



Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report -

Universal Periodic Review:

THE RUSSIAN FEDERATION

I. BACKGROUND INFORMATION

A. Refugees and Asylum-seekers

In 1993, the Russian Federation (RF) acceded to the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol* (hereinafter referred to jointly as the 1951 Convention). During the same year, the national law “On Refugees” was enacted.¹ This law has been amended 13 times, and is currently again under further revision. In 2010 and again in 2012, UNHCR has presented its comments to the new draft Law on Refugees and several other legislative acts. The Migration Policy of the Russian Federation (2012 - 2025) was adopted in July 2012.

As of 1 August 2012, the RF was hosting 812 Convention refugees and 2673 persons granted Temporary asylum (form of complementary protection in the Russian Federation). 1239 individuals were registered as asylum-seekers.

From January 2012, UNHCR adopted a new strategy by transferring the responsibility for the reception of newly-arrived asylum-seekers to its legal partners. UNHCR continues to work actively with them and with the Federal Migration Service (FMS) on quality issues in the asylum procedure and the identification of durable solutions for the remaining legacy population (1135 individuals registered by UNHCR before 2008 to overcome serious shortcomings in the RF asylum system) and the transition population (622 individuals registered between 2008 and 2011).

UNHCR continues to conduct rights-based advocacy for persons of concern (PoCs), so that they have access to State services, and therefore acts as a catalyst rather than as a “provider” of essential social services, although it maintains a substantial medical programme addressing gaps in state coverage for certain categories of PoCs. In cooperation with its partners, UNHCR has also undertaken various projects to facilitate access to employment of refugees, ensured access of

¹ Russian Federation Law No. 95 F-3 “On Refugees,” February 19, 1993, as amended (Law on Refugees)

refugee children to schools even in the absence of residence registration (formerly “propiska”), promoted access of persons granted temporary asylum to medical insurance and ensured access of refugee children to birth registration.

B. Stateless Persons

The dissolution of the USSR and creation of the New Independent States left many former USSR citizens in the Russian Federation (RF) in a legal limbo. Throughout the last two decades, the RF has made significant progress both in prevention and reduction of statelessness, mostly through developing nationality legislation, which enabled stateless persons to acquire Russian citizenship (more than 635,000 persons obtained Russian nationality between 2003 and 2011, of whom 15,144 persons in 2011). The result of the 2010 population census, published early 2012, indicates 178,000 persons who still declare themselves as stateless.

The Russian Federation is not a State party to the *1954 Convention relating to the Status of Stateless Persons* (1954 Convention), nor to the *1961 Convention on the Reduction of Statelessness* (1961 Convention). However, at the 2011 Ministerial Intergovernmental Event on Refugees and Stateless Persons, the RF made a pledge committing itself to “introduce additional simplifications in the procedure for acquiring citizenship in the Russian Federation or residency permits for certain categories of stateless persons.” Moreover, the RF President has endorsed the Migration Policy of the Russian Federation, which aims at improving procedures to issue permissions for temporary stay and residence permits and simplifying naturalization procedures for certain categories of foreigners.

Through the Institute of Legislation and Comparative Law under the Government of Russia, UNHCR commissioned in 2011 a legal study aimed at a comparative analysis of the Russian nationality legislation *vis-a-vis* provisions of the 1954 Convention and the 1961 Convention. The study recommended that the issue of accession to the Statelessness Conventions be considered by the competent authorities, including MFA, FMS, and the State Duma. Further work with the FMS (the State agency in charge of citizenship issues) includes legislative changes to ensure proper documentation of stateless persons and persons with un-regularized status, improved administrative practice and facilitation of naturalization procedures for concerned individuals. UNHCR has also recommended amendments in legislation to renew simplified procedures for obtaining lawful stay in the RF for former USSR citizens. The draft Law is still pending consideration by State Duma.

C. Internally displaced persons and others of concern

At the request and in consultation with the RF Government, UNHCR closed its Sub-Office in Vladikavkaz and disengaged from the IDP Operation in 2011. Since 2012, UNHCR activities in North Caucasus (NC) are limited to protection projects mainstreamed into the Russia wide asylum quality and legal capacity programme, implemented in NC through UNHCR implementing partners focusing on dignified return and access to solutions for returnees and former refugees/IDPs. As of 1 July 2012, there are 1,532 former IDPs in Temporary Settlements (TS) in Ingushetia, of whom 821 persons are from Chechnya and 711 from North Ossetia-Alania (NO-A). In Chechnya, there are 3,055 former IDPs of whom 3,034 are in 12 hostels with limited prospects of sustainable solutions. There are 2,224 former IDPs in 35 TSs in North Ossetia-

Alania in a protracted situation of self-sufficiency problems, mainly in relation with shelter needs.

UNHCR continues to monitor the return of refugees and return conditions in Chechnya through its partnerships and is providing support in protection and access to assistance as needed (a total of 526 persons returned to Chechnya from January 2003 to June 2012). In 2011, UNHCR completed its housing project with the construction of 16 houses in Ingushetia and 18 in Chechnya, and concluded its housing support in NO-A under an inter-agency Human Security Trust Fund project in October 2011. The refugee-like situation of newly arriving Syrians of historic ethnic Caucasian origins is also being monitored with regard to access to the asylum system and related guidance needs. UNHCR maintains partnerships with State institutions to provide assistance to UNHCR's persons of concern on the basis of the Russia wide cooperation with the Federal Migration Service (FMS), Memoranda of Understanding with the Ombudsmen of Ingushetia and of Chechnya, the NO-A Branch of Association of Lawyers, the Law Department of the University of NO-A and with the State Legal Bureau in the Republic of Chechnya.

II. ACHIEVEMENTS AND BEST PRACTICES

1. Revision of the Refugee Law

UNHCR appreciates the efforts of the Russian Government to develop a new Refugee Law. The Federal Migration Service has been developing it since 2009, and it is expected to be adopted in 2013-2014. UNHCR is grateful for the opportunity it was given to provide comments to this new piece of legislation. At the 2011 Ministerial Intergovernmental Event on Refugees and Stateless Persons, the Government of RF pledged to "improve national refugee legislation as well as applicable status determination procedures for asylum-seekers in the Russian Federation."

2. Prevention of statelessness and protection of stateless persons

UNHCR welcomes the interest in statelessness issues expressed by the RF in different fora. At the 2011 Ministerial Intergovernmental Event on Refugees and Stateless Persons, the RF pledged to "improve the mechanism for the documentation of (...) stateless persons" and to "introduce additional simplifications in the procedure for acquiring citizenship in the Russian Federation or residency permits for certain categories of stateless persons." UNHCR also welcomed the adoption of a RF-initiated resolution on arbitrary deprivation of nationality by the Human Rights Council.²

3. Access of persons in need of international protection to birth registration

Birth registration procedures for the children of refugees and asylum-seekers and the acquisition of birth registration documents have been closely monitored since the last UPR.

