GUIDELINES

ON THE TREATEMENT OF

CHECHEN

INTERNALLY DISPLACED PERSONS (IDPs) ASYLUM SEEKERS AND

REFUGEES IN EUROPE

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ECRE
EUROPEAN COUNCIL ON REFUGEES AND EXILES

ECRE Guidelines on the Treatment of Chechen Internally Displaced Persons (IDPs), Asylum Seekers and Refugees in Europe

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KEY CONCLUSIONS

1. Since 2003, asylum seekers from the Russian Federation (presumed to be primarily of Chechen origin) have become one of the largest groups of asylum seekers in Europe.
2. A large number of Chechen asylum seekers who apply for asylum in EU are affected by the Dublin Regulation as they predominantly first enter the EU via Poland but travel onwards in order to apply for asylum in another European country, such as Austria, Norway, France, Germany or Luxembourg. Consequently their claims are not assessed in the country where they wish to apply for asylum, as states request that they are taken back by Poland under the Dublin Regulation criteria.
3. This causes great suffering, distress and hardship for Chechen asylum seekers, many of whom have valid reasons for not wanting to stay in Poland and/or have valid reasons for having their asylum application examined elsewhere in Europe, and who make repeated attempts to seek asylum in other EU countries.
4. The reasons given by Chechen asylum seekers for not wanting to stay in Poland include: that they have concerns for their safety; they are scared that the Chechen President, Ramzan Kadyrov's men operate freely in Poland and will pressure Chechens to return to the Russian Federation; that the chance of being granted refugee status is limited; that they feel vulnerable to being forcibly returned to Russia from Poland; that there is limited integration assistance; and that there are no real prospects for the future.
5. This has led to a situation whereby many Chechen asylum seekers, including families with small children, repeatedly try to apply for asylum elsewhere in Europe but are forced to go back to continue their application for asylum in Poland. Sometimes this situation can last for years and some seemingly even choosing to go back to Chechnya itself to avoid transfers back to Poland.
6. After suffering the traumas of war and often torture, refugees from Chechnya report feeling distressed that they have nowhere to stay, and that no one will help them.
7. Throughout Europe, the treatment of Chechen asylum seekers varies dramatically. In several of the main European countries where Chechens seek asylum (Austria, Norway, Poland), there are now significantly fewer Russian nationals being granted refugee status or subsidiary protection.
8. In the case of Austria this was linked to the Dublin Regulation as many applicants are simply returned to Poland, despite the fact that they are suffering from psychiatric and other health problems. In Norway, it was due to a change in state policy on the permissibility of applying the internal protection alternative to Chechen cases as well as allowing Chechens to be returned to Chechnya. In Poland, it was linked to the use of the internal flight alternative and the nature of the claims being submitted. Many new applicants are younger, speak less Russian and seem less willing or able to provide information on their application.
9. The internal protection alternative is applied to Chechen applications by Germany, the Netherlands, Norway and Poland, and can be applied on a case-by-case basis in Austria.
10. Belgium, Denmark, Germany, Norway, the Slovak Republic, Sweden, Switzerland and the UK return failed asylum seekers to Russia. ECRE members in Norway and Switzerland reported cases of return to Chechnya specifically.

11. An EU-Russia readmission agreement has seen the return of several hundred Russian nationals to the North Caucasus, including some who were immediately handed over to the Ministry of Internal Affairs. They were wanted for various crimes from non-payment of alimony to participation in armed gangs in the North Caucasus. The readmission procedure differs from the extradition procedure in that the country to which the person is to be readmitted is not obliged to inform the EU Member State if the person is sought by the authorities for any other reason. Other readmission agreements signed between the EU and Ukraine and Ukraine and Russia raise concerns of potential chain *refoulement* from the EU to Russia.
12. NGOs and Chechen refugee groups have raised concerns about several extradition cases of Chechens to Russia because of the fear that the person to be extradited would be tortured or disappear upon return. NGOs frequently report cases of falsified evidence against Chechens in Russia, whilst many acts of violence, murder and disappearances allegedly carried out by the authorities are not investigated. There is a large body of evidence of gross human rights violations, torture and "secret" prisons in Chechnya and reports of mistreatment of Chechens in prisons and penal colonies in other regions of the Russian Federation.
13. Many refugees from Chechnya in Europe do not feel safe, particularly after the murder of Umar Israilov, a refugee from Chechnya, in broad daylight in Vienna. There are fears that Ramzan Kadyrov's men operate freely in several European countries, particularly in Poland and put pressure on refugees to return to Chechnya.
14. There is evidence that Chechens are using voluntary returns programmes to return to Chechnya, particularly in Finland and Austria. It is not clear, however, that they have received counselling or balanced, detailed information on the situation in Chechnya before return.
15. States beyond the external borders of the EU (Azerbaijan, Belarus, Georgia, Moldova, Turkey, Ukraine) are struggling to provide durable solutions for refugees from Chechnya given their relatively new asylum systems, limited financial resources, or political tensions caused by the close proximity of the Russian Federation.
16. Whilst recognising the difficulties faced by these States, ECRE has serious concerns about access to protection for Chechen asylum seekers in Azerbaijan, Turkey and Ukraine.
17. There are very limited resettlement possibilities for Chechen refugees from Azerbaijan, Georgia, Turkey and Ukraine to EU Member States.
18. Meanwhile in Chechnya, gross human rights violations continue, as do reports of torture. Kidnapping and disappearances are on the rise. There have been several cases of torture or the disappearance of returnees to Chechnya and persecution of opponents of the regime and their families.
19. Chechens are not able to settle in regions of the Russian Federation outside the North Caucasus. Returning people to the Russian Federation on the grounds of the alleged availability of an internal protection alternative will add to the already substantial IDP problem in the North Caucasus. At worst, it could put refugees' lives at risk and violate Article 33 (2) of the 1951 Refugee Convention, Article 3 of the European Convention on Human Rights and Fundamental Freedoms and the Convention Against Torture.

RECOMMENDATIONS

1. ECRE urges European governments to ensure that Chechen asylum seekers can avail themselves of protection on their territory, through proper access to fair and efficient asylum procedures.
2. Those Chechens who are not granted refugee status or a form of subsidiary protection should be afforded a legal status, which ensures they are able to enjoy their human rights and a dignified standard of living.
3. For Chechens in need of international protection, ECRE recommends that currently there is no viable internal protection alternative in the Russian Federation, and that this, therefore, should not be invoked as a reason for refusing protection.
4. ECRE urges EU Member States not to transfer Chechens to other Member States under the Dublin Regulation, unless they can ensure that they will have access to a fair and efficient asylum procedure in practice. Where necessary they should use the sovereignty clause (article 3(2)) to then take over the responsibility for the asylum application.
5. ECRE urges EU Member States not to transfer Chechen refugees suffering from trauma, psychological and other health problems to other Member States under the Dublin Regulation, unless the refugees themselves request it for family reunification or other reasons such as when it is in their best interests due to the health facilities there.
6. ECRE urges Member States to recognise the distress that the Dublin Regulation is causing and the flawed nature of the system, as illustrated by the differences in recognition rates and treatment of asylum applications by Chechens in EU Member States.
7. ECRE urges Member States to apply a wide interpretation of family in the reunification of refugees from Chechnya and to use the sovereignty clause and humanitarian clause of the Dublin Regulation where possible to take over responsibility for asylum applications.
8. Adequate reception conditions are vital for all refugees, particularly those who are traumatised, and Member States should ensure that funds and other essential resources are available for significantly improving reception conditions and improve procedures for the identification and support of refugees, particularly those suffering from trauma.
9. ECRE is against the forced or mandatory return to the Russian Federation of any Chechen seeking international protection and against the promotion of voluntary repatriation to the Russian Federation as a durable solution until such time as the requirement for safety and dignity can be met.
10. Any state party to the European Convention on Human Rights considering extraditing a Chechen to Russia should be certain, not only that the evidence submitted by the Russian Federation represents a genuine case of prosecution, rather than persecution, but also that the person extradited would not suffer torture or inhuman or degrading treatment upon return.
11. ECRE urges the international community to support countries such as Moldova and Georgia that have material difficulties in providing adequate reception conditions for refugees in the spirit of responsibility sharing and solidarity.
12. ECRE would support the resettlement of Chechen refugees from Azerbaijan, Georgia, Turkey and Ukraine to EU Member States and hopes that more EU

Member States will come forward who are willing to resettle Chechens from this region.

13. ECRE urges the governments of Azerbaijan, Turkey and Ukraine to ensure that Chechen asylum seekers can avail themselves of protection on their territory.
14. ECRE strongly urges the Russian Federation to take active measures to halt the gross violations of human rights ongoing in Chechnya and to take all possible measures to address the issue of discrimination towards Chechens within the Russian Federation.
15. ECRE urges the Russian and Chechen authorities to:

    1) Take all measures possible to improve the security of NGOs operating within Chechnya, including human rights defenders.

    2) Address the issue of government impunity in Chechnya by ensuring that effective and impartial judicial mechanisms operate across the republic, which reinforce the rule of law and bring perpetrators of human rights violations to justice.

    3) Put an end to the persecution of families of suspected insurgents and the human rights violations committed in the name of the fight against terrorism. Ensure anyone responsible for committing such violations is brought to justice.

    4) Allow international monitoring mechanisms, international organisations, independent media and NGOs access to Chechnya to monitor and investigate the human rights situation there.

    5) Fully implement the rulings of the European Court of Human Rights (ECtHR) and carry out full and impartial investigations into allegations of human rights violations, as well as to implement the recommendations of the European Committee for the Prevention of Torture and inhuman or degrading treatment or punishment and all UN Human Rights mechanisms and bodies.
16. ECRE urges the international community to:
    1) Ensure witnesses in court cases connected with human rights violations (the ECtHR or other judicial procedures) are provided with protection so they can testify without fearing for their own or their family's security.
    2) Provide vital support to independent civil society, media and human rights organisations in Chechnya;
    3) Ensure that no Chechens in need of international protection are returned to the Russian Federation where their lives might be at risk.
17. ECRE encourages UNHCR to update its position on the situation for asylum seekers and refugees from the Chechen Republic or produce eligibility guidelines for asylum seekers from the Russian Federation, particularly the North Caucasus.

INTRODUCTION

This report has been prepared by the European Council on Refugees and Exiles (ECRE) in response to concerns about the situation of Chechens in need of protection in Europe. It updates our earlier "Guidelines on the Treatment of Chechen Internally Displaced Persons (IDPs), Asylum Seekers and Refugees in Europe"[1].

In 2008 – 2010 European countries increasingly advocated returning refugees of Chechen origin to the Russian Federation. States have been saying there is an internal protection alternative for Chechens elsewhere in Russia and have even been prepared to return people to Chechnya itself.

There is also evidence that refugees and asylum seekers from Chechnya, whose applications for protection have been rejected, have themselves been willing to use return programmes[2] to go back to the Russian Federation.

At first glance, this may seem natural: The official Russian and Chechen government line is that the war has ended and all is well; there is no longer open warfare on the streets in Chechnya; Grozny in particular and Chechnya as a whole are being rapidly rebuilt; states and some Chechens seem to believe that it is now safe to return.

Several facts belie this simple reading.

Firstly, people are still leaving. The numbers of people seeking asylum in Europe have gone down from 2003-2004 when Russians (mainly Chechens) were the largest group of asylum seekers in Europe, but in 2009 refugees from the Russian Federation were still one of the top four asylum-seeking nationalities in Europe[3] and in the top two in the EU[4]. Secondly, it is increasingly difficult to obtain information on the situation on the ground in the Chechen Republic. ECRE member Memorial Human Rights Centre Migrants' Rights Network (Memorial) has long warned of the difficulties they have in monitoring the situation in Chechnya due to continuing gross violations of human rights and a culture of silence that endangers the human rights monitors themselves.

There is little or no recent information publicly available from UNHCR on the human rights situation in Chechnya. UNHCR last published a position on the situation for asylum seekers and refugees from the Chechen Republic in 2004[5]. Country of origin information quickly becomes outdated and states have turned to other sources including, controversially, state-sanctioned NGOs from Chechnya, who follow the government line and do not give a full picture of human rights violations in the Republic[6]. Meanwhile, a letter from UNHCR Austria states "*UNHCR is not in a position to provide*

[1] http://www.ecre.org/files/chechen_guidelines.pdf
[2] Such as the IOM Assisted Voluntary Return programme.
[3] UNHCR, *Asylum Levels and Trends in Industrialised Countries, 2009.* 23 March 2010. Page 16.
[4] *Eurostat Statistics in Focus, 27/2010. Population and social conditions.* Page 2.
[5] http://www.ecoi.net/file_upload/sb112_hcr-chya-pos-1004.pdf
[6] Information from the Chechen Advocacy Initiative. The divide between "official" and "independent" NGOs was also commented on in a UK Parliamentary Human Rights Group report on Chechnya after a visit there in February 2010. One "official" NGO representative interviewed by the PHRG mission told delegates that her son had been taken and tortured; she was certain this was because some of her public activities did not meet with the approval of President Kadyrov's administration.

detailed, updated eligibility guidelines at this time given inter alia the limited possibilities for monitoring of the situation[7]*."* At time of writing UNHCR plans to close its Vladikavkaz office, which supports many IDPs in the North Caucasus[8]. This also means UNHCR will be physically further away from events in the region.

In 2009-2011 ECRE and Memorial worked together on an EU-funded project to monitor returns to and from the Russian Federation[9]. As part of the project, two monitors worked from the Memorial office in Grozny from summer 2009 to January 2011[10]. In general they were able to report on the situation for IDPs returning from other regions of the Russian Federation to Chechnya or moving within Chechnya itself, and they gathered a lot of information on violations of the rights of IDPs in areas such as housing. However, it was very difficult for them to provide information on cases of returnees returning from outside the Russian Federation to Chechnya due to the extreme reluctance of people to come forward. Who then is returning to Chechnya? How "voluntary" is their return? Where are these people now and how safe is it really to return?

Finally, Chechen refugees have been severely affected by the application of the Dublin Regulation[11], which establishes a hierarchy of criteria for identifying the EU Member State responsible for processing an asylum claim. Usually this will be the state through which the asylum seeker first entered the EU. Several ECRE member agencies have noted that, because many refugees from Chechnya first arrived in Poland, they now have very limited possibilities to apply for refugee status in other EU Member States. Instead, they are simply transferred back to Poland under the Dublin Regulation[12], while there are concerns about possible intimidation of Chechen asylum seekers and refugees in Poland by persons affiliated to the Kadyrov government, the decreasing recognition rate in Poland and the general lack of real perspectives for Chechen refugees in Poland.

This paper should be read in conjunction with the ECRE series, "The Way Forward – Europe's Role in the Global Refugee Protection System", the ECRE/ELENA Survey on Legal Aid for Asylum Seekers in Europe, ECRE's Policy on Returns and in light of other ECRE policy statements.

[7] Letter from Dr Michael Lindenbauer, UNHCR Representative for Austria and Germany to Wolfgang Taucher, Director of the Federal Asylum Agency in Austria, 11th November 2009.
[8] The office closure is planned for July 2011 with some follow-up activities to be finalized by the end of the year.
[9] "Monitoring safe and dignified return and conditions of detention. Protecting the Rights of Asylum Seekers, Refugees and IDPs in Belarus, Moldova, the Russian Federation and Ukraine". MIGR/2008/153-324. February 2009 – February 2011.
[10] Apart from a period of several months in 2009, when Memorial had to close its office in Chechnya to safeguard their staff due to security concerns after the murder of Natalia Estimirova.
[11] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:050:0001:0010:EN:PDF
[12] Austria, Luxembourg.

METHODOLOGY

The purpose of this document is to provide information on the situation for asylum seekers, refugees and IDPs from the Chechen Republic, as well as ECRE's analysis of the current situation and our recommendations.

Information was gathered in this report between July 2010 and February 2011 from the following sources:

- A survey was sent to ECRE's member agencies (69 members in 30 countries). 20 members from 16 countries[13] sent information or comments.
- A survey was sent to other NGOs, human rights organisations and Chechen refugee groups working on issues of Chechen refugees in Europe[14].
- Information was gathered from reports by two monitors from Memorial in the Chechen Republic and several lawyers in Belarus, Moldova and Ukraine working on an EU-funded project led by ECRE to monitor the situation for returns and readmissions to and from Belarus, Moldova, Russia and Ukraine.
- Information was gathered from publicly available electronic sources.

This document also contains many footnotes and links to other reports and secondary sources, in order to provide information from as many sources as possible.

[13] Austria, Azerbaijan, Belgium, Bulgaria, Czech Republic, Finland, France, Luxembourg, the Netherlands, Norway, Poland, Russian Federation, the Slovak Republic, Spain, Switzerland, Turkey. Some countries' information was more detailed depending on the number of Chechen refugees in that country.

