

Rusland (84)

UNHCR guidelines on asylum seekers from Chechnya
(Russian Federation)

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Abstract:

This document is intended as guidance for those who are called upon to examine issues relating to the protection of persons directly affected by recent conflict in Chechnya. It outlines the position of UNHCR regarding the need for admission of such persons to refugee receiving States, admission of asylum seekers to individual status determination procedures, the potential of internal relocation, and prohibition of return where the need for international protection has been established. The document may also prove useful when providing information to national authorities in the context of ongoing national refugee status determination procedures for asylum seekers from Chechnya.

1. UNHCR has not established any international presence in Chechnya (Russian Federation) but is aware of numerous reports alleging widespread serious violations of human rights and humanitarian law within the conflict area. These reports indicate that the parties to the conflict have committed and continue to commit abuses against the civilian population¹. Statements of witnesses indicate a pattern of violence directed at non-combatants, including attacks against civilians fleeing from urban and rural areas in search of safety, the use of civilians as human shields, torture, summary executions, arbitrary detentions, disappearances, rape, ill-treatment, widespread destruction and looting of property.
2. In view of this situation in Chechnya, the overwhelming majority of individuals directly affected by the conflict who leave the Russian Federation may be in need of international protection. Like all other asylum-seekers, they must be admitted to the country that they seek to enter for the purpose of obtaining international protection.
3. Upon admission those in need of international protection should, like all other asylum seekers, be afforded access to regular refugee status determination procedures, where such are available, for consideration of their claims on a case by case basis. UNHCR recommends that claims be processed through the normal refugee status determination procedure. Following the review, those against whom there are serious reasons for considering that they have committed acts mentioned in Article 1F of the 1951 Convention should be excluded from international protection.
4. Where individuals in need of and deserving international protection are unable to obtain the protection of the 1951 Geneva Convention, it is recommended that they be given access to complementary forms of protection, at least on a temporary basis. At a minimum, this should include respect for the principle of non-refoulement and basic human rights, as well as treatment in accordance with internationally recognised

¹ See reports of the UN High Commissioner for Human Rights <www.unhcr.ch>, Reports by Human Rights Watch and Amnesty International of 1999 and 2000, available on UNHCR's REFWORLD database on CD ROM and <www.unhcr.ch>.

standards², until such time as they can exercise their right to return home in safety and dignity.

5. With regard to the potential for relocating internally (the so called "internal flight alternative"),³ should consideration of this be contemplated, such a possibility must be reviewed as part of a full and fair refugee status determination procedure. It is not appropriate to use this concept when deciding whether a claim can be admitted into the refugee status determination procedures. It is also not appropriate, in the context of asylum-seekers from Chechnya, to use this concept to channel asylum applications into accelerated procedures for dealing with manifestly unfounded claims. The presence or lack of safety within the country of origin is a fundamental factual assessment specific to the individual, core to any status determination. The following paragraphs describe in more detail the situation of persons displaced (IDPs) by the conflict in Chechnya within the Russian Federation and are therefore relevant when assessing internal relocation possibilities.

6. Authorities throughout the Russian Federation have required all persons residing there to obtain a residence permit (known as a "propiska"). Although Federal legislation officially has abolished propiska requirements, local authorities continue to enforce this registration regime throughout the Russian territory. For example, a 1994 Moscow regulation stipulates that only those who have close relatives in Moscow (spouse, children or parents) can apply for "forced migrant" (the local term for both refugees and IDPs) status, register and obtain permission to reside. Lack of registration effectively impedes all access to rights normally accorded to citizens. Individuals in Moscow, who have approached the authorities to apply for this status, were reportedly denied this possibility and advised to return to Chechnya. In the absence of any legal status, IDPs in Moscow have not been able to obtain temporary registration from the authorities. Confiscation of passports by the police and detention have been reported. Moreover, instances were reported where legally resident individuals in Moscow, who vouched for IDPs, guaranteeing them housing to facilitate their registration with the authorities, were themselves fined for violating local regulations on registration. In the absence of temporary registration, IDPs in Moscow have been denied access to public services, including medical care and education.

7. The situation of IDPs in other locations within the Russian Federation remains vulnerable as well. In areas neighbouring Chechnya, for those displaced by the recent conflict, UNHCR is encouraging the authorities to grant appropriate legal status. In the context of this conflict and subsequent strict police control of population movements, there is grave potential that, without appropriate status, such persons, remain in a legal limbo, deprived of their basic rights as citizens of the Russian Federation including restrictions on access to legal, social and economic protection and assistance. Given the registration regime applicable in the Russian Federation,

² For more more information, please see UN document "Complementary Forms of Protection: Their Nature and Relationship to the International Refugee Protection Regime", EC/50/SC/CRP.18, 9 June 2000.

³ In reviewing the issue of internal relocation, reference is made to UNHCR's Position on "Relocating Internally as a Reasonable Alternative to Seeking or Receiving Asylum" of 9 February 1999.

which requires all citizens to register with the local bodies of the Ministry of Interior if they sojourn outside their place of permanent residence, those displaced have few options other than return to the North Caucasus or illegal residence elsewhere.

8. Ingushetia and Chechnya are contiguous, and Ingushetia has generously hosted the bulk of fleeing IDPs. The local population is small, and as a result of the pressures exerted by the mass influx there are justified concerns regarding the reception capacity and infrastructure of Ingushetia. Within Ingushetia, the aforementioned problems are exacerbated because of the proximity to the conflict area. The officially stated objective is to promote the early return of IDPs to areas where the authorities assert that they have regained control. There have been instances of forced return, coupled with efforts to induce return of IDPs to Chechnya. Such measures included non-registration by the authorities for the purpose of food distribution, or suspension of food distribution for IDPs earlier registered. Instances have been reported where new arrivals were denied accommodation in camps, the official position being that they should return to their place of origin in "liberated areas" within Chechnya.

9. Given the ongoing unstable and highly volatile situation in the region, and the linkage between propiska registration and access to basic rights in the rest of the Russian Federation, in UNHCR's view, there is currently no viable internal relocation possibility that would guarantee effective protection to all those displaced by recent events and in need of international protection.

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