4. Child protection

UNHCR appreciates the strengthened partnerships in the area of child protection. Constraints imposed by new federal regulations that link school enrolment to the parents' registration requirement in 2012 threatened the good practice of unrestricted access to basic education for

² HRC Resolution 20/9 on Human rights and arbitrary deprivation of nationality available on the OHCHR website at: <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/20thSession/Pages/Resolutions.aspx>.

refugees and migrants hitherto demonstrated by municipal authorities in St. Petersburg and Moscow. Following advocacy and case-by-case interventions by UNHCR and partners arguing the universal right to primary education, the federal regulation has not been strictly applied to date. Furthermore, with regard to the protection of separated children or unaccompanied minors (SCs/UAMs), assistance has been provided by partners (e.g., identifying foster care arrangements, best interest determinations, and determination of appropriate durable solutions), with regular monitoring by UNHCR.

III. CHALLENGES AND RECOMMENDATIONS

Issue 1: The national refugee protection framework

The revision of the new law on refugees, under preparation for several years and extensively commented by UNHCR in 2010-2012, needs to be completed as a priority. The current refugee law is not fully compliant with international standards, in particular, because it contains additional grounds for rejection of asylum applications beyond the criteria set out in the 1951 Convention. It also does not contain any specific safeguard against *refoulement* of a person to another State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture. Access to the asylum process remains problematic for those applying from border areas, including transit zones. The current national Refugee Law neither provides for age and gender-sensitive asylum procedures, nor does current practice consider gender as a basis for recognition of refugee status under the criteria of ‘membership of a particular social group’.

The draft refugee law is aimed at harmonizing asylum, foreigners and registration legislation. UNHCR welcomes the strengthened partnership with FMS on this legislative initiative. Specifically, UNHCR was invited to comment on the draft Administrative Regulation on the Refugee Status Determination (RSD) procedure. This, in turn, has resulted in a close collaboration with the Supreme Court (SC) of the Russian Federation. In March 2012, the SC invited UNHCR to comment on a Ruling on Extradition, with the objective to clarify roles and legal principles to be applied when analysing the merits of asylum cases at the appeal stage. UNHCR also provided comments on a number of issues related to the obligations of the RF under international refugee law, i.e. the protection of asylum-seekers and refugees against *refoulement* and suspensive effect throughout the appeal procedure. Recent plans to reschedule the submission of the draft Law on Refugees to the Duma to 2014 may delay expectations that the RF asylum legislation will soon be in full compliance with international standards.

In 2011, UNHCR provided comments to the draft law on free legal aid highlighting the need to include asylum-seekers, refugees and stateless persons into the list of potential beneficiaries of this draft legislation. Despite these recommendations, the 2011 Law on Free Legal Aid was adopted without the inclusion of persons in need of international protection as beneficiaries. The only option for asylum-seekers and refugees to obtain free legal aid is through UNHCR’s legal implementing partners.

Recommendations:

- Implement the pledge made at the 2011 Ministerial Intergovernmental Event on Refugees and Stateless Persons to “improve national refugee legislation as well as applicable status

determination procedures for asylum-seekers in the Russian Federation” and “improve “the documentation of asylum-seekers in the Russian Federation.”

- As soon as possible, adopt the new draft Law on Refugees to reach compliance with the 1951 Convention and other international standards, including age and gender-sensitive RSD procedures, and amend other relevant legislative acts to ensure consistency. Provide for the full respect of the *non-refoulement* principle in line with international standards.
- Extend the State services for free legal aid to stateless persons, asylum-seekers and refugees.

Issue 2: Protection safeguards for refugees and asylum-seekers

UNHCR is experiencing difficulties in gaining access to its persons of concern at the border or in transit zones. The lack of adequate reception, accommodation and registration conditions are other challenges the refugee and asylum-seeker population are often confronted with.

Instances of *refoulement* take place mainly due to inadequate exchange of information and low level of communication and cooperation between different institutions. Procedurally, there are two different mechanisms in place: whereas expulsion is regulated by the Administrative Code of the RF and can be decided only by the court, deportation is regulated by the Law and is assessed by the FMS. As regards expulsion, the Administrative Code does not provide specific exceptions for asylum-seekers and refugees. Deportation does not provide any legal remedy, such as the right to appeal with suspensive effect. The decision and execution of deportation and expulsion orders involve different authorities, which often do not coordinate activities among each other. UNHCR would like to highlight CAT’s recommendation to the RF in 2007 to further “*clarify the violations of immigration rules which may result in administrative expulsion and establish clear procedures to ensure they are implemented fairly. The State party should ensure compliance with the requirements of Article 3 of the Convention for an independent, impartial and effective administrative or judicial review of the decision to expel.*”³

Given the complicated administrative system of the RF, UNHCR supports legislative changes clearly prohibiting expulsion or deportation of refugees and asylum-seekers by authorities involved in the execution of such decisions and introducing obligatory prior verification mechanisms with the authorities adjudicating asylum matters, as an effective instrument to consistently comply with the *non-refoulement* principle. In particular, UNHCR is concerned about situations when after the denial of the extradition request and despite being in the asylum procedure the person was deported by the FMS or removed under unexplained circumstances.

Administrative detention, linked to the deportation order by the court’s decision, is limited to two years. However, lack of periodic judicial review over the terms of detention as well as obstacles, including financial, for implementation of the concerned decisions, result in the long term detention without due justification. There are currently no monitoring mechanisms, nor proper facilities at the border areas (including at the transit zones of airports). Detainees can be held for months, and sometimes for years. Such undignified conditions amount to inhuman and degrading treatment.