[14] Information was received from Chechen refugee groups in Austria, Azerbaijan, Georgia and Turkey; NGOs (non-ECRE members) from Austria, Germany, the Slovak Republic, Ukraine; and a Chechen human rights activist from Finland. UNHCR offices in Azerbaijan, Belarus, France, Moldova and Ukraine provided information for the report.

CHECHEN REFUGEES IN EUROPE

Refugees from the Russian Federation remain one of the largest groups of refugees in Europe. The EU estimates there are currently 100,000 refugees from Chechnya outside Russia, mainly in EU Member States[15].

In 2009 there was little change in the number of asylum applications from Russians, compared with 2008. Russians were the fourth largest group of people applying for asylum in Europe[16] and the second largest in the EU[17]. According to Eurostat, in the first two quarters of 2010 Russians were, respectively, the second largest and largest group of asylum seekers in the EU[18].

Asylum statistics generally do not distinguish between ethnic groups within populations from different countries. Information from our members in EU countries where there are the highest numbers of applications from Russia indicates that the majority of Russian applicants are ethnic Chechens[19]. In countries with fewer Russian applicants, the percentage can be lower[20]. In addition, both in 2009 and in the first half of 2010, nearly four out of ten Russian asylum applicants in the EU were under 14 years old[21].

Asylum applications from Chechen refugees are mainly concentrated in a few countries in Europe. In the EU in 2009, Poland received the most applications from Russian nationals by far with 5,726 applications (approximately 30% of all applications from Russians in the EU)[22]. Austria and France also received high numbers of applications

[15] Commission Decision on the financing of humanitarian actions in the Northern Caucasus from the general budget of the European Union (ECHO/-EE/BUD/2010/01000). Humanitarian Aid Decision 23 02 01. Page 1.
[16] http://www.unhcr.org/4ba7341a9.html
[17] Eurostat asylum 2009 http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-10-027/EN/KS-SF-10-027-EN.PDF
[18] http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-QA-10-032/EN/KS-QA-10-032-EN.PDF and http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-QA-10-042/EN/KS-QA-10-042-EN.PDF
[19] E.g. ECRE's member in Austria received information from the Ministry of Interior that 85% of applications from Russian nationals in Austria are made by ethnic Chechens. The OFPRA activity report for 2009 in France states that 80% of applications from Russian nationals are from Chechens or people from the North Caucasus. Our member in Belgium confirmed that the majority of applications by Russian nationals there are made by Chechens.
[20] E.g. In Switzerland ECRE's member received information that 57% of applications January – October 2009 were made by ethnic Chechens and there were a further 10% of cases of unknown ethnicity that could have involved Chechens. In Germany statistics do not specifically mention Chechens but 71.7% of applications from Russian nationals in 2009 were by Muslim applicants. In the years 2005-2008 the Office for Migration and Refugees (BAMF) in Germany showed that applications from Chechens were around 41% of the total applications from the Russian Federation. ECRE's member in Finland reports that the Finnish Immigration Service estimates that around 30 % of the applications made by Russian nationals are from Chechens. This does not include the Dublin-applicants, however, where the number can be estimated to be considerably higher. In Moldova 90% of refugees of Russian origin are Chechen.
[21] See footnotes 15 and 16 for links to Eurostat website.
[22] In 2010 citizens of the Russian Federation made 4795 applications for asylum in Poland.

(3,560 and 3,383[23] applications respectively), with Belgium, Sweden, Germany, Norway and Finland receiving over 500 applications for asylum from Russian nationals[24]. Outside the EU, there are relatively high numbers of refugees from Russia in Azerbaijan, Georgia, Turkey and Ukraine, with fewer in Belarus and Moldova.

CHECHENS IN THE EU

The treatment of asylum seekers from Chechnya continues to vary widely across the EU.

Recognition rates

The recognition rate for Chechens granted refugee status in Austria dropped dramatically in 2009 to just 33.8%[25], while 46.9% of applicants received subsidiary protection. This recognition rate is still relatively high in comparison to other EU countries. The same can be said for France where 1,073 Russian nationals were granted protection in 2009. 57 of these people were granted subsidiary protection but the majority were granted refugee status[26].

Overall, since 1st January 1992 only 11 people from Chechnya have been recognized as refugees in the Slovak Republic. The last time a Chechen asylum seeker was granted refugee status was in 2004. Subsidiary protection was granted to one asylum seeker from the Russian Federation (Chechnya) in 2009[27]. Applications from Russian nationals in the Slovak Republic dropped from 1,037 in 2005 to just 66 in 2010[28].

Recognition rates in Poland are falling both for refugee status and for subsidiary protection. Legislation on subsidiary protection has been in force since 2008. For a short period the authorities granted subsidiary protection because the situation in Chechnya was considered to constitute "indiscriminate violence" [29] but this soon changed to an application of Article 15b[30] of the Qualifications Directive, arguing there is no internal armed conflict in Russia. The authorities say that the situation in Chechnya is tense but becoming more stable. This assertion is increasingly used as

[23] This information is from UNHCR (http://www.unhcr.org/4ba7341a9.html). The French Office for Refugees (OFPRA) recorded 3,782 asylum applications in 2009 (this figure includes 1st asylum applications, subsequent applications and accompanying minors). OFPRA notes a 1% increase in overall applications from 2008. It notes a 7% decrease in the number of first applications in 2009 compared with 2008, but a 75% increase in subsequent applications over the same period.
[24] http://www.unhcr.org/4ba7341a9.html
[25] This could be due to more rejections of asylum applications or the fact that Dublin transfers are included in the rejection rates in Austrian government statistics. ECRE's member Asylkoordination reports a high number of Dublin Transfers. See section on the Dublin Regulation for more information.
[26] French Office For Refugees (OFPRA). See the annual report: http://www.ofpra.gouv.fr/documents/Rapport_Ofpra_2009_complet_BD.pdf
[27] Official website of the Ministry of Interior of the Slovak Republic, http://www.minv.sk/?statistiky-20.
[28] Official website of the Ministry of Interior of the Slovak Republic, http://www.minv.sk/?statistiky-20.
[29] "Serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict", as per Article 15c of the Qualifications Directive. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML
[30] "Torture or inhuman or degrading treatment or punishment of an applicant in the country of origin". http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML

reason not to grant Chechen asylum seekers refugee status, subsidiary protection or tolerated stay in Poland. In 2009 only 103 Russian nationals were granted refugee status with 2,261 being granted subsidiary protection and 46 tolerated stay permits. In 2010 the number of applications decreased compared to 2009[31]. 42 Russian nationals were granted refugee status, 172 Russian nationals were granted subsidiary protection and 98 Russian citizens were awarded tolerated stay[32].

A large number of people discontinue their asylum procedures in Poland. This is because asylum seekers return home or leave for another EU Member State. In the case of second applications, proceedings are discontinued if the applicant provides no new evidence for their claim. The number of repeat applications declined after the introduction of subsidiary protection. People granted this status do not usually appeal as would have been the case for those who received a tolerated stay permit in the past, mainly because subsidiary protection now entitles them to some integration assistance.

The rise in negative decisions in Poland may be linked to the nature of the claims being submitted. There are more young people aged 20-25 applying who are often not educated, do not speak Russian well and do not provide enough information on their claim[33]. There seems to be widespread fear amongst refugees from Chechnya that it is dangerous to give too much information in Poland and that it is not safe to stay there[34]. Decisions to reject applications for refugee status in Poland are now more likely to mention the internal protection alternative, whereas previously it was mentioned only in cases where people had links to other regions in Russia. Decisions in 2009 and 2010 even included references to the fact that although it is difficult to get registration at a place of residence for Chechens in Russia, it is possible to bribe officials to get it[35]. Additionally when an asylum seeker requests a witness be heard during the proceedings, the authorities usually reject it. The authorities assume that other Chechens are not credible as a witness because they will testify to any fact the asylum seeker desires through national solidarity.

In Norway, recognition rates for Russian asylum seekers have dropped dramatically. This reflects a change in practice in Chechen cases that was implemented in the first half of 2009. Until then ethnic Chechens from Chechnya were generally protected from being returned, however, from 2009 this was examined on a case-by-case basis. The fact that the authorities considered an internal protection alternative possible in Russia from mid-2007, also led to a decrease in the recognition rate from 75% positive decisions to 80-90% of cases being rejected[36].

[31] In 2010 citizens of the Russian Federation made 4795 applications for asylum in Poland.
[32] In 2010 6,534 asylum seekers made applications in Poland with 72 % of asylum seekers from Russia. 82 people were granted refugee status, including 42 Russian citizens (52 % of those granted status). 195 people were granted subsidiary protection, including 172 Russian citizens. 196 people were granted tolerated stay status, including 98 Russian citizens. These figures include decisions by the Refugee Board, which granted 2 people refugee status, 34 people subsidiary protection, and 14 people tolerated stay. Information from the Polish Helsinki Foundation for Human Rights.
[33] Polish Helsinki Foundation for Human Rights, meeting with ECRE July 2010. Head of the Office for Foreigners http://www.udsc.gov.pl/Strona,Glowna,1.html
[34] For more information see section on Security in Country of Asylum.
[35] Polish Helsinki Foundation for Human Rights.
[36] Information from NOAS.

Before summer 2010, the Finnish Immigration Service generally granted either refugee status or subsidiary protection to Chechen asylum seekers, unless they fell under the Dublin Regulation. Since then the Immigration Service has changed its policy and negative decisions have also been issued to Chechens from Chechnya[37]. In 2009 Finland received 602 applications from Russian nationals[38]. 95 Dublin-decisions were made, mainly concerning deportations of Chechens to Poland. Altogether 151 negative decisions and 73 positive decisions were taken. In 2010 Finland received 439 applications from Russian nationals. In the same year 215 Russian nationals received Dublin transfer decisions, and 348 received negative decisions. 61 positive decisions were made.

In Belgium 1,526 Russian nationals applied for asylum in 2010. 130 Russian nationals were granted refugee status with no Russian nationals granted subsidiary protection[39]. In Belgium, the problems Chechens face in Russia are considered to be for reasons of their "race" or "political opinion" and so should be examined in the light of the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol[40]. If a person's claim does not reach the threshold of credibility needed to be granted refugee status according to the Convention, then it will not reach the threshold to be granted subsidiary protection either. The situation in Chechnya is not considered as one that corresponds to Article 15c of the Qualifications Directive[41].

The UK Asylum and Immigration Tribunal has provided guidance on how the asylum claims of women from Chechnya who fear return to Russia should be treated based on the case of OY, a Chechen woman married to an ethnic Russian. They had lived in Kazan, where she had experienced problems regularizing her status, had suffered discrimination because of her ethnicity and had been beaten and threatened by the police. The Tribunal accepted that because she had experienced this in Kazan, an ethnically mixed town by Russian standards with high levels of inter-marriage, she would be highly unlikely to be able to live elsewhere in the Russian Federation outside of Chechnya. As her husband was ethnic Russian they would be also unable to relocate to Chechnya[42].

Country of origin information

Country of origin information remains a concern for several NGOs working with Chechens in Europe. One NGO expressed concerns that in Austria, the government relies heavily on information from a Chechen-based NGO with links to the Chechen government and little freedom to speak out openly about the situation there[43].

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[37] Refugee Advice Centre, Finland.

[38] The Finnish Immigration Service does not collect statistics on the ethnicity of asylum seekers meaning the exact number of ethnic Chechens is not known.

[39] Commissariat Général Aux Réfugiés et Aux Apatrides. Statistiques D'Asile. Bilan 2010.

[40] http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf

[41] "Serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict", http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:EN:HTML

[42] For a summary of the case, see: http://www.asylumaid.org.uk/data/files/publications/93/Issue_No_80_feb_09_final_pdf.pdf

[43] Chechen Advocacy Network.

Other NGOs have expressed concern about the lack of an up-to-date position from UNHCR.

UNHCR last published a position on the situation for asylum seekers and refugees from the Chechen Republic in 2004[44]. A semi-public letter to the head of the Austrian asylum office from UNHCR[45] stressed that Chechen claims should be thoroughly assessed on an individual basis in a fair and efficient procedure and gave a list of categories of people whose claims may warrant particular attention. However, it is described as a revision of the UNHCR 2003 position because of the improved military and security situation in Chechnya[46]. A follow up letter to the Director of the Federal Asylum Agency on 11th November 2009 goes into more detail in light of the "continually evolving and volatile security and human rights situation" after the Austrian authorities had requested more information on cases of persons who had held official positions in former President Maskhadov's administration, those who had lodged complaints with the ECtHR, and women and children[47].

Unfortunately, the letter is often referred to in Poland when issuing a negative decision. There was even a case of a human rights defender from Chechnya who was denied international protection on the basis of this UNHCR letter, even though it states that human rights defenders are a "special" group of risk. NGOs are concerned that fragments of the letter are being used out of context. The Centre for Eastern Studies in Warsaw, a research institution, also provides the Office for Foreigners with country of origin information on the Caucasus. Whilst they try to provide balanced accounts, NGOs feel that the authorities are again selective in their use of information.

The lack of a position from UNHCR has affected case decisions in Finland, where the Finnish Immigration Service has stated, "UNHCR has a strong presence in the region and has been able to provide returnees with legal and other consultation. The UNHCR has not reported human rights violations against average citizens in the area [the North Caucasus]", and, "the fact that the UNHCR has not delivered a new position can be seen as an indicator that the UNHCR believes the situation in Chechnya has calmed down enough to render the need for a new position obsolete."[48]

The Finnish Immigration Service justifies its decisions to reject applications from Chechen asylum seekers with general comments about the new situation, for example, "the situation has improved in relative terms, even though isolated human rights violations occur." According to the Immigration Service, mainly human rights activists and members of illegal armed groups and their relatives are at risk. "Relatives of militants" has been interpreted as meaning only immediate family members and not for example their cousins. The Immigration Service's guidelines are interpreted narrowly, as the risk does not cover, for example, suspected militants or suspected terrorists. The

[44] http://www.ecoi.net/file_upload/sb112_hcr-chya-pos-1004.pdf
[45] Available in German on ECOI.net, see: http://www.ecoi.net/file_upload/90_1239118410_unhcr-20090407-chechnya-guidance-accord.pdf
[46] Hinweise des UNHCR zur Prüfung von Anträgen aug internationalen Schutz von Asylsuchended aus der russischen Teilrepublik Tschetschenien. Dr Christoph Pinter, Leiter der Rechtsabteilung, UNHCR Büro in Osterreich. 7th April 2009.
[47] Letter from Dr Michael Lindenbauer, UNHCR Representative for Austria and Germany to Wolfgang Taucher, Director of the Federal Asylum Agency in Austria, 11th November 2009.
[48] Refugee Advice Centre, Finland.

Refugee Advice Centre in Finland found this problematic because asylum seekers' testimonies of kidnappings, ransom requests or other incidents without an explanation, which the authorities considered "logical", were not accepted as constituting persecution. However, many Chechen asylum seekers report incidents of unmotivated kidnappings and disappearances. In its decisions the Finnish Immigration Service also cites reassurances from the Russian or Chechen government (quoting other reports and sources), in which they claim the situation in the region has improved.

There is also concern over the tendency of the Finnish Immigration Service to use country of origin information selectively. Certain texts from reports are taken out of context and make the situation appear better than it would if the whole report was used for the decision. For example, Amnesty International's report "Rule without law: Human rights violations in the North Caucasus" of July 2009 is cited by the Immigration Service in respect to the improvements in infrastructure in Chechnya since 2008. However, it omits information from the same report about the human rights situation. In this way, the Immigration Service disregards the main content of the report, which concentrates on the total absence of rule of law and the ongoing human rights violations. The Immigration Service has noted an increase in severe human rights violations, but maintains that these are only targeted at people in specific risk groups.

In Norway, the application and interpretation of country of origin information has also affected the review of Chechen asylum cases. NGOs welcomed the fact there was one case where a court overturned a decision against a Chechen asylum seeker, after drawing different conclusions from country of origin information and ruling that there was a risk of persecution on return to Chechnya[49]. Certain persons were more likely to be granted refugee status, such as persons with a previous or ongoing connection to illegal armed groups, and their family members and relatives; people with a connection to Ichkeria (depending on their position and level of activity); and in certain cases people who had provided assistance to illegal armed groups[50], depending on the scope of the assistance. Sometimes single women with small children or the elderly were granted a residence permit on humanitarian grounds[51].

