹ USSD 2007

⁶⁰ USSD 2007

⁶¹ USSD 2007

Health, nutrition and sanitation standards remained low due to a lack of funding. Overcrowding was common and the Federal Prison Service reported that approximately 158,000 suspects were being held in pre-trial detention facilities designed to house 130,000.⁶²

Correctional labour colonies (ITKs)

- 3.12.8** ITKs held the bulk of the nation's convicts. At the end of 2007, there were 719,600 inmates in 766 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.⁶³

Educational labour colonies (VTKs)

- 3.12.9** The 62 VTKs held 10,700 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.⁶⁴
- 3.12.10** According to the NGO, For Human Rights, prison officials did not allow human rights observers or defence attorneys to enter the 41 of 765 prisons with the worst records of abuse. Since 2004, authorities have refused to grant the International Committee of the Red Cross (ICRC) under ICRC's standard criteria, to those detained as part of the conflict in Chechnya, and the ICRC subsequently was forced to suspend its detention visits. In 2006 the human rights ombudsman investigated 2,966 of the 3,036 complaints it received from prisoners. In 2006, the General Prosecutor's Office found grounds to investigate 2,200 of the 40,000 complaints it received from prisoners.⁶⁵

3.12.11 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

⁶² USSD 2007

⁶³ USSD 2007

⁶⁴ USSD 2007

⁶⁵ USSD 2007

length of detention amounted to degrading treatment and therefore prison conditions in 2000 were a breach of Article 3.

3.11.12 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. However, despite these problems and concerns, taking into account the recent improvements as noted in **ZB [2004] 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 Asylum Instruction 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 Asylum Instruction on Article 8 ECHR.

4.2 With particular reference to the Russian Federation 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 Asylum Instruction on Discretionary Leave and the Asylum Instruction 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 as set out in the relevant Asylum Instruction.

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).⁶⁶

⁶⁶ Europa 2005

- 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.⁶⁷ There are a number of therapeutic drugs generally available at the primary health care level in Russia.⁶⁸
- 4.4.4** Although health care is free in principle, it was reported in 2006 that, in practice, adequate treatment increasingly depended on wealth, and private health care was increasingly sought. Doctors were reportedly generally poorly trained and inadequately paid; most hospitals were in poor condition, many lacking running water and sewerage, and waiting lists were long. There was a persistent shortage of nurses, specialised personnel, and medical supplies and equipment. Facilities and medical personnel were higher in urban areas, especially politically influential cities. Russia's high ratio of hospital beds to population – 12.1 to 1,000 in 1998 was reported to be because outpatient care was not emphasised as much as in the West. In 2004 there were 4.9 doctors per 1,000 inhabitants.⁶⁹
- 4.4.5** It was reported in 2007 that mental health had been a low priority within the Russian health system. While landmark legislation in 1992 guaranteed the rights of individuals with mental health problems, resources to support the system's modernisation have been insufficient. The need to further improve mental health services was recognised in the federal Psychiatric Care Network Reorganization programme for 2003–2008. This initiative set objectives of improving access to services and conditions in mental health hospitals; expanding outpatient services, day-care facilities and sheltered workshops; and bringing psychiatric dispensaries closer to patients' homes. Care remained predominantly institution-based, provided in 2004 through 279 psychiatric hospitals and 110 inpatient departments within 171 psychiatric dispensaries, each serving a population of approximately 25 000. Care could be provided in psychiatric departments within general hospitals as well. The Russian Federation continued to have one of the highest levels of psychiatric beds per capita in Europe at 113.2 per 100 000 population, or more than 161 000 beds in 2005. Ambulatory care was provided through 171 psychiatric dispensaries, 2,271 psychoneurological doctors' offices, 12 psychotherapeutic centres and 1,117 psychotherapeutic offices. There were 15,287 places in day-care hospitals, but community-based treatment and care facilities were very limited. While psychiatrists were numerous (13.3 per 100 000), there were few social workers (1.2 per 100 000).⁷⁰

HIV/AIDS

- 4.4.6** Over the past decade, Russia has experienced one of the fastest growing HIV/AIDS epidemics in the world. Russia identified its first case of HIV in 1987, and until 1995 the prevalence rate remained low. In 1996, the infection rate exploded with 1,515 new cases. After reaching its highest level to date in 2001, the annual number of newly diagnosed cases of HIV/AIDS in Russia has remained relatively steady. At the end of 2005, there were approximately 350,000 registered cases of HIV/AIDS in Russia. However, these figures do not adequately represent the situation, as many HIV/AIDS cases are not officially reported. The Joint United Nations Programme on HIV/AIDS (UNAIDS) estimates that approximately 1.1 percent of Russia's adult population ages 15 to 49 were living with HIV/AIDS in 2007. HIV/AIDS in Russia is transmitted primarily through injecting drug use. Increasingly, HIV is transmitted by male injecting drug users to their sexual partners. As a result, rates of HIV

⁶⁷ EIU Jan 2005

⁶⁸ WHO Project Atlas

⁶⁹ The Library of Congress country profile of the Russian Federation, updated October 2006

⁷⁰ Bulletin of the WHO, Volume 85, Issue 11, Mental health reform in the Russian Federation: an integrated approach to achieve social inclusion and recovery, November 2007

infection among women are also growing. In 2007, approximately 240,000 women were living with HIV/AIDS.⁷¹

- 4.4.7** Persons with HIV/AIDS often encountered discrimination. Federal AIDS law contains anti-discrimination provisions but was 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. In April 2006, the Moscow city Duma criticised the activities of foreign NGOs that fight HIV/AIDS for allegedly encouraging paedophilia, prostitution, and drug use among teenagers.⁷²

4.4.8 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."

- 4.4.9** 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 case owner 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 Federation nationals may return voluntarily to any region of the Russian Federation at any time by way of the Voluntary Assisted Return and Reintegration Programme (VARRP) implemented on behalf of the UK Border Agency by the International Organization 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. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Russian nationals wishing to avail themselves of this opportunity for assisted return should be put in contact with the IOM offices in London on 0800 783 2332 or www.iomlondon.org.

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Central Operations and Performance Directorate

17 November 2008