³ CAT/C/RUS/CO/4, COMMITTEE AGAINST TORTURE, 37th session, 6 February 2007, p. 15, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/403/38/PDF/G0740338.pdf?OpenElement>

The detention of asylum-seekers and refugees should normally be avoided and be a measure of last resort. Alternatives to detention should be sought and given preference, in particular for certain categories of vulnerable persons. If detained, asylum-seekers should be entitled to minimum procedural guarantees, including the possibility to contact and be contacted by UNHCR. UNHCR's 2012 Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers highlight that "the position of asylum-seekers may differ fundamentally from that of ordinary migrants in that they may not be in a position to comply with the legal formalities for entry. They may, for example, be unable to obtain the necessary documentation in advance of their flight because of their fear of persecution and/or the urgency of their departure. These factors, as well as the fact that asylum-seekers have often experienced traumatic experiences, need to be taken into account in determining any restrictions on freedom of movement based on illegal entry or presence."⁴

The current system of sojourn registration results in restrictions of freedom of movement and other basic legal and social rights for persons of concern to UNHCR. The challenges in complying with the conditions for registration also seriously affect integration prospects.⁵

Recommendations:

- Establish an accessible asylum and referral procedure at all border points, international airports, and transit zones and guarantee the individual right of every person to seek asylum in the Russian Federation to uphold the principle of *non-refoulement* in accordance with Article 33 of the *1951 Convention*.
- Ensure that the detention of asylum-seekers is only used as a last resort, and where necessary, for as short a period as possible and that judicial safeguards are in place to prevent arbitrary and/or indefinite detention.
- Pursuant to Article 31 of the 1951 Convention, Russian authorities should not detain asylum-seekers for illegal entry as long as they approach the authorities without unnecessary delay to request asylum.
- Enhance administrative practice to prevent *refoulement* in the context of deportation/expulsion procedures of persons in need of international protection, including for those who did not exhaust the national asylum procedure, or are appealing against a negative decision.
- Simplify the system of sojourn registration to address the socio-economic needs of refugees and asylum seekers in the local integration process.
- Provide for monitoring mechanisms of detention sites and proper detention facilities, particularly in the border areas.

Issue 3: Conditions in Temporary Accommodation Centres

UNHCR conducts regular monitoring of Temporary Accommodation Centres for asylum-seekers and refugees (TACs) to facilitate adequate reception conditions. The centres are State-run and

⁴ See the UNHCR Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention (2012), Guideline 1 entitled "The right to seek asylum must be respected" at: <http://www.unhcr.org/refworld/docid/503489533b8.html>.

⁵ See also COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 46th session, 1 June 2011, paragraph 8, available at http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.RUS.CO.5_en.doc

depend on Government funding. Some of the identified gaps are insufficient food rations (allocated per person), inadequate medical support and limited access to vital medicines and treatment. Significant efforts have, nonetheless, been made in obtaining mandatory medical insurance certificates (MIC) for persons in the asylum procedure, refugees and persons granted temporary asylum (TA). All applicants in possession of FMS documents have access to MICs, with the exception of asylum-seekers in appeal court procedures after rejection by FMS and applicants for TA throughout that entire procedure, due to legal gaps in the existing law and cumbersome procedures.

There are limited integration opportunities, as the centres are far from urban settlements and they cannot provide for job-placement. The maintenance of centres could, furthermore, be significantly improved with increased dialogue between the FMS and NGOs on the issue of providing additional services, including through State contracting; i.e. Russian language classes, psycho-social support services and humanitarian assistance. Communication in the centres is, moreover, often complicated as the low budget does not allow for hiring of additional personnel, specifically interpreters. In this context, UNHCR supported the recommendations made by the Committee on Economic, Social and Cultural Rights to the State party to “*consider extending the same social security benefits, including access to healthcare facilities and services, to persons granted temporary asylum status in the State party*”⁶ and obtained confirmation of the right of persons with TA to access MIC in 2011.

Recommendation:

- Enhance the cooperation between FMS and NGOs, including through State contracting, in order to better address the socio-economic needs of refugees and asylum-seekers in the Temporary Accommodation Centres and facilitate their local integration process. Ensure that respective changes are included in the draft law and related legislation to address this issue.

Issue 4: Prevention of Statelessness and Protection of Stateless Persons

UNHCR welcomes the pledges made by RF at the 2011 Ministerial Intergovernmental Event on Refugees and Stateless Persons in Geneva. Despite the Government’s efforts to reduce statelessness, a sizeable number of individuals remain stateless or with undetermined nationality. The result of the 2010 population census, published early 2012, indicates 178,000 persons still declare themselves as stateless. This is partly a result of legislative gaps or onerous procedures related to residence registration and acquisition of nationality, and a lack of knowledge or access to solution-oriented counselling in regions with populations at risk of statelessness. Also, the Law on the Legal Status of Foreigners of 2002 provides for a procedure for foreigners arriving after the date of enactment to regularize their status in the RF. It does not address the regularization of foreigners or Soviet passport holders living in Russia before the enactment of the Law.

Stateless persons who have not managed to regularize their stay in the RF are often subject to administrative expulsion pursuant to Article 18.8 and prolonged detention in pre-removal centres pursuant to art.31.9 of the Administrative Code. Since there is no country to expel them to, they

⁶ E/C.12/RUS/CO/5, COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 46th session, 1 June 2011, paragraph 21, available at http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.RUS.CO.5_en.doc

can be detained for up to two years, without judicial review over the terms of detention, before they are finally released. In line with the Russian pledge at the 2011 Ministerial Intergovernmental Event, UNHCR encourages the Government to implement a statelessness status determination procedure also for persons in administrative detention who have un-regularized status.

There is currently no formal procedure in place for statelessness determination in the RF, which would ensure that stateless persons are comprehensively identified and afforded protection. UNHCR recommends the RF to establish such a procedure and accede to the *1954 Convention relating to the Status of Stateless Persons*. In relation to the latter, stateless persons who satisfy the refugee definition contained in the *1951 Refugee Convention* are afforded the international protection associated with that status. However, the international refugee protection regime does not specifically address the rights of non-refugee stateless persons. In many countries, stateless persons and the children of stateless persons are often subject to discrimination. The *1954 Convention* is an important instrument that ensures non-discrimination in the enjoyment and exercise by stateless persons of their human rights.

Furthermore, UNHCR would recommend the RF to consider acceding also to the *1961 Convention on the Reduction of Statelessness*. This treaty establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. The Convention is therefore complementary to standards contained in other human rights treaties. An increase in the number of State parties to the two Statelessness Conventions is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights. UNHCR notes in this regard that the 2002 Federal Law on the Citizenship of the Russian Federation is generally in line with the Convention standards on prevention and reduction of statelessness.

In this context, UNHCR welcomes the Human Rights Committee's concluding observations and recommendations following its review of the situation in the Russian Federation in 2009, stating that "*The State party should take all necessary measures to regularize the status of stateless persons on its territory by granting them a right to permanent residence and the possibility of acquiring Russian citizenship. Furthermore, the State party should consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and undertake the legislative and administrative reform necessary to bring its laws and procedures in line with these standards.*"⁷ UNHCR believes that the RF would further enhance its emerging regional leadership position on statelessness issues, if it embraces the Convention standard visibly and demonstratively by acceding to the Conventions.