Other concerns

In Austria several Chechen families were deported from Carinthia in 2008 because individual family members were accused of criminal offenses by the Carinthian Refugee Office and the Carinthian governor, despite the fact that police investigations were inconclusive. In a personal email, Governor Haider called upon the local population "*to inform me immediately about violent acts by asylum seekers so that I can initiate their immediate deportation*"[52]. In addition, an amendment of the asylum law came into effect in January 2010 that orders the revocation of refugee status if the refugee or person with subsidiary protection has committed a crime. If there is still a risk of treatment prohibited by Article 3 of the European Convention on Human Rights then the refugee or beneficiary of subsidiary protection loses his or her rights and will have no

[49] NOAS.
[50] Not including those who would come under Article 1F, the exclusion clause of the Geneva Convention.
[51] NOAS.
[52] Universal Periodic Review Austria, Joint submission by AGENDA ASYL for the 10th Session of the UPR Working Group in January 2011**,** 12. July 2010.

entitlement to remain. Their stay is merely tolerated. Access to the labour market is severely restricted and there is no right to family reunification. Several pending cases of this type concern Chechens[53].

Upon arrival in Norway, asylum seekers are asked about their health. During transit those in need of immediate, urgent treatment receive it. For other health issues asylum seekers have access to treatment facilities once they are in reception centres. However, until the duration of their stay has been decided, no longer-term treatment will be started, unless the absence of treatment will result in severe deterioration of the person's condition[54].

In France, France Terre D'Asile noted that several asylum seekers residing in France had submitted cases against the Russian Federation to the European Court of Human Rights[55]. The fact of lodging a case with the Court can in itself raise protection concerns[56].

Chechen Refugees and the Dublin Regulation

The Dublin Regulation[57] establishes a hierarchy of criteria for identifying the EU Member State responsible for processing an asylum claim. Usually this will be the state through which the asylum seeker first entered the EU. ECRE has called for the abolition of the Dublin Regulation[58] because it fails to ensure that refugees are protected, and wrongly presumes there is a level playing field in the EU[59]. ECRE argues that the Dublin system should be replaced with an alternative, which takes into account the preference of the asylum seeker, or his or her links with a specific Member States, complemented by fair responsibility and cost sharing mechanisms. Transfers should not be carried out to states that cannot guarantee a full and fair examination of asylum claims and provide reception conditions that comply with the minimum standards set out in the EU Reception Conditions Directive[60]. ECRE believes that the sovereignty clause (Article 3(2)) and the Humanitarian clause, (Article 15), should be applied under the Dublin system for vulnerable persons who require specialised treatment (thus, not subjecting such people to unnecessary transfer)[61].

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[53] Asylkoordination Österreich.
[54] NOAS.
[55] France Terre D'Asile.
[56] See section on the Russian Federation as well as the case of the murder of Mr Israilov in Austria.
[57] Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:050:0001:0010:EN:PDF
[58] See ECRE, *Sharing Responsibility for Refugee Protection in Europe: Dublin Reconsidered*
http://www.ecre.org/resources/Policy_papers/1058
[59] The European Commission has issued a recast proposal providing some important protection-orientated reforms but without reviewing the principles underlying the Dublin system. See ECRE *Comments on the European Commission Proposal to recast the Dublin Regulation*, 29.04.2009.
[60] European Court of Human Rights*: M.S.S v Belgium & Greece* , Application no. 30696/09.
[61] For more on ECRE's position on the Dublin Regulation, see:
http://www.ecre.org/topics/asylum_in_EU/determining_responsibility

The main European states where Chechen refugees seek asylum are Poland, France and Austria. Poland is primarily a destination of necessity. Many Chechens arrive in the EU by land into Poland because of its geographical location but travel further to other EU Member States to apply for asylum. In many cases they are then transferred back to Poland due to the Dublin Regulation. The Annual report on the activities of the EURODAC Central Unit in 2009 states "a high number (2,012) of asylum applicants in France and in Belgium (959) previously lodged their application in Poland" [62]. Several of our member agencies in EU states have noted that Chechen asylum seekers have less chance of applying for asylum in their countries as they are simply transferred to Poland[63]. There are very few Chechen asylum seekers in Luxembourg[64] but ECRE's member agency[65] is not aware of any Chechen applications that have been examined there. Instead they were transferred under the Dublin Regulation back to Poland.

ECRE's member agency in Poland has noted that Dublin transfers to Poland increased in 2010[66]. According to Eurostat[67], Poland was asked to take charge of the following numbers of Dublin cases in 2008 and 2009:

Table 1. Outgoing requests to Poland under the Dublin Regulation in 2008 and 2009 from selected countries and number of asylum applications by Russian nationals in those countries in 2008 and 2009.

Country	Outgoing requests to Poland 2008	Outgoing requests to Poland 2009	Number of asylum applications by Russian nationals 2008	Number of asylum applications by Russian nationals 2009
Austria	2,091	1,945	3,435**	3,565
Belgium	423	426*	1,070**	2,875
Czech Republic	39	170	80**	57**
Finland	15	50	208**	599**
France	1,151	1,388	3,579**	3,785
Germany	688	960	768**	1,170
Norway	124	115*	1,078**	867**
Sweden	131	392	933**	1058**
Switzerland	0	369	166**	408**

*Figures are incoming requests declared by Poland from partners Belgium and Norway as there were no outgoing figures for these countries for 2009. Note that the incoming and outgoing figures given by any two states are not always identical. ** Figures from UNHCR.

In interpreting these statistics, we should note that there is no direct correlation between requests to Poland for Dublin transfers from an EU Member State, Norway or

[62] http://ec.europa.eu/home-affairs/news/intro/docs/com_2010_415_en.pdf
[63] Austria, Luxembourg.
[64] There were 15 applications (25 people) submitted by Russian nationals in Luxembourg in 2009.
[65] Caritas Luxembourg.
[66] Information from the Helsinki Foundation for Human Rights in Poland. http://www.hfhrpol.waw.pl/Nprogram-10-en.html
[67] http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_dubout&lang=en

Switzerland and asylum applications from Russian nationals in that same state. Transfers to Poland could include other nationalities apart from Russians (this is less likely for 2008 when there were 6,647 applications from Russian nationals and the next highest number was 66 applicants from Iraq. It may be a factor in 2009, however, when there was a surge in applications from Georgians in Poland with 4,182 applications compared to 5,726 from Russian nationals). The year of application and the year of transfer under Dublin may also differ. Nevertheless, those EU countries with large numbers of applications from Russian nationals were requesting transfers of high numbers of asylum seekers back to Poland in 2009.

In Belgium in 2010, the highest number of Eurodac "hits" or matches was for Poland, with 701 in total, way ahead of all the other countries, even Greece[68].

61, 51 and 42 asylum seekers from the Russian Federation were sent back to the Slovak Republic under the Dublin Regulation in 2008, 2009, and 2010 respectively[69], despite the almost 0% recognition rate for Chechen refugees there.

ECRE's survey provided more detailed information on several countries. ECRE members in Austria in particular linked the drop in the percentage of Russian nationals granted refugee status or subsidiary protection to the effects of the Dublin Regulation. Austrian statistics include decisions taken on Dublin transfers in the statistics on rejected applications.

Table 2. Evolution of Decisions on Refugee Status and Subsidiary Protection status to Russian nationals in Austria (2005-2009).

	Refugee status granted	Refugee status denied	Subsidiary protection status granted	Percentage of those granted refugee status	Percentage of those granted subsidiary protection
2005	2,427	251	213	90.6	
2006	1,871	420	197	81.8	60.8
2007	2,633	542	427	82.9	66.7
2008	1,557	1,682	433	48.07	70.5
2009	1,398	2,731	312	33.8	46.9

In Austria traumatized asylum seekers were exempted from the application of the Dublin Regulation until 2005[70]. Since 2006 this has no longer been the case and Dublin

[68] Information from Belgisch Comité voor Hulp aan Vluchtelingen vzw - Comité Belge d'Aide aux Réfugiés asbl.
[69] Statistics from the Ministry Of Interior of the Slovak Republic: http://www.minv.sk/?rok-2008-1
[70] Asylkoordination Österreich. A new asylum law was passed in Austria in 2005, and came into force in January 2006.

transfers have been taking place, despite the fact that many Chechen asylum seekers suffer from post-traumatic stress disorder and other psychiatric or health problems. The Chechen media recently reported a case of a young man from Chechnya who committed suicide in Traiskirchen reception centre in Austria, fearing return to Poland and then Russia[71]. The humanitarian provision of the Dublin Regulation is hardly applied at all. This especially affects Chechen refugees who are frequently deported to Poland although they have family members in Austria but none in Poland[72]. NGOs in Poland confirmed that they had seen many cases of asylum seekers who had been separated from their civil or religious spouse, even when they had had children together. They were not considered as family as they started their family on the territory of the EU[73].

In France, La Cimade and Le Comité Tchétchénie produced a report on the application of the Dublin Regulation with a specific focus on Chechens in 2008[74]. Many of the Chechens they spoke to did not want to go to Poland, as it was too close to Russia and many people were refused refugee status. The reception conditions were also criticised. There were concerns that in Germany or in certain Länder at least, their chances of being granted asylum were minimal. Others simply wanted to join their (wider) families in France or Belgium[75]. However, many of the organisations' clients were still affected by the Dublin Regulation. Many of those who were transferred to Poland and detained there, tried to get back to France. Sometimes they spent several exhausting years being sent between France and Poland as they made repeated attempts to get their applications registered and examined in France[76].

Transfers to Poland under the Dublin Regulation are increasing. People can be detained upon return to Poland for two months, and this period of detention can be extended for up to one year maximum. If their first application for refugee status has not already been refused, usually people are released after two months[77].

In Norway in 2010[78] 183 applications by Russian nationals were Dublin cases. There were 571 applications for asylum[79]. In 2009, 200 applications were affected by the Dublin Regulation. There were 867 applications submitted in total[80]. The Dublin Regulation is generally strictly adhered to in Norway and the Norwegian authorities take the view that the other countries subject to the Dublin Regulation have appropriate

[71] Sources: Chechen independent/unofficial media http://www.waynakh.com/eng/2010/08/chechen-asylum-seeker-commits-suicide-in-austria/#respond and letter from Chechen refugees in Austria.
[72] Universal Periodic Review Austria, Joint submission by AGENDA ASYL for the 10th Session of the UPR Working Group in January 2011, 12th July 2010.
[73] The definition of family members in the Dublin regulation only includes members of the family, "in so far as the family already existed in the country of origin". See Article 2(i) Dublin regulation.
[74] DROIT D'ASILE: LES GENS DE "DUBLIN II". Rapport d'expérience. Parcours juridiques de demandeurs d'asile soumis à une readmission selon le règlement Dublin II.
[75] Ibid, page 18. The reference to family is a broad definition defined by the interviewees themselves and not a legal definition as per the Dublin Regulation or any other instrument.
[76] Ibid page 25 -26.
[77] For more information on the Dublin Procedure in Poland, see "Dublin II national asylum procedure in Poland", Helsinki Foundation for Human Rights and Forum Refugiés.
[78] Up until 30.11.2010.
[79] Up until 30.11.2010.
[80] NOAS.

health facilities. Sometimes, in cases of a particularly serious psychiatric illness, the application will be examined by Norway.

A witness account from France suggested that families with children were less likely to be transferred under the Dublin Regulation[81] than other applicants.

In 2009 Finland received 602 applications from Russian nationals[82]. 95 Dublin transfer decisions were taken. In 2010 Finland received 439 applications from Russian nationals, of which 215 received Dublin transfer decisions. ECRE's member agency in Finland[83] had no doubt that most Russian asylum seekers, who were returned on the grounds of the Dublin Regulation in 2009 and 2010, were Chechen and their destination was Poland. During the first eight months of 2010, the Finnish Immigration Service asked Poland to take charge of 93 Dublin cases, making Poland one of the countries, which received the most Dublin transfer requests from Finland. It was also a sharp increase in comparison with 2009, when Poland shared 8th place with Hungary with regards to the number of Dublin transfer requests made by Finland. It is also interesting to note that although the overall number of asylum applications and Dublin cases decreased, the number of requests made to Poland increased significantly. The humanitarian provision was hardly applied. ECRE's Finnish member agency reports that Dublin decisions were only revoked in the Administrative Court if an asylum seeker was involuntarily taken into psychiatric treatment. In one case a close family link also led to a positive decision to cancel the transfer.

The Finnish Refugee Advice Centre (FRAC) is concerned at the situation in Poland because of the specific needs of many vulnerable asylum seekers from Chechnya. The asylum seekers themselves had spoken about the poor reception conditions, racism and direct violence and threats by the "Kadyrovtsy" in Poland. Almost all of FRAC's clients expressed fear of return to Poland.

Case example:
A Chechen family (parents with several small children) was granted tolerated stay status in Poland and had spent some time there. The father was politically active both in Chechnya and in Poland. The "Kadyrovtsy" were allegedly looking for the family in Poland, so they had to hide and move. The locals attacked them on racist grounds. The family escaped to Finland and sought asylum. The mother was pregnant and the father was partly disabled and suffered from severe post traumatic stress and other mental disabilities. He had started therapy in Finland, and was recognized as being in need of long-term, intensive treatment. In Poland the only medication available was at the family's own expense. The Finnish Immigration Service nevertheless decided to return the family to Poland. After several appeals and once the father's suicide risk became clear, the Administrative Court granted an interim measure. Finally, however, the Court decided to deport them. The Supreme Administrative court did not grant a leave to appeal. The family subsequently disappeared.

[81] *DROIT D'ASILE: LES GENS DE "DUBLIN II". Rapport d'expérience. Parcours juridiques de demandeurs d'asile soumis à une readmission selon le règlement Dublin II*. Page 24.

[82] The Finnish Immigration Service does not gather statistics on the ethnicity of the asylum seekers. Therefore, the exact number of ethnic Chechens is not known.

[83] Finnish Refugee Advice Centre.

In Belgium, the European Court on Human Rights ruled on the case of a Chechen woman and her children who were detained pending transfer from Belgium to Poland. Aina Muskhadzhiyeva and her four children Alik, Liana, Khadizha and Louisa (aged seven months, three, five and seven years respectively at the time), are Russian nationals of Chechen origin and lived in a refugee camp in Debak-Podkowa Lesna (Poland). Having fled from Grozny they eventually arrived in Belgium on 11 October 2006, where they sought asylum. As they had spent some time in Poland, the Polish authorities agreed to take charge of them, under the Dublin Regulation. On 21 December 2006, the Belgian authorities accordingly issued a decision refusing them permission to stay in Belgium and ordering them to leave the country. The Aliens Office summoned the applicants in order to serve the decision on them. On 22 December 2006 they were placed in a closed transit centre near Brussels airport, known as "Transit Centre 127 bis", where aliens (single adults or families) were held pending removal. Several independent reports drawn up in recent years have highlighted that the centre was not suitable for housing children.

A request to release the applicants was rejected by the Brussels Court of First Instance on 5 January 2007 and again by the Brussels Court of Appeal on 23 January 2007. Between those two decisions the organisation "Médecins sans frontières" carried out a psychological examination and found that the children – especially Khadizha – were showing serious psychological and psycho-traumatic symptoms and recommended that they be released to limit the damage. On 24 January 2007 the applicants were sent back to Poland. On the same day they lodged a cassation appeal. By a decision of 21 March 2007 the Court of Cassation found the appeal devoid of purpose as the applicants had already been removed from the country. A report drawn up by a psychologist in Poland on 27 March 2007 confirmed Khadizha's critical psychological state and confirmed that the deterioration might have been caused by detention in Belgium.

Relying on Article 3, Aina Muskhadzhiyeva and her children complained about the conditions of their detention in "Transit Centre 127 bis", where they were held for more than a month. Relying in particular on Article 5 §§ 1 and 4, they also complained that their detention had been unlawful and the remedy against it before the Court of Cassation ineffective, as they had been removed from the country before the court reached a decision. The application was lodged with the European Court of Human Rights on 18 September 2007.The Court ruled that there had been a violation of Articles 3 and 5.1 in relation to the children[84].

Impact of the Dublin Regulation on Chechens

The aforementioned report from France[85] describes the additional stress and problems that the Dublin Regulation had caused Chechen asylum seekers there:

84

http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=861160&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649

85 *DROIT D'ASILE: LES GENS DE "DUBLIN II". Rapport d'expérience. Parcours juridiques de demandeurs d'asile soumis à une readmission selon le règlement Dublin II.*

- It increased uncertainty as they did not know when or even if their application would be examined in France;
- By not taking into account their wishes it sometimes forced asylum seekers to commit offences or go into hiding in order to avoid transfers, meaning they often had to go without social support;
- Exposed them to the fear and the reality of forced removals;
- Heightened their sense of rejection by the authorities in countries where they were seeking asylum;
- Reinforced earlier traumas they suffered before they fled to seek protection by exposing them to fear, incertitude and sometimes violence;
- Made Chechen asylum seekers feel that they were "nowhere". They had left their homes because of war or violence but had not really arrived anywhere, having no country where they felt they could stay[86].