Recommendations:

- Accede to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*.
- Implement the pledges presented at the 2011 Ministerial Meeting in Geneva, in particular by introducing simplified procedures for acquiring citizenship in the Russian Federation or residency permits for certain categories of stateless persons, such as those who became

⁷ CCPR/C/RUS/CO/6, HUMAN RIGHTS COMMITTEE, 97th session, 24 November 2009, para. 9, available at: <http://www2.ohchr.org/english/bodies/hrc/docs/co/CCPR.C.RUS.CO.6.pdf>

stateless as a result of state succession, and by enhancing the documentation of stateless persons.

- Establish a formal statelessness determination procedure to ensure that stateless persons are afforded protection, including from arbitrary and lengthy detention.

Issue 5: The current situation for former IDPs and former refugees in the North Caucasus

Shelter remains one of the most critical problems and main obstacles for sustainable integration and reintegration for the former IDPs and former refugees in the North Caucasus. The collective accommodations for former refugees and former IDPs are of substandard quality and under threat of closure by the authorities, often without other alternative solutions. The Ingush Government started to implement a programme for temporary accommodation of the residents in the collective shelters, but the authorities in Chechnya do not seem to be prepared to provide durable housing solutions to the affected population. Among the former refugees from Georgia (1991-2 influx; mostly RF citizens, minority stateless) of mostly Osset ethnicity, some 2,224 mostly vulnerable individuals are still in a protracted situation of temporary accommodation, awaiting access to State shelter support.

Former refugees and returnees from abroad are not provided with special assistance on return to the Chechen Republic. Despite efforts in Chechnya to provide guidance through a State Legal Bureau (with which UNHCR has a cooperation exchange), there are gaps in the provision of free legal aid. The Ombudsman for Ingushetia, along with the Association of Lawyers Ingush Branch, proposed the creation of a State Legal Aid Clinic, which was well received by the federal authorities. However, like in North Ossetia-Alania, there is a reluctance to create the State Legal Bureau due to lack of funding in these Republics. Non-Governmental social and legal counselling support is a valuable and trusted complement in the provision of free-of-charge guidance.

Recommendation:

- Implement the Federal Strategy for the North Caucasus aimed at facilitating integration and reintegration of groups of concern, including through provision of durable housing solutions, access to social and economic rights, free of charge legal counselling and assistance including State and recognized non-State providers of legal aid, as well as adequate compensation for the lost property.
- Consider the elaboration of special measures facilitating the return of compatriots to the Chechen Republic from abroad.

Issue 6: Racism and Xenophobia

Article 286 of the Russian Criminal Code criminalizes violations of rights and lawful interests of individuals and organizations committed in an official capacity while exceeding official powers. Notwithstanding efforts to sanction hate crimes, ethnic minorities, such as Chechens and other persons originating from the Caucasus or from Central Asia, as well as Roma and Africans, reportedly continue to be subject to disproportionately frequent identity checks, arrests, detentions and harassment by the police and other law enforcement officers. Furthermore, there are a many incidents of racially motivated violence, mainly committed by young members of extremist groups and, in some cases, by extremist elements of Cossack organizations, against Chechens and other persons originating from the Caucasus or from Central Asia, Roma,

Meshketian Turks, Muslims, Africans and other ethnic minorities.⁸ On the other hand, some republics of the North Caucasus tend to become mono-ethnic communities due to the departure of the ethnic Russian minority from some regions because of security problems.

UNHCR's partners including, inter alia, the Moscow Refugee Reception Centres implemented by NGOs Civic Assistance and Magee and the counselling structures run by the Russian Red Cross in St. Petersburg with UNHCR contribution, are the first points of contact for persons of concern to report hate crimes. Since 1 January 2012, two incidents in Moscow have become known through the RRC and reported to a local police station. These were presumably on nationalistic, xenophobic, or homophobic grounds. As set out in UNHCR's note entitled, "*Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance through a Strategic Approach*,"⁹ UNHCR is concerned about the manifestation of racism and related intolerance affecting persons in need of international protection in many parts of the world.

In this respect UNHCR wishes to highlight the recommendation issued by the Committee on Elimination of Racial Discrimination (CERD) to the RF to "take appropriate action, including disciplinary or criminal proceedings, against public officials who engage in racially selective arrests, searches or other unwarranted acts based solely on the physical appearance of persons belonging to ethnic minorities, provide continuous mandatory human rights training to police and other law enforcement officers to prevent such profiling, and amend the performance targets for the police accordingly."¹⁰ UNHCR further supports the CERD recommendation to the RF to "further intensify its efforts to combat racially motivated violence, including by ensuring that judges, procurators and the police take into account the motive of ethnic, racial or religious hatred or enmity as an aggravating circumstance in any proceedings under the criminal law provisions (...), and to provide updated statistical data on the number and nature of reported hate crimes, prosecutions, convictions and sentences imposed on perpetrators, disaggregated by age, gender and national or ethnic origin of victims."¹¹

Recommendations:

- Take further steps to combat discrimination and xenophobic tendencies against refugees and asylum-seekers, through awareness campaigns as well as legal measures.
- Ensure regular monitoring and reporting of hate crimes, including those targeting asylum-seekers and refugees and provide effective legal remedies to the victims of hate crimes.

Human Rights Liaison Unit
Division of International Protection
UNHCR
October 2012

⁸ See in this regard also the concerns voiced by the Committee on the Elimination of Racial Discrimination at its 73rd session on the Russian Federation, 22 September 2008, paragraph 18, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/441/78/PDF/G0844178.pdf?OpenElement>

⁹ This note was issued by UNHCR in December 2009 and is available at the following link: <http://www.unhcr.org/refworld/docid/4b30931d2.html>

¹⁰ CERD/C/RUS/CO/19, COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION, 73rd session, 22 September 2008, p. 12

¹¹ CERD/C/RUS/CO/19, COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION, 73rd session, 22 September 2008, p. 18

ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedures' reports

- Universal Periodic Review:

RUSSIAN FEDERATION

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations and the Human Rights Council's Special Procedures' reports, relating to issues of interest and persons of concern to UNHCR with regards to the Russian Federation.

1. Treaty Body Concluding Observations and Recommendations

E/C.12/RUS/CO/5

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 46th session

1 June 2011

5. The Committee is concerned that the information provided with regard to the work of the Office of the Human Rights Commissioner of the Russian Federation does not allow a full assessment of the effectiveness of its work, in particular it does not provide data disaggregated by sex, or disadvantaged and marginalized groups such as persons with disabilities, Roma, homeless, undocumented persons, ethnic minorities, forcibly displaced persons, migrants, refugees and asylum-seekers. The Committee is also concerned that the large number of petitions refused (half of petitions received on a yearly basis) shows either a lack of dissemination of information about the way in which the Office of the Human Rights Commissioner works, or that the requirements for acceptance of petitions do not meet the needs of those who are mostly in need of the Office as a valid alternative to judicial and administrative forms of remedies.

The Committee recommends that the State party disseminate widely among its population information about the methods of work of the Office of the Human Rights Commissioner. The Committee also urges the State party to consider reviewing the requirements for acceptance of petitions, in particular the requirement of exhaustion of local remedies, in order to make the Office an alternative means of redressing grievances, rather than a last-resort institution. In this regard, the Committee refers the State party to its general comment No. 10 (1998) as regards the role of national human rights institutions in the protection of economic, social and cultural rights.

8. The Committee remains concerned about reports that, in practice, the enjoyment of many rights and benefits still depends on registration, despite the adoption of the Federal Act No. 5242-1 of 1993 on the right of citizens of the Russian Federation to freedom of movement and freedom to choose their place of residence within the boundaries of the Russian Federation (art 2, para. 2).

The Committee urges the State party to take effective measures, legislative or otherwise, to ensure in practice that the lack of residence registration and other personal identity documents does not hinder the enjoyment of economic, social and cultural rights in accordance with the Covenant. The Committee further recommends the State party to adopt a single registration number for each of its citizens that may give access everywhere on its territory to the enjoyment of all social benefits accorded in the State party irrespective of the place of registered residence or lack thereof, in particular with regard to the homeless, Roma and other categories of disadvantaged or marginalized groups in the State party.

9. The Committee is concerned at the continued absence of a federal plan of action addressing the social and economic marginalization of the Roma. The Committee also remains concerned at the lack of adequate response to its request (in the list of issues) to provide detailed information on the situation of Roma settlements, and the eviction of Roma from their dwellings, and the destruction of such dwellings in cities and regions of the State party, often ordered without provision of alternative housing (art. 2, para. 2).

The Committee encourages the State party to adopt a national programme of action for the promotion of economic, social and cultural rights of Roma, and to allocate sufficient resources for its effective implementation. The Committee also recommends the State party to review its policy on eviction and destruction of Roma dwellings, in line with its general comment No. 7 (1997) on the right to adequate housing: forced evictions.

17. The Committee remains concerned, in spite of the efforts being undertaken, including the ratification of the treaty on protection of migrant workers with Uzbekistan on 28 June 2009, about the high levels of the informal economy in the State party and that illegal migration of labour is widespread, which means that a large number of people work without legal and social protection (art. 7).

The Committee encourages the State party to continue its efforts to protect the Covenant rights of workers in the informal labour market. The Committee also calls upon the State party to continue to undertake effective measures to regularize the situation of illegal immigrants and reduce the number of workers outside the formal economy, in order to limit the gaps in the protection accorded to them. These measures should include, but not be limited to the following:

Increase the flexibility of the registration and quota system, including by enabling migrants to legalize their stay on a declaratory basis and to obtain work permits for longer periods (three–five years) with the subsequent possibility of the regularization of their permanent residence in the country;

Ensure that migrant workers have access to effective appeals against orders of deportation and that detention and deportation of migrant workers are made in full compliance with the human rights obligations of the Russian Federation;

Exercise strict control over private entities to ensure respect for just, equally favourable social and employment conditions for migrant workers;

Increase the flexibility of access of migrant workers to the system of social benefits of the State party.

In this regard the Committee further invites the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

21. The Committee is concerned, in spite of the information provided with regard to the various entitlements of asylum-seekers and refugees, that persons granted temporary asylum status, unlike recognized refugees, do not have access to the State healthcare facilities and services or to any social security, other than emergencies (art. 9).

The Committee urges the State party to consider extending the same social security benefits, including access to healthcare facilities and services, to persons granted temporary asylum status in the State party.

23. The Committee remains concerned, in spite of the steps taken by the State party, about continued reports of trafficking in women and children for sexual exploitation and abuse (art. 10).

The Committee encourages the State party to further strengthen measures to combat trafficking in women and children and combat the sexual exploitation, abuse and prostitution of children by, inter alia, developing programmes to address the root causes of trafficking and sexual exploitation of women and children. The Committee also again encourages the State party to adopt its comprehensive draft law on combating trafficking in human beings, which would provide for a system of bodies to combat trafficking and contain provisions concerning prevention of trafficking, as well as protection and rehabilitation of victims.

27. The Committee remains concerned, in spite of the efforts undertaken, about the problem of homelessness in the State party (art. 11).

The Committee encourages the State party to step up its efforts to address the problem of homelessness, including by ensuring that adequate resources are set aside for the provision of social housing, with priority given to the most disadvantaged and marginalized groups, including the forcibly displaced persons and the Roma.

CEDAW/C/USR/CO/7

**COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN,
46th session**

16 August 2010

Violence against women

22. The Committee is seriously concerned that violence against women in all its forms has increased, both in the private and public spheres. In this respect, the Committee expresses its concern at the absence of a holistic approach to the prevention and elimination of all forms of violence against women. It is particularly concerned that, due to strong patriarchal values, husbands are generally considered superior to their wives with the right to assert control over them, legitimizing the general opinion that domestic violence is a private issue. Furthermore, social stigma is connected to sexual and domestic violence, pressuring victims to keep silent and resolve any conflicts within the family. In addition, the Committee notes with concern that domestic violence cases are often treated as private charges to be filed by the victim, not the

prosecutor. The Committee is also concerned at recent amendments to the Criminal Code whereby article 134 (4) would appear to exempt first-time offenders from criminal liability for having sex with a minor if he marries the victim. The Committee regrets the lack of data and information on the incidence of various forms of violence against women and girls, as well as the lack of studies and surveys on the extent of violence and its root causes and it is further concerned at the lack of a national programme that provides shelter to victims of domestic violence, that the few shelters that do exist in selected cities are extremely limited in their capacity to help these victims and that most shelters restrict access to Russian nationals who are local residents.

23. The Committee urges the State party to give priority attention to combating violence against women and girls and to adopting comprehensive measures to address such violence, in accordance with its general recommendation No. 19. Such measures should include the expeditious adoption of a comprehensive law on violence against women, including domestic violence, the criminalization of marital rape, sexual violence, sexual harassment, institutional violence and crimes committed in the name of honour. They should also include the development of a coherent and multisectoral action plan to combat violence against women. The Committee also urges the State party to amend article 134 (4) of the Criminal Code to ensure that perpetrators of violence against women do not benefit from any reduction in penalty. The Committee further calls upon the State party to increase, in a significant manner, the number of shelters and the capacity thereof, ensure an adequate geographical distribution of such shelters and remove any barriers to access, such as registration or residency requirements. The Committee recommends that the State party provide the police, public prosecutors, the judiciary and other relevant government bodies with the necessary training on domestic violence, and it also requests the State party to provide data and information on trends in the prevalence of various forms of violence against women, disaggregated by age and ethnicity, and by urban and rural areas.