Case example: Austria[87]

Arslan Dhuzhiev moved to Europe with his family. They crossed the Polish border on June 27th 2010, and had their fingerprints taken by Polish border guards before continuing on to Austria the next day. On arrival in Austria they were detained due to the application of the Dublin Regulation. Austrian authorities put the family into the Traiskirchen camp where many Chechen asylum seekers await deportation. Arslan tried to explain his situation but felt that no one listened to what he had to say; he was told his was a typical Dublin case and that the family would be sent back to Poland as soon as possible. During their stay [in Poland], the family saw some Chechen asylum seekers being deported to Russia. Arslan greatly feared being deported to Russia. After a while he learned that his application for asylum had been rejected. He re-applied but was rejected again. He tried to find a way to gain asylum but felt he was refused by all the organizations to whom he turned for help. Arslan applied for asylum in Austria a third time. On August 8th 2010, he was rejected again. He should have received intensive psychological treatment after his time in prison and the latest events depressed him even more. In his last days, when he saw the police, Arslan was fearful and saying, "The police came for us", and "They will take us, that's over". He had repeatedly said that he could not bear to be tortured again in Russian prisons, and he was no longer able to manage his fear. He hanged himself in his room.

http://www.waynakh.com/eng/2010/08/chechen-asylum-seeker-commits-suicide-in-austria/#respond.

[86] Ibid Page 21-22.

[87] Traiskirchen is a first reception centre. Asylum seekers may leave the first reception centre after their identity is established, at the latest after 3 days. During the Dublin procedure they have restricted movement, they are not allowed to leave the district.

Case example: Finland, Poland and France

"P, her husband and five children arrived in Finland with the hope that in that country at least they would be granted refugee status and that P could at last be treated for her illness. She has a severe form of epilepsy. The last diagnosis by Polish doctors was that they could not continue her treatment, but they wrote that she needed to be under continual observation by doctors. Her social workers in Poland did not seem to react to this at all, perhaps because medical assistance was not part of their role.

I took on their case in Finland and managed to organise meetings on the case, and her story was even published in a newspaper. They got an appointment with a doctor who specialised in this form of epilepsy. Having examined her he wrote a statement that from his point of view P needed intensive treatment and that until the treatment was finalised she could not be deported.

P was having epileptic fits twice a week that lasted from between half an hour to an hour and a half. The doctor prescribed a six-month course of medicine that she had to take when the fits came.

All the staff at the refugee camp witnessed her illness. Her lawyer appealed, saying that she needed treatment, but all efforts were in vain. The migration service decided to deport her. The decision was appealed but that did not stop her being deported to Poland in 2010.

The family arrived in Poland….. They stayed with friends until they could get to France. They have since been issued with two negative decisions in France and are due to be deported [transferred back to Poland] ….."

Information from a Chechen human rights activist, Finland.

The internal protection alternative in decision-making in EU Member States

There is no requirement in the 1951 Convention that a refugee should first seek safety in another part of his or her country of origin before seeking protection elsewhere, or that the fear of persecution should extend to the whole territory of the country of origin[88]. ECRE reminds states that in considering the Internal Protection Alternative (IPA), it is imperative to focus on the key questions of whether an asylum seeker is genuinely free from a risk of serious harm in the country of origin.

In order to assess the reasonableness of an IPA, protection must be afforded by a *de jure* authority; the claimant must be able to access the area of internal protection in safety and in dignity and legally; the needs of vulnerable groups must be met; conditions in the area must ensure that the applicant is not forced back to where there is risk of serious harm for a Convention reason; and the absence of a risk of serious harm in the proposed site must be objectively established[89]. ECRE recommends a strong presumption against the application of the internal protection alternative when the State or agents associated with the State are the actors of persecution.

With regard to the applications of Chechen asylum seekers, ECRE received the following information on the use of the internal protection alternative in the assessment of protection status.

In **the Netherlands**, according to the Dutch Immigration Regulation of February 2007, although the security situation gives ground for subsidiary protection, Chechen asylum seekers have been considered to have an internal protection alternative in other parts of Russia. Ethnic Chechens, women, draft evaders and deserters are described as "group(s) with higher attention" when determining protection needs, which means nothing more than that. There is no special policy for the abovementioned groups and normal policy rules are applicable, meaning that each individual's asylum claim has to be credible and substantiated. However, if the Dutch Immigration Service (IND) finds an asylum claim to be grounded, the presence of an internal protection alternative will in general not be insisted on[90].

In **Poland** decisions to reject applications for refugee status are now more likely to mention the internal protection alternative, whereas this was previously only mentioned for those who had links to other regions in Russia. Negative decisions on refugee applications from citizens of the Russian Federation on this ground and forced returns are increasing. In general the border guards deport to Belarus.

In **Finland** the Immigration Service believes the internal protection alternative is an available option for Chechens, if an asylum seeker has held residence registration in areas of the Russian federation outside Chechnya. This has been applied in cases even when the residence registration was issued a long time ago or if it was "bought".

[88] See the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees,* para. 91.
[89] See ECtHR, *Salah Sheek v the Netherlands*, Application No. 1948/04, 11 January 2007, para. 141; UNHCR, *Asylum in the European Union: A Study of the Implementation of the Qualification Directive*, November 2007, p. 10 and ECRE/ELENA *The Impact of EU Qualification Directive on International Protection,* October 2008.
[90] Dutch Council for Refugees.

As far as ECRE's Finnish member agencies are aware, none of these asylum seekers have yet been deported to the Russian Federation as the cases are still pending at the courts. In one decision, the Immigration Service admitted that in Russia there was a generally negative attitude towards ethnic Chechens who are frequently subjected to government racism and police document and identity checks. The Immigration Service also admits that Chechens may face difficulties in finding jobs or registering. However, it does not consider Chechen ethnicity to be a ground for asylum, nor does it accept that the difficulties faced by a Chechen person in Russia amount to systematic persecution by the authorities against an individual. Neither does it accept that the cumulative effect of various discriminatory measures can amount to persecution. Accordingly, the Immigration Service assumes that the asylum seeker can turn to the Russian authorities for protection.

The internal protection alternative is rarely applied in Belgium, usually only if the person him or herself testifies that they lived in a different area of Russia for a long period of time with no problems[91].

The **French** authorities do not consider Russia to be a safe country of origin and do not apply the concept of the internal protection alternative to Russia[92].

CHECHENS IN THE WIDER EUROPE

Outside the EU there are large groups of refugees from Chechnya in Azerbaijan, Georgia, Turkey and Ukraine, with fewer in Belarus and Moldova. The following section looks at the situation for Chechens in need of protection in these countries.

Azerbaijan

Due to the political and geographical proximity of the Russian Federation, the Azeri authorities do not accept asylum applications from Russian nationals who have fled the conflict in Chechnya. UNHCR implements the refugee status determination procedure and determines refugee status under its mandate. The European Commission estimates there are approximately 1,300 Chechen refugees in Azerbaijan[93]. As of 3rd December 2010 there were 1,029 Chechens from the Russian Federation registered by UNHCR in Azerbaijan, including 1,023 refugees and 6 asylum seekers. Of the 1,023 refugees, 137 were assessed as refugees within the definition of the 1951 Convention, whilst the other 886 had been granted prima facie refugee status[94].

UNHCR does not consider local integration to be a feasible option for Chechen refugees in Azerbaijan, as the authorities tolerate their presence but do not afford them any legal status. Nevertheless, UNHCR is trying to initiate a project to increase self-reliance amongst refugees in Azerbaijan. The dire economic situation along with a continued lack of access to legal employment compels some Chechens to return to

[91] Belgisch Comité voor Hulp aan Vluchtelingen vzw/Comité Belge d'Aide aux Réfugiés asbl.
[92] France Terre D'Asile.
[93] http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/SNAA-8C5MGR-full_report.pdf/$File/full_report.pdf Humanitarian Aid Decision 23 02 01, Supporting Document. Page 1.
[94] Information from UNHCR Azerbaijan.

their country of origin or to seek ways to move to Western Europe. Resettlement countries are increasingly reluctant to accept Chechen cases. This has meant that only a few individuals from Chechnya were resettled from Azerbaijan in 2009, mostly emergency submissions. Until mid-2010 DG ECHO [95] was the main donor for humanitarian assistance to Chechen refugees in Azerbaijan. However, ECHO's priorities in Azerbaijan have recently shifted to supporting projects that increase livelihood opportunities[96].

Belarus

The creation of the Union State of Belarus and the Russian Federation and the Agreement on Equal Rights for citizens of these countries, means that Chechens, as Russian citizens, are entitled to obtain temporary and permanent residence permits through simplified procedures. Previously, applications for refugee status were not accepted from Russian citizens, including Chechens. However, since 2009 the Department of Citizenship and Migration of the Ministry of Internal Affairs of the Republic of Belarus (DCM) has accepted applications for refugee status from Russian citizens[97]. Although applications for refugee status or complimentary protection are accepted and registered by Belarusian migration authorities, to date no Russian citizens have been granted refugee status or complimentary protection.

Many Russian citizens do not apply for protection in Belarus because it is relatively straightforward for them to obtain a permanent residence permit through other procedures. For many the political and geographical proximity to Russia is also a concern.

For the majority of Chechens, Belarus is a transit country to Poland and Lithuania. In some cases (there are no statistics available on the exact number), Poland does not admit Chechens to its territory and they are returned back to Belarus. Some of these "returnees" make several attempts to enter Poland and seek asylum there[98]. In 2010, 246 Russian citizens[99] were deported from Belarus. Separate statistics on Chechens are not available.

Georgia[100]

Around 8,000 refugees from Chechnya fled to the Pankisi Gorge region of Georgia in the 1990s. Many have since either returned to Chechnya or moved on to Western Europe. The Georgian Ministry for Refugees and Repatriation carried out a re-

[95] The Directorate General for Humanitarian Aid and Civil Protection (DG ECHO) is responsible for formulating EU humanitarian aid policy and for funding humanitarian aid — including food aid — to victims of conflicts or disasters, both natural and man-made, in non EU countries. Its mandate is to save and preserve life, to reduce or prevent suffering and to safeguard the integrity and dignity of those affected by humanitarian crises. DG ECHO also helps to facilitate coordination with and among EU Member States on humanitarian assistance and civil protection efforts at EU level. **http://www.reliefweb.int/rw/rwb.nsf/db900SID/SNAA-8CEQCX?OpenDocument**

[96] Information from UNHCR Azerbaijan.

[97] 1 application in 2008, 8 applications in 2009 and 14 applications in 2010.

[98] Information from Belarusian Movement of Medical Workers

[99] Statistics provided by the DCM of Belarus

[100] Information from the Chechen Refugee Coordination Council.

registration of Chechen refugees in autumn 2010. 696 refugees were registered, of whom one third were Chechens, and the rest ethnic Kists from Chechnya[101]. Many of these refugees live in impoverished conditions in Pankisi Gorge although others live in Tbilisi and other regions.

At first those who fled were granted prima facie refugee status but recently this policy has changed and now status is being granted on the basis of an individual examination, something that has been welcomed by a local Chechen refugee group[102]. Over the past few years eight or nine applications for individual refugee status have been submitted to the Ministry for Refugee Affairs by Chechens. Only two were refused. Those two people were not deported back to Russia, but stayed in Georgia with the right to have their cases re-examined in the court of appeal.

In May 2007 the Ministry for Refugee Affairs and the Ministry of Justice started to issue identity cards. In April 2009 the Civil Registry Agency and the Ministry of Justice began issuing travel documents for refugees. UNHCR provided the financial resources. Refugees were disappointed with the travel documents, as no country has recognised them to date.

As far as integration is concerned, applications for citizenship from Chechens were first reviewed in mid 2009. Initially 18 were accepted and 13 refused although these were re-examined later and accepted. Significant progress in this direction was made in 2010, when over 120 cases were accepted. This activity is ongoing and many cases are awaiting review, therefore precise statistics are not yet available.

Conditions for refugees in Georgia are generally difficult due to their poor economic situation and there have been some security concerns for individual cases[103].

Meanwhile, UNHCR and UNDP have joined forces to help both refugees and the local population in Pankisi Gorge. Under a Memorandum of Understanding signed by the two organisations earlier this month, UNHCR will phase out individual assistance and UNDP will make it easier for locals and refugees in Pankisi Gorge to attend schools where they can receive structured training and develop professional skills. UNDP support will focus on local development and on boosting employment prospects in areas such as carpentry, farming, sewing and bee-keeping[104].

Moldova

There is a relatively high recognition rate for refugees from Chechnya in Moldova, although numbers are small[105]. A total of 24 Russian nationals have been granted refugee status or humanitarian protection in Moldova since 2005. 90% of Russian

[101] Although both groups speak Chechen, ethnic Kists have long standing links with Georgia and Pankisi Gorge. Many also speak Georgian and may be more likely to want to integrate locally rather than resettle to another country. See Silence Kills the Abuse of Chechen Refugees in Georgia. http://www.humanrights.ge/files/Chehen_report_eng-Silence_kills.pdf

[102] Chechen Refugee Coordination Council

[103] See the section on security concerns for Chechen refugees in the country of asylum for more information.

[104] http://www.reliefweb.int/rw/rwb.nsf/db900SID/EGUA-8CBMZ3?OpenDocument

[105] http://www.ecre.org/files/ECRE_Report_Moldova_Eng_with_cover_preview.pdf

asylum seekers in Moldova are Chechens. Currently, 20 refugees and 6 beneficiaries of humanitarian protection from the Russian Federation live in Moldova, 25 of them from Chechnya.

One of the main issues faced by all refugees in Moldova is that the government can provide only basic support once a refugee is awarded status. In a country often cited as the poorest in Europe, refugees struggle to support themselves[106]. There have also been problems with the issuance of travel documents that have been promised for many years but so far have not been delivered. Many Chechens who were granted refugee status in Moldova have since left[107].

Turkey

Turkey maintains a geographic limitation to the 1951 Refugee Convention and does not offer the prospect of long-term protection under the Convention to refugees from countries outside Europe [108] . For such non-European asylum seekers, UNHCR conducts refugee status determination under its mandate, and pursues durable solutions, primarily resettlement, for those found to be in need of international protection[109].

There are about 1,500 Chechen asylum seekers in Turkey [110] with a significant community in Istanbul, mostly living in what are referred to as "camps", but are actually cramped urban living conditions. There is another “camp” in the nearby city of Yalova.

Since Chechens and other Russian asylum seekers are considered as Europeans by the Government of Turkey[111], in theory their asylum claims should be determined by the Turkish Government and they should have access to rights and entitlements as per the 1951 Convention. In reality, however, Chechens who may be in need of international protection have not been allowed access to Turkey’s asylum procedure. Many Chechens have lived in Turkey since 1999 without official status. Amnesty International observes that the official refusal to view the Chechens as persons seeking asylum has deterred many from applying for any status, for fear they would be returned[112].

Chechen asylum seekers who have sought to regularise their status have been provided with the status of ‘guests’ allowing them to remain temporarily in Turkey, subject to extensions on a regular basis. Chechen asylum seekers receive little or no support from the government. They live in very poor conditions. Their lack of a clear legal status makes it difficult to access basic human rights such as employment, education and health. In a report by the Council of Europe from 2009 Thomas

[106] For more information on the situation for refugees in Moldova in 2009 see: http://www.ecre.org/files/ECRE_Report_Moldova_Eng_with_cover_preview.pdf
[107] Information provided by the Law Centre of Advocates, December 2010
[108] 1951 UN Convention Relating to the Status of Refugees, Article 1B (1)a and 1967 UN Protocol Relating to the Status of Refugees, Article 1(3) .
[109] http://www.unhcr.org/pages/49e48e0fa7f.html
[110] Information from Caucasus Forum, a volunteer group working with Chechens inTurkey.
[111] Turkey interprets the term “European” to include nationals of Council of Europe member states.
[112] “Stranded: Refugees in Turkey denied protection”, 22 April 2009 http://www.amnesty.org/en/library/asset/EUR44/001/2009/en/0f217291-cae8-4093-bda9-485588e245d8/eur440012009en.pdf

Hammarberg points to the "unclear" nature of the "guest" status granted to Chechen asylum seekers in Turkey. Beneficiaries do not enjoy international refugee protection and have no access to UNHCR procedures, excluding them from resettlement in third countries. Their "guest" status can also be revoked any time[113]. Furthermore, the "guest" status does not absolve beneficiaries from the excessive fees charged by the police for the residence permits, which Chechen asylum seekers need to obtain and renew periodically in order to be able to at least maintain their "guest" status[114].