Trafficking

26. The Committee notes the introduction, in 2003, of norms prohibiting the trafficking in human beings in the Criminal Code of the State party. However, it expresses its concern at the high prevalence of trafficking in the State party, which has increased more than six fold during the reporting period. While noting with concern that the Russian Federation is a source, transit and destination country for trafficking, the Committee regrets the lack of disaggregated data on the number of victims of trafficking, including minors, and compensation received as well as statistics on complaints, investigations, prosecutions and penalties imposed on the perpetrators of such crimes. It is also concerned at the failure of the State party to address the root causes of trafficking, which impedes the efforts of the State party to address the trafficking problem in a serious way. The Committee is further concerned at the lack of special legislative and other measures for the protection of women and girls from recruitment agencies engaging in trafficking in persons and from marriage agencies specializing in marriage with foreign citizens. In addition, it is concerned at the limited information provided on the existence and implementation of regional and bilateral memorandums of understanding and/or agreements with other countries on trafficking, including within the Commonwealth of Independent States.

27. The Committee urges the State party to fully implement article 6 of the Convention, including by speedily enacting specific national legislation and a comprehensive policy and

action plan on the phenomenon of trafficking, to ensure that perpetrators are punished and victims adequately protected and assisted. The Committee calls upon the State party to increase its efforts at international, regional and bilateral cooperation with countries of origin, transit and destination through information exchange in order to prevent trafficking, and to harmonize legal procedures aimed at the prosecution of traffickers, including within the Commonwealth of Independent States. Such efforts should include the dissemination to risk groups and the police of the methods used by the recruiters. The Committee also recommends that information and training on the anti-trafficking legislation be provided to the judiciary, law enforcement officials, border guards and social workers in all parts of the country. In addition, the Committee recommends that the State party conduct comparative studies on trafficking and address its root causes in order to eliminate the vulnerability of girls and women to traffickers and to undertake efforts for the recovery and social integration of the victims. The Committee calls upon the State party to ensure systematic monitoring and periodic evaluation, including through the collection and analysis of data on trafficking, and to include such data in its next periodic report.

Multiple forms of discrimination

46. The Committee is concerned at the very limited information and statistics provided about certain groups of women and girls, including female domestic workers, asylum-seeking women, refugee women, internally displaced women, and girls living in the street. The Committee is also concerned that those women and girls often suffer from multiple forms of discrimination, especially with regard to access to education, employment and health care, protection from violence and access to justice. The Committee is further concerned that the national Law on Refugees does not provide any special procedures for recognizing women seeking asylum as refugees.

47. **The Committee requests the State party to provide, in its next report, a comprehensive picture of the de facto situation of disadvantaged groups of women and girls in all areas covered by the Convention and information on specific programmes and achievements. The Committee calls on the State party to include in the national Law on Refugees special procedures for recognizing women seeking asylum as refugees.**

CCPR/C/RUS/CO/6

HUMAN RIGHTS COMMITTEE, 97th session

24 November 2009

9. The Committee is concerned about the large number of stateless and undocumented persons in the State party, in particular former Soviet citizens who were unable to acquire citizenship or nationality subsequent to the break-up of the USSR, and to regularize their status in the Russian Federation or in any other State with which they have a significant connection, and consequently remain stateless or with undetermined nationality. The Committee also notes that members of certain ethnic groups from varying regions, in particular individuals from Central Asia and the Caucasus, face problems acquiring citizenship due to complex legislation governing naturalization and obstacles posed by strict residence registration requirements. (arts. 2, 3, 20 and 26)

The State party should take all necessary measures to regularize the status of stateless persons on its territory by granting them a right to permanent residence and the possibility of acquiring Russian citizenship. Furthermore, the State party should consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness and undertake the legislative and administrative reform necessary to bring its laws and procedures in line with these standards.

17. The Committee is concerned about reports of extraditions and informal transfers by the State party to return foreign nationals to countries in which the practice of torture is alleged while relying on diplomatic assurances, notably within the framework of the 2001 Shanghai Convention on Combating Terrorism, Separatism and Extremism. In particular, the Committee notes with concern the return to Uzbekistan of persons suspected of involvement in the Andijan protests of 2005. (arts. 6, 7, and 13)

The State party should ensure that no individual, including persons suspected of terrorism, who are extradited or subjected to informal transfers, whether or not in the context of the Shanghai Cooperation Organisation, is exposed to the danger of torture or cruel, inhuman or degrading treatment or punishment. Furthermore, the State party should recognise that, the more systematic the practice of torture or cruel, inhuman or degrading treatment, the less likely it will be that a real risk of such treatment can be avoided by diplomatic assurances, however stringent any agreed follow-up procedure may be. The State party should exercise the utmost care in the use of such assurances and adopt clear and transparent procedures allowing review by adequate judicial mechanisms before individuals are deported, as well as effective means to monitor the fate of the affected individuals.

18. While the Committee welcomes the various measures taken by the State party to combat trafficking in persons, in particular through legislation and international cooperation, the Committee is concerned about the notable lack of recognition of the rights and interests of trafficking victims in the counter-trafficking efforts of the State party. (art. 8)

The State party should, as a matter of priority, take all necessary measures to ensure that victims of trafficking in human beings are provided with medical, psychological, social and legal assistance. Protection should be provided to all witnesses and victims of trafficking so that they may have a place of refuge and an opportunity to give evidence against those held responsible. The State party should also continue to reinforce international cooperation as well as existing measures to combat trafficking in persons and the demand for such trafficking, by devoting sufficient resources to prosecuting perpetrators and imposing sanctions on those found responsible.

CERD/C/RUS/CO/19

**COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION, 73rd session
22 September 2008**

9. While noting that the Federal Law amending and supplementing the Criminal Code of 8 December 2003 inserted a definition of punishable discriminatory acts into article 136 of the Criminal Code, based exclusively on violations of the rights, freedoms and legitimate interests of individuals and citizens in connection with, inter alia, their race or ethnic background, the

Committee is concerned that there is no comprehensive definition of racial discrimination covering all fields of law and public life (art. 1 (1)).

The Committee recommends that the State party consider adopting a clear and comprehensive definition of racial discrimination in its legislation, including all acts of direct as well as indirect discrimination, that covers all fields of law and public life, in accordance with article 1, paragraph 1, of the Convention.

10. The Committee notes the State party's explanation that it refrains from collecting comparative statistical data on the enjoyment by ethnic minorities of the rights protected under the Convention in order to prevent any discrimination on the basis of ethnicity. It is nevertheless concerned that, without such data, it is very difficult to assess the socio-economic status of the different ethnic groups in the State party and, on that basis, adopt special measures to address any inequalities in the enjoyment of those rights (art. 2).