A case in the Turkish media in August 2009 illustrated the difficulties Chechens can face. A Chechen asylum seeker was arrested when her child's leg was broken after being hit by a car, because she did not have a residence permit in Turkey. According to reports in Chechen unofficial media she had tried to get a residence permit in December 2008 but had not yet received an answer[115].

Local refugee rights advocates observe that the inadequate protection opportunities and difficult living conditions have forced many Chechen asylum seekers to travel irregularly to EU countries.[116]

Ukraine

In 2008 – 2009 several Chechens were granted refugee status in Ukraine. This was a positive development as there had been a 0% recognition rate for Chechens since 2005. It was impossible for any asylum seeker in Ukraine to access the asylum procedure between August 2009 and July 2010 as it was not operational. Once the procedure was re-opened, although access to the territory significantly improved[117], it remained extremely difficult for ethnic Chechens to access a fair asylum procedure. Out of 16 asylum seekers (8 applications) from Chechnya only 1 was recognized as a refugee in Ukraine in 2010.[118]

Asylum officials do not always use impartial country of origin information and due to improved political relations between Ukraine and Russia, they now consider Russia to be a safe country.

According to statistics from the Ministry of Internal Affairs of Ukraine: 19,744 Russian citizens were charged with administrative offences for violations of the "Rules of Stay"

[113] Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Turkey on 28 June-3 July 2009, https://wcd.coe.int/ViewDoc.jsp?id=1511237&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679

[114] Information from Helsinki Citizens Assembly, a Turkish NGO based in Istanbul which specializes on providing legal assistance to asylum applicants.

[115] http://www.waynakh.com/eng/2009/08/a-chchen-woman-was -arrested-in-istanbul/

[116] Information from Helsinki Citizens Assembly.

[117] According to the information provided by the Donetsk Foundation for Social Protection and Mercy, ethnic Chechens are able to access to the territory of Ukraine.

[118] 3 applications were rejected upon admission, 2 rejected upon further admission into the substantial refugee status determination procedure and 2 were rejected on substance in Ukraine in 2010. Statistics provided by the State Committee on Nationalities and Religions of Ukraine.

in Ukraine; 2,678 were given decisions on expulsion and 317 on forcible expulsion from Ukraine in 2010 (there is no breakdown on ethnic Chechens available).

CHECHEN REFUGEES AND SECURITY IN THE COUNTRY OF ASYLUM

Before examining the return of Chechen refugees to Russia in more detail, the security situation for Chechen refugees in exile merits more consideration.

A large number of refugees from Chechnya have serious concerns for their safety and refer to operations of supporters of Ramzan Kadyrov[119], the so-called "Kadyrovtsy," in Europe. A number of Ramzan Kadyrov's political opponents have been killed outside Chechnya - in Dubai, Istanbul and Moscow[120]. In 2009, the Jamestown Foundation put the number of Chechen refugees who had fled during the second military campaign and gone on to be murdered overseas at "dozens", with the majority of the killings taking place in Azerbaijan, Turkey and Georgia[121]. The case of Umar Israilov in Austria has also increased the insecurity and fear felt by many Chechen refugees living in Europe.

Umar Israilov (DOB 1981), an ethnic Chechen, joined a rebel armed group in the second Chechen war. He was captured and detained in Chechnya's secret detention centre "Tsentoroi" from April to July 2003 when he was tortured repeatedly by Chechen President Ramzan Kadyrov, subject to beatings, electric shock treatment, and stabbed with a metal rod. He was then forced to serve in the security forces, as Kadyrov's body guard. During this time he witnessed numerous incidents of torture and unlawful executions by Kadyrov's regime. He escaped to Poland in 2004 on a false passport and then went to Austria where he was recognized as a refugee in 2007. His father was detained for over 10 months in an attempt to persuade Israilov to return to Chechnya – he was also subject to torture. He eventually managed to leave Chechnya with his family. Umar Israilov filed an application with the ECtHR in 2006. He received threats from Chechens working for Kadyrov, telling him to withdraw his complaint and return to Chechnya. Threats were also made against his wife and three children.

On 13 June 2008, Austrian lawyers on behalf of the European Centre for Constitutional and Human Rights (ECCHR) filed a complaint against Kadyrov alleging torture and attempted duress. Israilov noticed he was being watched and his lawyer requested he be protected. The request was refused. On 13 January 2009 Umar Israilov was shot dead on a Vienna street in broad daylight by two men. One of the men alleged to have been involved was Letscha Bogatirov who has now reportedly been promoted in the local police in the Chechen Republic.

Umar Israilov's father is currently under police protection in Austria and has an application pending at the European Court of Human Rights for his own mistreatment as well as his son's case.
In a final report released by the Austrian State Offices of Domestic Security and Counter-Terrorism, Ramzan Kadyrov was accused of inciting the murder. The trial began in Vienna on 16 November 2010. The trial has revealed threats made by Kadyrov's envoys against opponents of the current regime living in various European countries, including France, Norway, Poland, Belgium, Austria, the Czech Republic, Slovakia and Belarus. Witnesses have given evidence that those who return, or who are abducted and forcibly returned, face torture and mistreatment in detention facilities in Chechnya. The families in Chechnya of those who refuse to return receive threats and are even tortured. People who refuse to return have been assassinated, with cases in Austria, Dubai, Istanbul, Moscow and Azerbaijan. In the recent trial the presence of Kadyrov's envoys in the courtroom prevented many witnesses from testifying fully. The trial resumed at the end of January 2011. The Austrian Prosecutor and Court officially demanded that the Russian Federation cooperate in facilitating video conferences with the main suspect Letcha Bogatirov as well as Ramzan Kadyrov, Shaa Turlaev and Artur Kurmakaev, all currently on Russian territory. The ECCHR is supporting the representation of the victim's family. The trial will continue in 2011.

An Austrian refugee group described the fears of Chechens in Austria, saying that Kadyrov's men have phone numbers and know the whereabouts of refugees there[122]. Although the Chechen community in Austria is very diverse, many refugees feel insecure and this is heightened by the fact that the Ministry of the Interior, which has responsibility for asylum claims, has close contacts with Russia, including with the Kadyrov regime[123]. Interior Minister Fekter has visited Russia to discuss the return of Chechens to the Russian Federation. Austrian media have reported on a co-operation agreement between Austria and Russia on counter-terrorism as well as visits by the Austrian authorities dealing with asylum claims to Chechnya to learn more about the situation there[124].

The same refugee group believed that if Umar Israilov could be murdered in Austria where laws are more or less respected, then the situation is even more threatening in Poland, which is a post-Soviet country and so according to them more vulnerable to bribes and corruption and consequently less safe[125].

There is a large community of Chechens in Poland, which has been severely affected by the violence in their homeland. The community has been split into different political groupings and the "Chechenisation" of the conflict has meant that Chechens on different sides are becoming perpetrators and victims[126].

France Terre D'Asile noted in 2009 that although there had been no documented cases of assassinations or kidnappings in Poland, some Chechens there are at risk, particularly those who have a media presence or who have engaged in political or legal actions against the current regime[127].

In a decision issued on 15 February 2011 the French Asylum Court of Appeal granted refugee status to a Chechen man who had previously been recognised as a refugee in Poland. He had left Poland after being threatened by phone several times and placed under surveillance by the 'Kadyrovtsy'. He feared he could be abducted and tortured by the latter and asked the Polish authorities for protection. He was unable to access effective international protection in Poland, which triggered his flight to France.

Another EU Member State[128] is processing at least two applications from Chechen asylum seekers who allege that their lives would be in grave danger should they be transferred to Poland according to the Dublin Regulation. This includes one case that is linked to the murder of Mr Israilov.

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[122] Email to ECRE from January 2011.
[123] Europäisch-tschetschenische Gesellschaft and ASPIS (Austrian NGO).
[124] http://kurier.at/nachrichten/niederoesterreich/2058523.php , http://www.wienerzeitung.at/DesktopDefault.aspx?TabID=3858&Alias=wzo&cob=532397
[125] Email to ECRE from January 2011.
[126] "The Situation of Chechen Asylum Seekers and Refugees in Poland and the Effects of the EU Dublin II Regulation", Barbara Esser (Bielefeld Refugee Council), Barbara Gladysch (Mothers for Peace) and Benita Suwelack (Nort Rhine-Westphalia Refugee Council), February 2005.
[127] Forum Refugiés, "Le système d'asile en Pologne", May 2009. http://www.forumrefugies.org/en/content/view/full/2575
[128] The Member State concerned has been deliberately omitted for security reasons.

RETURNS

ECRE does not dispute the fact that governments have the right to return asylum seekers whose applications have been correctly rejected. Nevertheless, people should only be returned following a fair and efficient examination of their asylum claims. Where return is not possible for technical or other reasons, or where it would be inhumane, people should be granted a legal status to remain. States should prioritise voluntary repatriation and ensure that all returns are carried out in a safe, dignified and sustainable manner[129].

It is very often not known whether a person returned to their country of origin has arrived safely and has been able to re-integrate into the community. Systematic monitoring would provide a check on the correctness of decisions on asylum claims and would instil confidence in potential returnees. It could also be used to evaluate the success of return policies (measured in terms other than just the total numbers returned). Sending states should set procedures in place to check that returnees have reached their destination safely. There should also be follow-up and monitoring of returns to identify whether return policies are safe, effective and sustainable.

In 2008 – 2010 European countries have increasingly been advocating the return of refugees of Chechen origin to the Russian Federation. States have been prepared both to look at the internal protection alternative within Russia[130] and to even return people to Chechnya itself. According to the Ministry of Foreign Affairs of the Netherlands, in February 2010 Belgium, Denmark, Germany, the UK and Sweden were returning asylum seekers whose applications had been rejected to Russia[131]. Switzerland has considered it possible to return asylum seekers to Russia since 2008[132]. In 2010 in **the Czech Republic** the Committee of Foreigners' Rights under the government's Human Rights Council, and later the Council itself, bucked the trend and adopted a proposal to the government to return Chechens to the Russian Federation only on a purely voluntary basis. This came from the Commissioner for Human Rights, Michael Kocab, after concerns about some Chechen asylum applications that had been rejected. However, the government changed and to our knowledge it was not adopted[133].

Voluntary returns?

[129] ECRE uses the following definitions: **Voluntary return/repatriation**: the return of persons with a legal basis for remaining in the host state who have made an informed choice and have freely consented to repatriate. **Mandatory return**: refers to persons who no longer have a legal basis for remaining in the territory of the host state and who are therefore required by law to leave the country. It also applies to individuals who have consented to leave, or have been induced to leave by means of incentives or threats of sanctions. **Forced return**: the return of those who have not given their consent and therefore may be subject to sanctions or the use of force in order to effect their removal. For more information on ECRE's policies on return, please see: http://www.ecre.org/topics/return

[130] Germany, The Netherlands, Slovak Republic, Norway and Poland. Austria on a case-by-case basis.

[131] Information provided by the Dutch Council for Refugees.

[132] In August 2008 the Federal Office stopped considering Chechnya as a region in a situation of general violence and claimed that return was possible, but with consideration given to individual cases. Information provided by Schweizerische Fluchtlingshilfe.

[133] Information from OPU and Help A Man, Prague.

In recent years, asylum seekers and refugees from Chechnya have made increasing use of voluntary returns programmes run by governments or the International Organisation for Migration (IOM).

Chechens with refugee status or subsidiary protection in Poland have also tried to go to Belarus voluntarily, possibly to go on to visit Chechnya. Generally the Belorussian border guards have let them leave but those with subsidiary protection have had more problems getting back into Poland. In cases like this, people with refugee status are generally returned to Poland, whereas those with subsidiary protection may be returned to the Russian Federation, if Russia is looking for them[134]. In 2009 there was also a case of a person with refugee status who travelled to Belarus several times, who had her refugee status withdrawn.

It is unclear to what extent refugees and asylum seekers living outside the Russian Federation have been able to make a truly informed decision to go back, given the tremendous pressure from the Chechen and Russian authorities to present the situation as "normalised". Reports in 2009 of Ramzan Kadyrov opening "Chechen Cultural Centres" in countries with high numbers of Chechen refugees were particularly worrying[135]. Although none of our member agencies in countries where they were due to be opened (Austria, Belgium, France, Germany and Poland) have heard any more about their development, many in the Chechen community in Europe believe the Kadyrovtsy now operate openly in Europe, particularly in Austria and Poland[136].

Three families interviewed by Memorial who had returned to Chechnya (two from Germany and one from Poland) said they did so after watching Russian state TV, which showed frequent reports of improvements in the situation in Chechnya[137]. One family in particular had seen TV reports of support packages for returnees including renovation of accommodation, financial assistance and help with finding employment. Two of these families now want to return to Europe and one family has received threats. All three families experienced problems upon return, had no access to housing or employment and in one case healthcare, and all three were frightened and worried about their safety in Chechnya[138]. Reports putting a positive spin on the situation in Chechnya also seem to have been a factor in Zubair Zubairaev deciding to return from Austria. Zubair Zubairaev was detained upon his return and has allegedly been tortured in detention.

Voluntary return programmes[139]

In **Austria** asylum-seekers whose applications have been rejected are referred to organisations that offer advice and assistance on voluntary return. Benefits include

[134] Polish Helsinki Foundation for Human Rights
[135] http://kavkazcenter.com/eng/content/2009/09/24/11028_print.html
[136] See section on security in country of asylum for more information.
[137] Information from Memorial Grozny as part of the ECRE project to monitor returns and readmission to Belarus, Moldova, Russia and Ukraine, funded by the European Union. Year of return: 2005, 2009 and 2009.
[138] Information from Memorial Grozny as part of the ECRE project to monitor returns and readmission to Belarus, Moldova, Russia and Ukraine, funded by the European Union. Year of return: 2005, 2009 and 2009.
[139] The type of return in voluntary returns programme will not always correspond to ECRE's definition of voluntary, as people will not have a legal basis on which to stay in the country.

payment of travel (organised by IOM) and a maximum grant of €370 for adults. Furthermore, IOM has started a voluntary return project for Chechen asylum seekers who may get some more assistance to rebuild life after their return.

Some Chechens decide to return "voluntarily" to Russia from Austria because they do not want to be sent back to Poland. These decisions are often made in detention, where access to legal advice is often very limited[140].

Information about monitoring returns is not publicly accessible. One main player in counselling to return (Verein Menschenrechte Österreich) says they call the returned person or his/her relatives immediately after return, but information is not shared with NGOs. Its findings are cited in Asylum Courts as part of the results of the investigation into the situation in the country of origin. In summaries returned persons are disturbingly described as being "interviewed by security forces but not mistreated or exposed to other problems". Some returnees are said to intend to return to the EU- area. In 2009 812 Russian nationals applied for assistance to return from Austria.

In Belgium, there has been an increase in the number of Chechens who prefer to return voluntarily to Russia rather than be transferred back to Poland. This is particularly true of young, single men who are afraid of being detained in Poland and then being forcibly returned to Russia from there[141].

In **Finland** in January 2010, IOM Helsinki launched the project "Developing Assisted Voluntary Return in Finland (DAVRiF)" and implements the project with the Finnish Immigration Service. Applicants who may be eligible for support are persons with refugee or other protection status in Finland, rejected asylum seekers, and asylum seekers withdrawing their applications who want to return to their country of origin. Returnees can receive financial support[142] towards their reintegration. At present, IOM Helsinki does not counsel or interview prospective returnees from Finland through formalised counselling sessions. However, staff members are able to provide advice and information on voluntary return[143].

In 2010 234 people were returned under the programme, including 32 to the Russian Federation[144]. IOM Helsinki has confirmed that 45 people returned to the Russian Federation from Finland from February 2010 to January 2011. IOM Helsinki does not gather information on the ethnicity of applicants for voluntary return, although they have information on the final destination of the returnees (as per the travel arrangements organized by IOM). They estimate that the destination of half of returnees is Grozny. It is of course not possible to establish a definite link between destination and ethnicity. The final destination of the IOM-organised travel might not be the ultimate destination or home town. However, after several years following developments in the Chechen Republic in particular and the Russian Federation in general, we conclude it is quite unlikely that many people of an ethnicity other than Chechen would want to return to

[140] See ECRE/ELENA Survey on Legal Aid for Asylum Seekers in Europe, page 131.
[141] Belgisch Comité voor Hulp aan Vluchtelingen vzw /Comité Belge d'Aide aux Réfugiés asbl.
[142] 200-1,500 Euros for adults, 100-1,000 Euros for minors.
[143] http://iom.fi/content/view/235/8/
[144] http://iom.fi/content/view/244/8/

Grozny[145]. Therefore, in all likelihood Chechens have been returning from Finland to Chechnya. The returnees were either people with a residence permit (most likely refugee status), as well as asylum seekers with a Dublin transfer decision[146]. The Finnish Refugee Advice Centre has also noted that some of their clients have decided to return to Chechnya rather than go back to Poland.