The Committee requests the State party to provide detailed information in its next periodic report on the enjoyment by ethnic minorities and non-citizens of the rights protected under the Convention, including the rights to work, housing, health, social security and education, disaggregated by gender, ethnic group and nationality, and recommends that a mechanism for systematic data collection be developed for that purpose.

12. The Committee notes that article 286 of the Criminal Code criminalizes violations of rights and lawful interests of individuals and organizations committed in an official capacity while exceeding official powers. It is nevertheless concerned that, despite this provision, ethnic minorities such as Chechens and other persons originating from the Caucasus or from Central Asia, as well as Roma and Africans, reportedly continue to be subject to disproportionately frequent identity checks, arrests, detentions and harassment by the police and other law enforcement officers (arts. 2 (1) (a), 5 (b) and 5 (d) (i)).

The Committee recommends that the State party take appropriate action, including disciplinary or criminal proceedings, against public officials who engage in racially selective arrests, searches or other unwarranted acts based solely on the physical appearance of persons belonging to ethnic minorities, provide continuous mandatory human rights training to police and other law enforcement officers to prevent such profiling, and amend the performance targets for the police accordingly. In this connection, the Committee draws the attention of the State party to General Recommendation 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system (2005).

13. Taking into consideration the dialogue held with the Russian delegation, the Committee notes with concern reports about searches of Georgian businesses, police demands for lists of names of Georgian students, identity checks, destruction of identity papers, detention in inhumane conditions, deportations under a simplified procedure and other repressive measures against Georgian nationals and ethnic Georgians in 2006 (arts. 2 (1) (a), 5 (b) and 5 (d) (i)).

The Committee recommends that the State party undertake a thorough investigation by an independent body into all allegations of unlawful police conduct against Georgian nationals and ethnic Georgians in 2006 and adopt measures to prevent the recurrence of such acts in the future.

16. While acknowledging the State party's efforts to combat incitement to racial, ethnic and religious hatred in the media and, albeit to a more limited extent, in political discourse, the Committee notes with concern the increase in the number of racist and xenophobic statements in the media, including in mainstream media and publications by established publishing houses, on the internet, and in the discourse of public officials and political parties, targeting ethnic minorities such as Chechens and other persons originating from the Caucasus or from Central Asia, Roma, Africans, as well as ethnic minorities of Muslim or Jewish faith (arts. 4 (a) and (c)). **The Committee recommends that the State party intensify its efforts to combat ethnically motivated hate speech in the media, on the internet and in political discourse, by publicly condemning such statements, imposing adequate sanctions for publicly making racist statements, making full use of official warnings under articles 4 and 16 of the Federal Law on the Means of the Mass Media, and by closing, if appropriate, any media outlets inciting to racial hatred. It also recommends that the State party effectively cooperate with third States from where Russian-speaking internet sites operate, and that it train judges, procurators, the police and law enforcement officers on the application of article 282 of the Criminal Code and other relevant criminal law provisions.**

18. While noting with appreciation the explanation given by the Head of the Russian delegation concerning the root causes of racist and xenophobic attitudes among parts of Russian society, the Committee is nevertheless gravely concerned about the alarming increase in the incidence and severity of racially motivated violence, especially by young persons belonging to extremist groups and, in some cases, by extremist elements of Cossack organizations, against Chechens and other persons originating from the Caucasus or from Central Asia, Roma, Meshketian Turks, Muslims, Africans and other ethnic minorities (art. 5 (b)). **The Committee recommends to the State party to further intensify its efforts to combat racially motivated violence, including by ensuring that judges, procurators and the police take into account the motive of ethnic, racial or religious hatred or enmity as an aggravating circumstance in any proceedings under the criminal law provisions mentioned in paragraph 3 above, and to provide updated statistical data on the number and nature of reported hate crimes, prosecutions, convictions and sentences imposed on perpetrators, disaggregated by age, gender and national or ethnic origin of victims.**

19. The Committee notes the absence of statistical data on the number of asylum applications and applications for refugee status lodged with the competent authorities of the State party, as well as on the number of cases where such applications were granted (art. 5 (b)). **The Committee requests the State party to include in its next periodic report updated statistical data on the number of asylum and refugee applications received per year and on the number of cases where such applications were granted, disaggregated by national or ethnic origin of the applicants.**

21. While noting the information from the Russian delegation concerning the considerable number of internally displaced persons (IDPs) who have returned to the Chechen Republic and the substantial funds allocated to facilitating their return, the Committee is nevertheless concerned about reports that IDPs from Chechnya are sometimes pressured to return and to relocate from temporary accommodation centres in Ingushetia and Grozny, and that IDPs within

Chechnya are not eligible for, and those outside Chechnya are sometimes denied, forced migrant status (art. 5 (d) (i) and 5 (e) (iii)).

The Committee recommends that the State party ensure that internally displaced persons from Chechnya are not pressured to return to their pre-conflict places of residence if they fear for their personal safety, that returnees who are relocated from temporary accommodation centres in Ingushetia and Grozny are provided with adequate alternative housing, and that all IDPs are granted forced migrant status and the related benefits.

22. While noting that Federal Act No. 5242-1 of 1993 on Russian citizens' rights to freedom of movement, choice of address and place of residence in the Russian Federation provides that registration shall not constitute a precondition for the exercise of citizens' rights, the Committee is concerned about reports that, in practice, the enjoyment of many rights and benefits depends on registration, and that the police is often reluctant to grant residence registration to Chechens and other persons originating from the Caucasus, Roma, Meshketian Turks, Yezidis, Kurds and Hemshils in Krasnodar Krai, Tajiks, non-citizens from Africa and Asia, as well as asylum seekers and refugees (art. 5 (d) (i)).

The Committee recommends that the State party carefully monitor the implementation of its system of residence registration, sanction officials who deny registration on ethnically discriminatory grounds, and provide effective remedies to victims, with a view to eliminating any discriminatory impact of the registration system on ethnic minorities.

23. The Committee is concerned about reports that former Soviet citizens who did not acquire Russian citizenship in the early 1990s, including many Meshketian Turks, Yezidis, Kurds and Hemshils in Krasnodar Krai, Afghans, as well as Armenians and Russians who fled from Azerbaijan to Moscow, Moscow Oblast, Krasnodar Krai, Stavropol Krai and Rostov Oblast between 1998 and 1992, are barred from the simplified procedure for granting Russian citizenship under article 14 of the Federal Law on Citizenship of the Russian Federation of 2002 if they cannot prove residence registration, and must undergo the same cumbersome and reportedly arbitrary procedure for obtaining temporary residence permits as any foreign citizen or stateless person, subject to regional quotas, since the entry into force of the Federal Law on the Legal Status of Foreign Citizens on 1 November 2002 (art. 5 (d) (i) and (iii)).