In Norway, the Directorate of Immigration is currently considering a project to promote voluntary return to Chechnya[147].

From the examples of voluntary return programmes we have received, it would seem that the Dublin system and fears for their safety in Europe have led some asylum seekers from Chechnya to opt for return to Chechnya rather than transfer to Poland. There is also an apparent lack of information being given on the situation in the Russian Federation through counselling to counterbalance information from Russian television overseas that has reportedly misled some people as to the type of assistance they would get and the situation that would meet them upon return.

In these circumstances, when people do not receive full information on the possible consequences or outcome of return, ECRE cannot consider these returns to be voluntary.

Readmission

The Readmission agreement between the EU and Russia entered into force on 1 June 2007. From 1 June 2007 to 1 November 2010, there had been 4,749 requests for readmissions from EU member states to the Russian Federation. The Russian authorities favourably considered 2,214 of these requests. 677 own country nationals have been readmitted to Russia, including 375 to the North Caucasus. Some people prefer to return "voluntarily" to avoid being readmitted. For example, in 2010 at least 7 people to be readmitted to Russia decided to return voluntarily. In these cases people are usually assisted by IOM. The highest numbers of readmission requests were submitted by Germany, Sweden and Austria[148].

25 Russian nationals readmitted from the EU were immediately handed over to the Ministry of Internal Affairs of the Russian Federation. They were wanted for crimes ranging from the non-payment of alimony to participation in armed gangs in the North Caucasus.

The readmission procedure differs from extradition in that the country to which the person is to be readmitted is not obliged to inform the EU Member State if the person is sought by the authorities for any other reasons. In cases where readmitted Russian

[145] According to the Finnish Refugee Advice Centre there have been doubts about the Chechen ethnicity of at least one case of a person returning to Grozny.
[146] Refugee Advice Centre, Finland.
[147] NOAS.
[148] The newspaper "Die Presse" reported on 17.12.2010 that between 1.1.2010 and 1.10.2010, 516 people returned voluntarily to the Russian Federation, 39 were deported. Austria had submitted 363 readmission requests to Russia and the majority were approved.

nationals were not handed over to the authorities it is impossible to do any post-return monitoring.

Another concern is the Readmission agreement signed between Ukraine and Russia in 2006. With the EU-Ukraine Readmission Agreement entering fully into force in 2010, ECRE has serious concerns about potential chain *refoulement* to Russia. According to statistics from the State Border Guards Service of Ukraine in January-May 2010 Ukrainian officials returned 51 Russian nationals to Russia[149].

In November 2010 Poland readmitted 11 Russian nationals of Chechen origin to Ukraine. Five of them were immediately returned to Russia, and three were returned to Russia in December. Three managed to apply for refugee status in Ukraine, but were immediately rejected by migration officials. Their cases are currently being appealed before a court. Lawyers working for the applicants have said that at hearings both the judge and migration officials showed prejudice against the applicants[150].

These asylum seekers from Chechnya claimed to have unsuccessfully tried to apply for asylum in Poland. One claims to have been beaten by a Polish border guard. After the group was returned to Ukraine, the Ukrainian border guards did not provide them with an opportunity to contact a lawyer or their relatives, or apply for asylum. Those who did manage to apply for asylum did so only at the time of the court hearing on their expulsion.

Extradition

The purpose of extradition law is to prevent people from escaping legitimate prosecution for a common criminal offence[151]. States must remember that any decision on an extradition request concerning a refugee or asylum seeker must comply with the principle of non-*refoulement* in Article 33 (1) of the Refugee Convention. The prohibition of *refoulement* is applicable to any form of forcible removal, including deportation, expulsion, extradition, informal transfer or "renditions", and non-admission at the border[152]. Thus, if the individual is at risk of being persecuted in the requesting country, extradition is prohibited.

For those who are not protected by the Refugee Convention from *refoulement* (in cases of exclusion or national security considerations), Article 3 of the ECtHR, Article 3 of the Convention Against Torture, Articles 6 and 7 of the ICCPR or Articles 18 and 19 of the Charter on Fundamental Rights may apply. As a result, if the individual whose extradition is sought is at real risk of being tortured in the requesting state, extradition is prohibited[153].

[149] These statistics include all Russian nationals, not only those of Chechen origin

[150] As these cases are still ongoing in Ukraine and we are trying to preserve the anonymity of the asylum seekers we cannot give more information than this at present , however, the lawyer was clear that prejudice took place.

[151] Rodger Haines QC, lecture notes, St Petersburg Introductory Course on Refugee Law 2010.

[152] UNHCR Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 19561 Convention relating to the Status of Refugees and its 1967 Protocol, para. 7.

[153] Rodger Haines QC, lecture notes, St Petersburg Introductory Course on Refugee Law 2010.

States have the right to request the extradition of their own nationals living abroad who have committed a crime on their territory. Given the fact that many Chechens in Europe have fled persecution in the Russian Federation, any extradition requests from the Russian Federation concerning asylum seekers and refugees from Chechnya need to be treated with caution.

NGOs and Chechen refugee groups have raised concerns about several extradition cases of Chechens to Russia because of fears that the person to be extradited would be tortured or disappear upon return[154]. NGOs have frequently reported cases of falsified evidence against Chechens in Russia, whilst many acts of violence, murder and disappearances allegedly carried out by the authorities are not investigated. There is a large body of evidence of gross human rights violations and "secret" prisons in Chechnya as well as reports of mistreatment of Chechens in prisons and penal colonies in other regions of the Russian Federation[155]. Any state party to the European Convention on Human Rights or other relevant international human rights legislation, considering extraditing a Chechen to Russia would have to be certain, not only that the evidence submitted by the requesting state represented a genuine case of prosecution, rather than persecution, but also that the person extradited would not suffer torture or inhuman or degrading treatment upon return.

[154] http://www.waynakh.com/eng/2010/08/in-poland-five-chechen-asylum-seeker's-families-are-under-the-threat-of-extradition/

[155] The best-known case being that of Zubair Zubairaev, see Amnesty International Report 2010. See also section on Russia from this report.

The extradition of Murad Gasayev,[1] an ethnic Chechen, from Spain to Russia in December 2008 relying on diplomatic assurances from the Russian authorities was the first known use of diplomatic assurances by the Spanish authorities. In 2005, Murad Gasayev's asylum claim was rejected by the Spanish authorities on the basis of confidential information that neither Gasayev nor his lawyer were ever given access to and were unable to challenge. The Russian authorities publicly alleged that Gasayev was involved in a June 2004 attack by an armed group on government buildings in the Republic of Ingushetia. He claimed he was detained in Ingushetia in August 2004 by five masked law-enforcement officials who took him to the main office of the Department of the Federal Security Service for Ingushetia, where he was tortured for three days and questioned about the attack, then released without charge.

Russian NGOs have documented a range of abuses related to the investigation of the June 2004 attacks, including the torture and ill-treatment of suspects and numerous fair trial violations. Amnesty International has interviewed several people whose statements support these findings. In his own case, Gasayev presented evidence that Russia had, in the past, breached assurances it had proffered in similar cases[1].

Despite such credible evidence of the risk of torture that Murad Gasayev would face if forcibly returned, in February 2008 the Spanish National Criminal Court (Audiencia Nacional) approved the extradition request based on diplomatic assurances from the Russian General Prosecutor's office stating that Gasayev would not be sentenced to death or to life imprisonment without parole, and that he would be able to receive visits from the UN Committee against Torture – ostensibly to ward off mistreatment - while he was detained. Upon discovering that the Committee against Torture does not undertake visits to detention facilities and that Russia is not a party to the Optional Protocol to the Convention against Torture[1], the Court then requested assurances that the European committee for the Prevention of Torture and inhuman or degrading treatment or punishment (CPT) would be able to monitor Gasayev's detention.

However, the CPT was not consulted about the diplomatic assurances until after the Spanish National Criminal Court had approved the extradition request. When informed, the CPT stated it was not prepared to assume the task of monitoring the detention of Murad Gasayev in Russia under the terms of the assurances as a matter of principle due to concerns over the unreliability of diplomatic assurances against torture and other ill-treatment.

On 31 December 2008, the Spanish authorities extradited Murad Gasayev to Russia with the simple assurance to the Spanish National Criminal Court that staff from the Spanish embassy in Moscow would be able to visit him in detention. In a letter to the court, the Spanish Ministry of Justice stated that, although there was no precedent for such action by the Spanish embassy, other diplomatic missions in Moscow had undertaken similar tasks, albeit "with certain difficulties". It stated that in such cases the general practice was to visit the detainee once upon arrival in Russia and once after final sentencing.

After arrival in Russia, Murad Gasayev was detained in Moscow, before being transferred to a pre-trial detention facility in Piatigorsk. To Amnesty International's knowledge, between 31 December 2008 and 9 February 2009, he had received one visit from his lawyer and one visit from Spanish embassy staff. His family had not been given permission to visit him.

He was released on 29th August 2009, at which point Amnesty International expressed grave concerns for his safety in Russia[1]. His lawyer told Amnesty International in September 2009 that law enforcement officers have repeatedly threatened Gasayev's brother, mother and other relatives, and that Gasayev himself was "absolutely terrified" and "living in a climate of constant intimidation". Two months after his release, Murad Gasayev disappeared.

In the above case Rule 39 had been applied by the European Court on Human Rights to suspend the Chechen applicant's extradition to Russia, where he faced criminal charges. That measure was lifted following the receipt of diplomatic assurances by the Russian Government[156].

[156] Source: ECtHR, *Chentiev and Ibragimov v. Slovakia*. Application no. 21022/08 and 519464/5. 23 October 2010.

In the case of **Ibragimov v. Slovakia, Chentiev v. Slovakia, (51946/08 and 21022/08),** Anzor Chentiev and Ali Ibragimov are accused of having participated in the killing of two Ministry of Interior Affairs officers in Grozny in June 2001. The statements forming the basis for the allegations against them were allegedly extracted under torture. Chentiev and Ibragimov later left Russia and unsuccessfully applied for asylum in Slovakia. The Russian authorities have since requested their extradition. The Constitutional Court of Slovakia in 2008 and 2009 upheld Supreme Court decisions to extradite. Chentiev and Ibragimov claimed that their extradition would breach their rights under the European Convention as they risk being tortured and ill-treated in Russia.

The Russian Government assured the Slovak authorities that the applicants, if extradited, would (i) benefit from the guarantees of a fair trial including the assistance of legal counsel and, if necessary, interpreters, possible trial by jury, the possibility of appeal and of attendance by representatives of the Embassy of Slovakia; (ii) not be sentenced to death; (iii) not be subjected to treatment contrary to Article 3 of the Convention and (iv) have the possibility of lodging an application with the Court.

On 23 October 2010 the ECtHR ruled the complaint manifestly ill-founded and rejected it in accordance with Article 35 §§ 3 and 4 of the Convention. It has also decided to discontinue the application of Rule 39 of the Rules of Court to these cases and to declare the applications inadmissible.

The Court reiterated that a mere possibility of ill-treatment in circumstances similar to these cases is not in itself sufficient to give rise to a breach of Article 3 of the Convention. It also found that the assurances protecting the applicants from treatment contrary to Article 3, if embodied, were given by authorities of a member State of the Council of Europe and a Contracting Party to the Convention, and that a possible failure to respect such assurances would seriously undermine that State's credibility.

On the 10 November 2010 MEPs including Finnish MEP Heidi Hautala, who heads the Sub-committee for human rights, Belgian MEPs Bart Staes and Frieda Brepoels, and human rights activists approached Slovak Justice Minister Lucia Žitňanská, asking her not to extradite Mr Chentiev and Mr Ibragimov to Russia.

In mid-November new lawyers for the applicants applied again to the Strasbourg Court for an injunction to bar Slovakia from extraditing their clients to Russia. On 23 November 2010 the ECtHR decided to prolong an interim measure in accordance with Rule 39.

At time of writing the authorities had not yet decided whether to extradite them to Russia.

An unusual case concerned a Chechen couple, Mr and Mrs Gataev[157], currently applying for asylum in Finland. On 25th January 2010 a Finnish judge ruled against extraditing the couple to Lithuania until their application for asylum had been fully examined in Finland.

The couple had set up an NGO called "Native Family" in Chechnya in 1997 and had been taking children in need of medical care to Lithuania for treatment. They were arrested in Kaunas on 14 October 2008 by the special services. At first the charges were very serious (trafficking people and murder) but in June 2009 they were sentenced to 8 months' imprisonment for "family despotism". They were due to be released on 14 August but the prosecutor requested an extension of the sentence by 3

[157] Article in Russian http://hroniki.info/?page=news&id=5929 and http://www.rosbalt.ru/2011/01/14/808389.html

months, which was granted by a court. This decision was overturned by the court of highest instance in Vilnius and the Gataevs were released. The Gataevs went on to appeal the original 8 months detention and its extension by three months in the Supreme Court of Lithuania.

Lithuania had requested the extradition of the couple for harm to the health and well-being of several of the minors in their care. Nevertheless, Finland decided that their application for asylum was a priority.

In March 2010 the Lithuanian Supreme Court found that the trial for the criminal case had not been fair and the applicants' basic rights were violated. The Lithuanian authorities cancelled the warrant and the extradition request.

On 3 March 2010 the Finnish authorities dismissed their application for asylum on the grounds that Lithuania was a safe country of asylum. In May 2010 the Helsinki Administrative Court decided to return their case to the Immigration Services, as their application for asylum was based on ill-treatment in Lithuania and so should not have been dismissed on the grounds that Lithuania could be a safe country of asylum. In June 2010 the Finnish Immigration Service applied to appeal to the Supreme Administrative Court. The case is still pending. There have also been references to the serious health issues of the applications, meaning their applications should be assessed in Finland. The Finnish authorities have not reached a final decision on whether the case should be assessed in Finland.

Chechen asylum seekers in **Ukraine** also face problems due to extradition requests from the Russian Federation. NGOs have reported cases when the Ukrainian law enforcement agencies, having received extradition requests from Russia for certain individuals from Chechnya, have tried to influence refugee status decisions by migration officials. They have even run checks on the activities and financial affairs of NGOs working with the Chechen asylum seekers involved. Rejected asylum seekers whose extradition Russia has requested, but whose appeals are still being considered by the Ukrainian courts, are subject to lengthy detention. For example, one Chechen asylum seeker, currently being detained pending extradition, has been in detention for 29 months and another for over 18 months.

Chechen unofficial media [158] reported many cases of concern of extraditions of Chechens from Azerbaijan to the Russian Federation, estimating that since 1999 at least 24 people had been transferred to Russia where they faced torture. The best-known case was that of Ruslan Eliyev who was kidnapped in Baku in 2006 and found dead several months later in Chechnya, with signs of severe torture, having been thrown out of a helicopter in a bag[159]. In its concluding observations on Azerbaijan in 2008 the UN Committee Against Torture expressed concern at the cases of extraordinary rendition from Azerbaijan including renditions of Chechens to the Russian Federation, based on bilateral extradition agreements. The Committee regretted the lack of information provided by Azerbaijan on asylum applications, refugees, the numbers of expulsions, *refoulement* and extradition cases[160]. It also regretted the

[158] See www.waynakh.com
[159] See www.waynakh.com
[160] CAT/C/AZE/CO/3, http://www2.ohchr.org/english/bodies/cat/cats43.htm.

absence of any diplomatic assurances or post-return monitoring procedures established for such cases and requested Azerbaijan to ensure that no person was expelled, returned or extradited to a country where there are substantial reasons for believing they would be in danger of being subjected to torture[161].

CHECHENS IN THE RUSSIAN FEDERATION

The Human Rights Situation in Chechnya and the North Caucasus

Chechnya has seen two wars in the last twenty years; the first from 1994-1996 and the second, which started in 1999. Since the outbreak of the second wave of the Chechen conflict over 350,000 people have left Chechnya to seek safety elsewhere in the Russian Federation or abroad. The Russian and Chechen authorities are making concerted efforts to assure the world that the situation has stabilized since Ramzan Kadyrov, the Kremlin appointed President, has been in power.

There have been some changes in the overall situation in Chechnya since Moscow declared the end of the "counter-terrorist" operation in 2009, namely a reduction in armed conflict and great advances in reconstructing Grozny and other cities. However, there are daily accounts of acts of illegal violence against citizens carried out with impunity under Ramzan Kadyrov's rule, both by the local authorities and the security services in the name of the fight against terror. NGOs warn of a totalitarian regime of violence and fear.

Violence is now widespread in all the republics of the North Caucasus. The European Commission[162] recently summarised the security situation as follows:

> "...terror attacks and armed clashes continue to occur on an almost daily basis in most North Caucasus autonomous republics, that is to say Northern Ossetia, Ingushetia, Dagestan and Chechnya, but now also in the traditionally quieter republic of Kabardino-Balkaria. Disappearances and abductions remain a feature of life, with crime and corruption additional factors of instability. For ordinary citizens the situation is often likened to a civil war, not in fact dissimilar to the situation prevailing in 1999 when the Russian military intervention in Chechnya took place. The psychological strain for them is enormous, even if living conditions in some areas have undeniably improved.
>
> Under present circumstances, it has not been possible to promote the voluntary return of IDPs in neighbouring republics nor refugees from abroad [to Chechnya]".

A UK Parliamentary Human Rights Group visited Chechnya in 2010. Their report from June that year highlights worrying incidents of burning the homes of families of suspected rebels, enforced disappearances, beatings, forced marriages and torture.

[161] CAT/C/AZE/CO/3, http://www2.ohchr.org/english/bodies/cat/cats43.htm.
[162] Commission Decision on the financing of humanitarian actions in the Northern Caucasus from the general budget of the European Union. Supporting Document. December 2010.

Most people were said to be afraid of reporting crimes and had no recourse to political or judicial mechanisms by which to hold Kadyrov's administration to account. "*Where there were known witnesses to certain crimes, they were usually unwilling to talk, acutely aware of the possible repercussions for themselves and their families. Also, in many instances investigators and prosecutors actively dissuaded individuals from bringing complaints against alleged perpetrators with official connections".* There are no effective systems of witness protection for those who do wish to pursue a complaint[163].

The European Court of Human Rights has in over 100 cases ruled that Russia is responsible for serious human rights violations in Chechnya, including torture[164], enforced disappearances, and extrajudicial executions. In nearly every ruling, the court called the Russian Government to account for failing to properly investigate these crimes[165].

Human rights defenders are finding it increasingly difficult to obtain any information, as victims are afraid of reprisals from the authorities should they raise issues of violence against them or their families. Many non-governmental organisations operate in Chechnya but only a small number of them have enough support from outside the Chechen republic to allow them to criticise the government, even in the gentlest terms. The UK parliamentary report on the situation on Chechnya stated that many ordinary Chechens are more frightened to turn to organisations like Memorial now, after the death of Natalia Estimirova[166] and following Ramzan Kadyrov's[167] openly hostile comments about the organisation.

Kidnappings and Disappearances

Kidnappings and disappearances continue to be a major concern. In its submission to the Human Rights Committee at its ninety-seventh session in October 2009, the Russian government stated that criminal investigations had been opened into several cases of disappearances in the Chechen Republic. Some of these investigations had been suspended owing to a failure to identify the person or persons to be charged or the whereabouts of the accused. The authorities also reported establishing a programme on preventing kidnappings and disappearances[168]. However, Memorial reports that kidnappings and disappearances in Chechnya started to rise in 2008 and

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[163] "*there appeared to be virtually blanket impunity for Federal and Chechen security officials; it was noted that some perpetrators were so confident of not being prosecuted, they did not even cover their faces when carrying out their crimes".* [UK] Parliamentary Human Rights Group (PHRG) Report. Chechnya Fact-Finding Mission 15-19 February 2010. Report June 2010.

[164] See recent decision, ECtHR, *Gisayev v. Russia*. Application No. 14811/04. 20th January 2011. The Court ruled that Russia was responsible for Akhmed Gisayev's torture at the hands of state agents in 2003.

[165] [UK] Parliamentary Human Rights Group (PHRG) Report. Chechnya Fact-Finding Mission 15-19 February 2010. Report June 2010.

[166] A member of Memorial's staff in Grozny, who was murdered in July 2009.

[167] See section on the persecution of those suspected of opposing the regime and their families.

[168] CCPR/C/RUS/6. http://www2.ohchr.org/english/bodies/hrc/docs/co/CCPR.C.RUS.CO.6.pdf

more than doubled in 2009. The number of cases being investigated decreased[169]. The kidnapping and disappearance of Makhmadsalikh Masaev on 3 August 2008, who had told the Novaya Gazeta newspaper that he had been held in Ramzan Kadyrov's secret prison, is a chilling illustration of the price of speaking out[170].

Killing of Yusup Askhabov and Disappearance of Abdulyazed Askhabov - 2009, testimony given by a close relative

On 28 May 2009, Yusup Askhabov was shot dead in broad daylight in Shali. It is understood that Yusup Askhabov was a member of an armed group and had killed some servicemen. His body was later brought to the yard of the family compound and dragged around in front of them. The police told his father to take the women away because they were going to burn the house down. Yusup's father put the women in the car. The police went inside the house, which then went up in flames. They left immediately, with the dead body, so the father was able to return and put the fire out. Two days later, the Deputy Head of Police and servicemen came back to the house. They said to the father: "You have three sons left, make sure they never leave the house, and make sure they report to the police station every month." The sons complied with these orders.

One night in August, the father heard a noise in the yard of the family compound. He walked out and saw another of his sons, Abdulyazed, being dragged out of his home. His son's wife was hysterical. As the father was not strong enough to intervene, he shouted for help. The son was taken away and has not been seen since. The father went to the Prosecutor's office and lodged a case. The investigators and other personnel working on the case have since changed. It was believed that the Shali police were advising them not to interfere.

The father then went to see the Chechen Ombudsman and his Deputy. The latter phoned the Shali police station and said they had received this complaint. They asked the police to let the son go if he was in their custody. The Shali police allegedly replied that they had simply taken the brother of an important insurgent field commander.

Relatives had no idea whether Abdulyazed was still being held. Abdulyazed had very poor vision and was about to go blind; it was unlikely, therefore, that he could have been an active member of any militant group. Abdulyazed's wife was pregnant at the time of the abduction and now was unable to receive benefits for the baby. Relatives were also very concerned about the possibility that other siblings could be taken away. Most people, including close family, were too frightened to show any concern about the case.His case was one of the last Natalia Estemirova had been working on before she was murdered.

Information from UK Parliamentary Human Rights Group Report, June 2010.

Persecution of those perceived to be opposing the regime and their families

The previous example shows how the security services act with impunity in the Chechen republic. NGOs report that they are not held accountable for violations of

[169] Memorial HRC Migrants Rights Centre, Memorial HRC Migrants Rights Centre, *Report: Kidnappings and disappearances, sabotaging criminal cases investigations, accommodation of Chechens in the RF, Chechens in the penitentiary system*, Moscow 2010, p. p.3.

[170] http://www.novayagazeta.ru/data/2008/49/10.html ; Memorial Human Rights Centre On the situation of residents of Chechnya in the Russian Federation: Oct 2007 - Apr 2009, http://www.reliefweb.int/rw/rwb.nsf/db900sid/ADGO-7TAM7Q?OpenDocument&Click=)

domestic law, but are asked instead to account for how many members of illegal armed groups they have killed. This leads to recordings of incidents where allegedly peaceful citizens are kidnapped and found later, dressed in camouflage and often bearing signs of torture. Law enforcement officials reportedly claim they are bodies of members of illegal armed groups[171].

Families of suspected militants have been subject to persecution since mid-2007. Some have been forcibly evicted; others have had their homes burnt down. Other relatives have been forced to denounce their kin on camera, or at their funerals[172].

In their World Report 2010, Human Rights Watch state that collective punishment against people with suspected rebel ties became a pronounced trend beginning in June 2008 and continued into 2009. Memorial and Human Rights Watch had documented at least 30 cases where such individuals' homes were deliberately burned, apparently by Chechen law enforcement personnel. No one had been held responsible. High-level Chechen officials, including President Kadyrov, have made public statements stressing that insurgents' families should expect to be punished unless they convince their relatives to surrender[173].

On 15th July 2009 the human rights community was dealt a huge blow when Memorial human rights defender and journalist, Natalia Estimirova, was kidnapped and shot dead. Memorial released a statement in which it claimed Ramzan Kadyrov was responsible for her murder and described the situation of legal arbitrariness created in Chechnya under his leadership. Ramzan Kadyrov responded by taking Oleg Orlov, the head of Memorial, to court in September 2009 for defamation. The case is ongoing.

Less than a month after Natalia Estimirova was killed, on 10th August, law enforcement officers kidnapped Zarema Sadulaeva, the Chairwoman of a humanitarian organisation called "Let's Save this Generation" and her husband, Alik Dzhabrailov. They were shot dead that night and were found on the outskirts of Grozny.

In October 2009, aid worker Zarema Gaisanova was taken from her home in Grozny. Prosecutors told her mother that she was alive but that they did not have access to her[174].

In an interview on TV Channel Grozny on 3 July 2010, Kadyrov declared that employees of Memorial were *"the enemies of the people, enemies of the law, enemies of the state"*[175].

In November 2006 the European Human Rights Advocacy Centre (EHRAC) and Memorial listed 23 instances of applicants to the European Court of Human Rights who had faced threats or coercion from officials or security forces, some of which resulted in

[171] Evidence from the Human Rights Centre Memorial and the Civic Assistance Committee on the Situation of previous residents of the Chechen Republic in Russia, 10th April 2010, page 4.
[172] Ibid, page 3.
[173] World Report 2010, Human Rights Watch, Page 432.
[174] Amnesty International Report 2010.
[175] "Ramzan Kadyrov ob'yavil pravozashitnikov vragami naroda". http://www.kommersant.ru/doc.aspx?DocsID=1410213

the applicants withdrawing their complaints[176]. Some applicants have also been killed[177].

Case example: Disappearances of **Enisa Ibragimova (DOB 1988) and Hava Abdulazizova (DOB 1989), lived in Goyty village in Chechnya.**

On 2 September 2009 Enisa Ibragimova received a call on her mobile phone after which she left home and did not return. On the same day Hava Abdulazizova left home and did not return. They have not been seen since.

Enisa's husband, Zelemkhan Arsamirzuev was suspected of involvement with an illegal armed formation, and was in hiding following an attempt by the authorities to arrest him. Enisa and her small daughter were sent to stay outside Russia for their own protection. However, on 25 July 2009 Zelemkhan was killed during a special operation in Goyty. Enisa and her daughter returned home in August 2009. Hava's husband, Imran Movsarov was taken away by the security forces in December 2008. Later that month his mutilated body was returned home. The official explanation is that Imran was killed in a security forces raid on 25 December 2008. After his death Hava returned to live with her parents.

Enisa and Hava were distantly related and both lived in Goyty village. Villagers claim they were kidnapped by members of the 6th "Neftepolka" Regiment (headed by Goyty resident, Waleed Abdulrashidov). The day after the girls disappeared, their parents appealed for help to the authorities, including to the Head of the Republic R.A Kadyrov, but to no avail. The Prosecutor of Urus-Martan told them that the girls had gone into the woods of their own accord. However, the girls' parents claim they received information that the girls were taken away by people in camouflage uniform.

Eight months after the girls disappeared, an investigation was finally opened into Enisa's disappearance. A criminal case has not yet been opened, because of an alleged "lack of evidence of a crime having been committed".

A third woman also disappeared on September 2 2009: Zelemkhan Arsamirzuev's sister- Madina Arsamirzueva. Her body was returned by the security forces a few days later. According to officials, Madina blew herself up with a grenade on 4 September 2009 in Alkhazirova village as law enforcement officials tried to make an arrest. This has been used to justify decisions not to open a criminal investigation into Enisa's disappearance. The same decisions state that Hava and Enisa kept in touch with Madina and had also joined an illegal armed group, which was active in Urus-Martan district. The relatives of the missing girls flatly deny this.

On 4 September 2009, participants in the raid allegedly saw Enisa and Hava being brought by taxi to the scene in Alkhazurovo by security forces. Goyty residents claim that the operation was carried out by the 6th "Neftepolka" Regiment and Abdulrashiov Walid participated in the raid.

There are reports of witnesses seeing the girls in detention in different locations after their disappearance. For example, in the "Neftepolka" regiment basement. There were also reports of the girls being spotted in the village of Hosey-Yurt, and at the FSB headquarters. On 2 September 2009 three residents of the village of Avtury were detained on suspicion of participation in illegal armed groups. This was shown on local television. Enisa and Hava's parents received information that these villagers saw the missing girls in one of the illegal detention centres for people suspected of involvement in illegal armed formations. Enisa and Hava are still missing. (Information provided by the Memorial Human Rights Centre).

[176] For more information, see: http://assembly.coe.int/Mainf.asp?link=/Documents/WorkingDocs/Doc07/EDOC11183.htm

[177] Rosa Akaeva, ECHR applicant, was strangled in her flat by unknown persons on 12 November 2009. She had previously appealed the extrajudicial execution of her brother by Russian Federal Forces to the ECtHR. The court held the Russian Government responsible of serious human rights violations. See UK Parliamentary Human Rights Group Report, June 2010.

Torture and "secret" prisons

There are frequent and widespread allegations of torture in Chechnya, in all types of detention centres, including "secret" detention facilities.

The UN Human Rights Committee has expressed concern about the large number of convictions for terrorism-related charges, which may have been handed down by courts in Chechnya on the basis of confessions obtained through unlawful detention and torture. It recommended that Russia undertook a systematic review of all such cases to ensure that no statement or confession made under torture had been used as evidence[178].

The Special Rapporteur on the independence of judges and lawyers also has concerns. Article 75 of the Russian Criminal Procedural Code expressly prohibits the use of evidence obtained through torture. In addition, Article 235, paragraph 4 states that if a lawyer lodges a complaint that evidence was gathered illegally, the burden of proof falls upon the prosecutor to show that it was not. However, it appears that this provision is not always followed. Also, there seems to be no clear legal obligation for the court to order an immediate, impartial and effective investigation into torture allegations.[179]

Following Natalia Estimirova's murder in July, the UN special procedures on torture, enforced disappearances, extrajudicial executions, and human rights defenders requested access to Russia to conduct an investigation. The Russian government refused[180].

Many witnesses report the existence of "secret" illegal detention centres in the Chechen Republic. The Committee for the Prevention of Torture indicated that the problem of "unlawful detention" persisted in the Chechen Republic as well as other parts of the North Caucasian region[181]. The Committee's observations are confirmed by judgments of the European Court of Human Rights, which has frequently established violations of the European Convention on Human Rights, some involving periods of secret detention[182]. In October 2009, the Human Rights Committee expressed its concern about ongoing reports of torture and ill-treatment, enforced disappearance, arbitrary arrest, extrajudicial killing and secret detention in Chechnya and other parts of the North Caucasus committed by military, security services and other state agents, and

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[178] http://www2.ohchr.org/english/bodies/hrc/docs/co/CCPR.C.RUS.CO.6.pdf Page 4.

[179] A/HRC/11/41/Add.2, 23 March 2009: *Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development: Report of the Special Rapporteur on the independence of judges and lawyers*, Leandro Despouy,(Mission to the Russian Federation)

[180] http://www.hrw.org/world-report-2010 Page 438.

[181] Public statement concerning the Chechen Republic of the Russian Federation, 13 March 2007 (CPT/Inf (2007) 17).

[182] See some of the most recent judgments of the Europen Court of Human Rights on violations involving secret detention: *Babusheva and Others v. Russia,* Application No. 33944/05, judgment of 24 September 2009; *Asadulayeva and Others v. Russia.* Application No. 15569/06, judgment of 17 September 2009; *Mutsayeva v. Russia,* Application No. 24297/05, judgment of 23 July 2009; *Yusupova and Others v. Russia,* Application No. 5428/05, judgment of 9 July 2009; *Khasuyeva v. Russia,* Application No. 28159/03, judgment of 11 June 2009; *Khantiyeva and Others v. Russia,* Application No. 43398/06, judgment of 22 April 2010; *Satabayeva v. Russia,* Application No. 21486/06, judgment of 29 October 2009; *Vakhayeva and Others v. Russia,* Application No. 1758/04, judgment of 29 October 2009; and *Karimov and Others v. Russia,* Application No. 29851/05, judgment of 17 July 2009.

that the authors of these violations appeared to enjoy widespread impunity owing to what it called "a systematic lack of effective investigation and prosecution[183]."

However the Chechen authorities continue to deny the existence of secret detention centres.

After receiving the Government's replies to the questionnaire, experts from the Human Rights Committee conducted interviews with several men who testified about secret detention in the Russian Federation. Owing to fear of repression against themselves or their families, and because of the climate of impunity, most people refused to be interviewed by the experts or to be identified.

The European Committee for the Prevention of Torture and inhuman or degrading treatment or punishment (CPT) visited the North Caucasus and the Chechen Republic in 2008 and 2009, but its reports have not yet been published. The CPT noted in its 2007 report that the Russian authorities consistently refuse to engage in a meaningful manner with them on core concerns.

The then UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, was not able to carry out a visit to the Russian Federation in 2006 because the Russian authorities did not agree to his carrying out unannounced visits and holding private interviews with detainees in the North Caucasus[184].

At a December 2010 meeting of the Chechen Ombudsman's office and the Civic Chamber (Obshestvennaya palata), new members of a Civil monitoring committee were given their mandates[185]. According to reports they have the right to visit places of detention as well as to investigate complaints from detainees[186]. It is not yet clear how effective this system will be. Given the extent of the reports of human rights violations, torture and the government's denial of the existence of secret places of detention, it is hoped that the authorities will allow the UN special Rapporteur on torture and other UN experts to conduct additional visits.

For the first time in many years Memorial reports that their staff members are unable to openly report what is happening in Chechnya. This is very different from the situation in Ingushetia where, although NGOs have serious human rights concerns, the authorities do not hinder open discussion, and even participate in dialogue.

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[183] CCPR/C/RUS/CO/6, para. 14. See also Dick Marty, *Situation in the North Caucasus region: security and human rights*, second information report for the Committee of Legal Affairs and Human Rights of the Council of Europe, 29 September 2009, available from http://assembly.coe.int/CommitteeDocs/2009/ajdoc43_2009.pdf, para. 6. The annex to the report contains several cases of abduction leading to various periods of secret detention in different Federation subjects in the Caucasus that corroborate such reports.
A/HRC/13/42

[184] Special Rapporteur on Torture regrets postponement of visit to Russian Federation http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=2718&LangID=E

[185] http://www.grozny-inform.ru/main.mhtml?Part=11&PubID=22595

[186] http://www.grozny-inform.ru/main.mhtml?Part=11&PubID=22595

Treatment of women

Women are particularly at risk in the Chechen Republic. There are reports of girls and women being forced into marriages with men working for President Kadyrov. Incidents have been recorded of kidnappings of girls aged 12-15, who return to their parents after the short "marriage", often psychologically scarred. In October 2010 Ramzan Kadyrov forbade the kidnapping of brides as it was as violation of Russian legislation[187]. However, human rights defenders have noted that instead of limiting violence, this has led to a situation whereby young men who had taken brides with the women's agreement, had been beaten.

Women are required to wear headscarves to enter a government building. There have also been recent reports that Ramzan Kadyrov wants all women teachers and older female students to wear scarves in schools and that women have been made to wear traditional Muslim outfits, including the hijab and a long dress that covers them completely. There were reports of bare-headed women not being allowed to attend the official Women's Day celebration in March in Grozny in 2010.

Many of these patterns of treatment of women go against Chechen cultural traditions and non-Muslim women find themselves excluded from Chechen society.

Chechens in other regions of the Russian Federation

None of the serious human rights violations affecting Chechens residing in the Russian Federation outside Chechnya highlighted in ECRE's Guidelines from 2007 have been resolved. These included extremely high levels of racism and xenophobia; illegal restrictions on the rights and freedoms of Chechen IDPs[188], including for example illegal practices restricting them registering at an address or change their passport outside of Chechnya.

In fact, when Chechens try to settle elsewhere in Russia the state does everything possible to make them return to the Chechen Republic. The determination of Ramzan Kadyrov to gather all Chechens in Chechnya is encouraged by both federal and regional authorities. Chechens are refused again and again when they try to rent a flat, register at place of residence or find a job. This is done in an insulting and degrading manner.

Memorial reports that many Chechens living in other regions of Russia are in constant danger of being falsely accused of crimes. Those Chechens in detention, often on reportedly fabricated charges, find it difficult or impossible to see their legal representatives or family. There are many reports of torture and inhumane treatment of Chechens in detention. One example is the case of Shamil Khataev who was due to be released from prison in October 2009 but was reportedly badly beaten by prison guards the day before. He was not allowed to see his lawyer or family and instead another

[187] http://www.trud.ru/article/18-10-2010/252456_kadyrov_zapretil_poxischat_nevest.html

[188] Eg. See ECtHR, *Timishev v Russia,* Application Nos. 55762/00 and 55974/00, judgment of 13 March 2006. Timishev, an ethnic Chechen, was refused registration of his permanent residence in Nalchik on account of him being a former resident of the Chechen Republic.

criminal case was opened against him for disorderly behaviour (Article 321 CC RF) and, although crippled, he was transferred from prison to pre-trial detention.

Inhabitants of Chechnya and those who have left have no way of providing their family with somewhere to live. Compensation for destroyed housing in the Chechen Republic is 120,000 Roubles, approximately $4,000 USD. It is impossible to buy a house or flat for this amount, indeed, in many regions it will not even cover six months' rent. In the last 3 years practically no funds have been allocated to pay out compensation. Only 87 families received compensation in 2009 and the same level of payments is planned for the next two years. The authorities have only taken positive decisions in cases where families left Chechnya during military activities officially acknowledged by the authorities[189]. However, it is estimated that thousands of families will need to wait a minimum of six years to receive their compensation.

Internally Displaced Persons (IDPs)[190]

There is no one definitive figure for the number of Chechens displaced in Russia. In 2003 UNHCR confirmed that most ethnic Chechens traditionally do not live outside the republics of the north Caucasus and larger Western Russian cities, being reluctant to travel to areas where there is no resident Chechen community to support them[191]. The well-document difficulties faced by Chechens in other regions of the Russian Federation mean that this is still the case[192]. The Internal Displacement Monitoring Centre of the Norwegian Refugee Council (IDMC) reports that in 2010 most IDPs outside the North Caucasus are from Chechnya and are non-Chechen[193].

In mid-2010 the IDMC estimated at least 45,000 Chechens were still internally displaced in the North Caucasus, including in Chechnya itself[194]. According to IDMC the total number of IDPs is probably much higher, as for many people their status and registration has progressively expired or been cancelled without any assessment of durable solutions available to them.

In a recent decision to provide humanitarian assistance to the region, the EU estimates that there are still 30,000 IDPs in Chechnya, 8,000 in Ingushetia and 3,800 in Dagestan.

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[189] Decree of the Russian Government №510 of 30 April 1997 «Regarding the procedure of compensation payments for the lost housing and\or property to the citizens, victims of the crisis in the Chechen Republic, who left definitively". *ufms.spb.ru/files/262-15038.doc*.

[190] For a summary of the situation for IDPs in the Russian Federation please also see the Global IDP database at:
http://www.db.idpproject.org/Sites/IdpProjectDb/idpSurvey.nsf/wCountriesb/Russian+Federation

[191] *UNHCR Paper on Asylum Seekers from the Russian Federation in the Context of the Situation in Chechnya*, February 2003.

[192] For more information see "Evidence from the Human Rights Centre Memorial and the Civic Assistance Committee on the Situation of previous residents of the Chechen Republic in Russia", 10 April 2010.

[193] http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/40B8AAE49CEB2339C1257793004017A0/$file/Russia_August2010.pdf

[194] http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/40B8AAE49CEB2339C1257793004017A0/$file/Russia_August2010.pdf

In addition, it estimates the number of war-affected vulnerable households in Chechnya who are still homeless and waiting for assistance to rebuild their houses to be 20,000[195].

IDPs from Chechnya in the Republic of Ingushetia and Dagestan

In 2009 an FMS[196] accommodation contract with 22 hostels in Ingushetia expired. The Presidents of Chechnya and Ingushetia took a joint decision to return IDPs to Chechnya. The local authorities received an order to close compact settlements.

Some IDPs in Ingushetia reported being de-registered from the FMS assistance lists because they signed applications to return to Chechnya in the face of threats that their child allowances, pensions and unemployment benefits would otherwise be terminated. Some IDPs refused to sign the application for return, but were later shown that they had been struck off the register on the basis of an FMS report that they were not residing in a government-provided "temporary settlement". Few took legal action, but those who did found it difficult to prove that they had signed the forms under pressure (Memorial, 26th May 2009). FMS representatives visited Chechnya and Ingushetia to monitor the situation of IDPs in early 2009, but their conclusions were not made public[197].

In Dagestan, at least 74% of IDPs from Chechnya do not have temporary residence registration, which limits their access to entitlements such as health care, official employment and pensions.

Recovering documents lost during flight or destroyed during conflict (a number of archives were burned down during the conflict in Chechnya) still poses problems for IDPs, and limits their ability to conduct legal transactions or to apply for property compensation or utilities[198].

IDPs/Returnees to Chechnya from other regions of the Russian Federation

UNHCR figures show that from January 2003 – January 2010 45,114 IDPs returned from Ingushetia to Chechnya, and 552 people returned from Dagestan. Figures from the Danish Refugee Council put the number of registered IDPs in Ingushetia at 8,938 at the end of December 2009. 2,566 people left Ingushetia for Chechnya in 2009[199].

Safety is a key issue for returnees as is illustrated by the following case study from the UK Parliamentary Human Rights Group Report from June 2010.

[195] http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/SNAA-8C5MGR-full_report.pdf/$File/full_report.pdf Humanitarian Aid Decision 23 02 01, Supporting Document. Page 1.
[196] Federal Migration Service of the Russian Federation
[197] Government of the Russian Federation, 1 July 2009 and 12 February 2009
[198] IDMC, Norwegian Refugee Council: 12 October 2009; Monitoring of IDPs and returnees still needed
[199] Information from Memorial Grozny, ECRE project, monitoring returns and readmission to Belarus, Moldova, Russia and Ukraine. Monitor reports, North Caucasus.

Abduction and Disappearance of Apti Zaynalov – June/July 2009 – testimony given by a close relative

Apti Zaynolov had returned to Chechnya after having been in Moscow for some time. He had been imprisoned for involvement in an illegal armed group in 2005 and freed in 2006. On 28 June 2009 he was allegedly abducted in broad daylight by uniformed servicemen. His mother and Memorial staff only found out in early July that he was in hospital, under armed guard. Memorial staff and Apti's relatives tried unsuccessfully to visit him. On 7 July, his mother went with Memorial staff to the Prosecutor's office to get more information, while another member of Memorial staff went to the hospital. The Prosecutor's staff finally said that they would go to local Interior Ministry office, to get clarification. Meanwhile the Memorial representative at the hospital was becoming suspicious, because two cars were circling the hospital. A car stopped in front of the hospital and Apti Zaynolov was taken away. The mother had arrived at the hospital by that time, with Memorial and had witnessed this. Witnesses at the hospital also confirmed that Apti Zaynolov had been there. The investigator working on the case, however, advised against questioning these witnesses, as this could endanger them, and appeared to have discounted the mother's testimony. On 17 July 2009, Apti Zaynolov's mother lodged an application with the European Court of Human Rights.

Another major issue affecting returnees and IDPs is that of housing. In 2010 there were 14 hostels (former temporary accommodation points for IDPs) and 2 places of compact settlement in the Chechen Republic, housing 1,318 families: 5,841 people in all[200]. According to UNHCR another 30,000 people (6,000 families) live as IDPs in the North Caucasus, outside official hostels. These people live in the private sector with relatives or friends, or rent a flat. Around 300 people approached Memorial in 2009 for assistance on housing issues, including for example: renting a flat, obtaining compensation for destroyed or damaged housing, or getting on the waiting list for social housing. The government has been working on improving housing for 9 years but the Municipal housing fund is limited and there were more than 10,000 people still waiting for compensation in 2009. Compensation payments do not nearly cover the cost of new accommodation and even so very few payments for compensation were made in 2009. Memorial reports that to receive compensation people need to pay 30-50% of any payment as a bribe[201].

Chechen IDPs still face severe problems with documentation, even in Chechnya itself, restricting their access to many forms of social support, including health care[202].

Chechens returning from other countries

Chechens returning from overseas are afraid of persecution if they are identified. On return, they are often suspected of either being involved in illegal armed groups, or at the very least of having significant resources. They encounter suspicion, become victims of extortion and have criminal cases fabricated against them.

[200] ECRE project, monitoring returns and readmission to Belarus, Moldova, Russia and Ukraine. Monitor reports, North Caucasus.

[201] Appeal to the Commissioner for Human Rights of the Czech Government, Mr. Kocab, by Svetlana Gannushkina. http://www2.memo.ru/d/1924.html

[202] See table 1, Documents required to access services, benefits and entitlements in Chechnya, A review of DRC's protection and livelihoods programme in Chechnya, Sorcha O'Callaghan, Humanitarian Policy Group, Overseas Development Institute, London. February 2009.

Returnees are reportedly called to meetings with the Federal Security Services and the Ministry of the Interior where they are questioned, often with threats and ill-treatment and demands for payment. Young men, especially, are made to collaborate with the security services. Those who speak out about the regime are most at risk – for example, applicants to the European Court of human rights, as well as those who appeal to national courts, federal authorities or non-governmental organisations.

"*.....We would like to bring a few examples of inhumane treatment to Chechens who are deported to Russia, such as Adlan Shakhaev who was extradited [it was an administrative expulsion] from Slovakia to Russia, who was tortured and released only after he had been ransomed. After a while, Shakhaev was detained again and to date no one knows where he is. We should also mention Murad Gasaev..., who was deported by Spain after guarantees from Russia. Two months after he had been released Murad Gasaev disappeared and no one knows where he is now either. Even voluntary return to Russia cannot save Chechens from persecution in Russia, as shown by the famous case of detention of a Chechen in Russia, Zubair Zubairev, who left for Austria during the military actions in Chechnya, where he was granted refugee status. He returned to Russia in 2007. Upon his return he was detained by officials of the security services. For a while he was counted as a missing person: his relatives knew nothing about what had happened to him. Then he phoned his sisters from prison and said that he had been tortured. Even though international human rights organisations Amnesty International and the International Organisation Against Torture took on his case, Zubairaev's situation has not changed at all since then. Chechens who return from abroad become victims of persecution now just because those close to Ramzan Kadyrov believe that they have money. But there is another reason - the Chechen authorities demand the return to Chechnya of all those who have left and they achieve this by persecuting the relatives of those who have not returned. For example, not long ago an inhabitant of Grozny returned voluntarily from France and after several days he was detained and taken away from his home. For several days he was beaten and tortured by electric shocks, including on the grounds of the Yug battalion under the command of Ramzan Kadyrov. He was asked about Chechen refugees in Europe, about who was doing what there, whose relatives receive parcels and what they bring back when they come home. The interrogations took place in various security service buildings. He was only released after a ransom was paid by his relatives....."*

Excerpt from a letter of appeal from refugees from the Chechen Republic living in Austria, providing evidence in the case of a Chechen woman asylum seeker due to be deported.

The International Community and the North Caucasus

Many of those international NGOs and organizations still active in Chechnya are phasing out their activities.

UNHCR is planning to close its office in Vladikavkaz[203] in July 2011 with the exception of a few follow-up activities to be finalised by the end of the year. UNHCR was the lead agency in the area for all assistance to IDPs, refugees and returnees in the North Caucasus. They will now be monitoring the situation from Moscow.

Originally DG ECHO had planned to withdraw from the region by December 2010 but this was revised due to "the deterioration of the security situation" and the difficulties the

[203] In nearby North Ossetia-Alania.

authorities face in providing long-term housing to the displaced population[204]. The decision to carry on funding provision, recommends that a further round of finance may be needed to solve protection issues for the local population. The 2,000,000 Euros allocated to Chechnya, Ingushetia and Dagestan to provide humanitarian assistance to over 45,000 displaced people will be channelled through NGOs and UN agencies such as UNHCR. The money has been allocated for 12 months from 1 October 2010[205]. Improvements in the local infrastructure have meant that the EU can phase out assistance for water, sanitation, school feeding, food parcels. This meant a 50% reduction in funding from 2007 to 2008. This current grant represents a 30% reduction in the funding in comparison with 2009.

Russia underwent review by the United Nations Human Rights Council (HRC) Universal Periodic Review mechanism in February 2009, during which it failed to commit to concrete human rights reforms in key areas of concern, such as access for UN monitors, reform of the restrictive NGO law, and ending impunity for serious human rights abuses in the North Caucasus. However, despite serious questions being asked about its human rights record, Russia was re-elected to the HRC in May 2009.

Thus, at a time when the international community is seemingly more prepared to send people back to Chechnya, there will be fewer international actors than ever to affect any monitoring of the situation that awaits them.

[204] http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/SNAA-8C5MGR-full_report.pdf/$File/full_report.pdf
[205] http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/SNAA-8C5MGR-full_report.pdf/$File/full_report.pdf

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Regional organisation for the support of refugees and forced migrants,
The Republic of Dagestan