The Committee recommends that the State party facilitate access to residence registration and Russian citizenship by all former Soviet citizens on the basis of a simplified procedure and irrespective of the ethnicity of applicants.

25. The Committee is concerned about reports that non-citizens and ethnic minority workers are often subject to exploitative conditions of work as well as discrimination in job recruitment (art. 5 (e) (i)).

The Committee recommends that the State party intensify its efforts to protect non-citizens and ethnic minority workers against exploitative work conditions and discrimination in job recruitment, e.g. by providing effective remedies for victims and by training judges and labour inspectors on the application of articles 2 and 3 of the Labour Code.

27. The Committee notes with concern reports about segregation of children belonging to ethnic minorities, in particular Roma, in special remedial classes, as well as about instances where ethnic minority children whose parents lack residence registration were denied access to

education by local school authorities, despite contrary instructions from the Federal Ministry of Education (art. 5 (e) (v)).

The Committee recommends that the State party carefully review the criteria by which children are allocated to special remedial classes and take effective measures to ensure that ethnic minority children, including Roma, are fully integrated into the general education system. It further recommends that the State party ensure that local school authorities admit all children, irrespective of ethnicity and registration status of their parents.

31. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12, chap. I) when implementing the Convention in its domestic legal order, particularly with regard to articles 2 to 7 of the Convention. The Committee also urges the State party to include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

**CAT/C/RUS/CO/4
COMMITTEE AGAINST TORTURE, 37th session
6 February 2007**

Asylum, non-refoulement and extradition

15. Matters related to article 3 of the Convention, including:

- (a) Reports of more than 300 people returned this year to other neighbouring countries, according to the Ministry of Internal Affairs, and the lack of safeguards to ensure respect for the obligation of non-refoulement under article 3 of the Convention;
- (b) The widespread and broad use of administrative expulsion according to article c18.8 of the Code of Administrative Offences for minor violations of immigration rules.

The State party should ensure that no person is expelled, returned or extradited to a country where there are substantial grounds for believing that he/she would be in danger of being subjected to torture.

The State party should further clarify the violations of immigration rules which may result in administrative expulsion and establish clear procedures to ensure they are implemented fairly. The State party should ensure compliance with the requirements of article 3 of the Convention for an independent, impartial and effective administrative or judicial review of the decision to expel.

The State party should issue identity documents to all asylum seekers at the outset of the asylum process, including at Sheremetyevo 2 airport.

16. The reported use of written assurances in the “refoulement” context, in circumstances where its minimum standards for such assurances, including effective post-return monitoring arrangements and appropriate due process guarantees followed, are not wholly clear and thus cannot be assessed for compatibility with article 3 of the Convention.

The State party should provide the Committee with detailed statistical information on the number of assurances sought for the period since 2002, the persons concerned and the outcome of each case, as well as on minimum contents for any assurances. The State party

should moreover establish and implement clear procedures for obtaining such assurances, adequate judicial mechanisms for review, as well as effective post-return monitoring mechanisms.

Violent attacks because of race, ethnicity or identity of the victim

23. The reported rise in violent attacks because of the race, ethnicity or identity of the victim, including forced evictions in the Kaliningrad area, and the alleged absence of effective investigations into such crimes.

The State party should ensure that all officials are instructed that racist or discriminatory attitudes will not be permitted or tolerated and that any official who is complicit in such attacks will be prosecuted and suspended from his/her post pending resolution of the case or, if there is a danger of recurrence, transferred to a post which does not enable him/her to come into direct contact with potential victims. The State party should ensure prompt, impartial and effective investigations into all such acts of violence.

CRC/C/RUS/CO/3

COMMITTEE ON THE RIGHTS OF THE CHILD, 40th session

23 November 2005

Data collection

17. While taking note of the efforts made by the State party in the area of data collection, the Committee remains concerned at the lack of an adequate data collection mechanism allowing for the systematic and comprehensive collection of disaggregated quantitative and qualitative data on all areas covered by the Convention in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies conducted with respect to children.

18. The Committee recommends that the State party strengthen its efforts to establish a comprehensive and permanent mechanism within the national statistical system to collect data, disaggregated by gender, age, and rural and urban area, incorporating all the areas covered by the Convention and covering all children below the age of 18 years, with emphasis on those who are particularly vulnerable: children with disabilities, children in conflict with the law, refugees and trafficked children. The State party should also develop indicators to monitor and evaluate effectively progress achieved in the implementation of the Convention and assess the impact of policies that affect children.

Refugee and internally displaced children

66. While the Committee welcomes the access to education provided to refugee children and asylum-seekers in the Moscow region, it is concerned that the remaining regions do not offer such access. It is also concerned that unaccompanied minors do not have access to the national refugee status determination procedure because they lack a guardian. The Committee is also concerned that the issuance of birth certificates to children born to refugees and asylum-seekers is often made contingent upon being registered.

67. The Committee recommends that the State party:

(a) Take the necessary legislative and administrative measures to ensure that refugee, asylum-seeking and internally displaced children enjoy access to education in all parts of the Russian Federation;

(b) Ensure that unaccompanied and separated minors have access to the national refugee status determination procedure and subsequent assistance by establishing specific and clear procedures;

(c) Assign clear administrative responsibilities to a specific State authority for the appointment of a legal guardian for unaccompanied or separated children;

(d) Introduce specific administrative regulations or directives providing for automatic birth registration of, and issuance of birth certificates to, children born to refugees and asylum-seekers residing in the Russian Federation, and take the necessary measures to ensure that birth certificates are issued to all internally displaced persons in Chechnya for their children born in Ingushetia.

Sale, trafficking and abduction

80. While welcoming the recent introduction in the Criminal Code of norms prohibiting the trafficking of human beings, the Committee is concerned that not enough is being done to implement these provisions effectively. The Committee also expresses its concern that protection measures for victims of trafficking of human beings are not fully in place and that reported acts of complicity between traffickers and State officials are not being fully investigated and sanctioned.

81. The Committee encourages the State party to increase its efforts to ensure effective institutional coordination in the full implementation of the new provisions relating to trafficking of human beings. It should ensure that victims of trafficking are protected and that their status and rights are further defined. It also encourages the State party to focus more of its programmatic activities on prevention work, as well as to investigate reported acts of complicity between traffickers and State officials.

82. The Committee takes note that the State party has signed, although not yet ratified, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

83. The Committee encourages the State party to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Council of Europe Convention on Action against Trafficking in Human Beings.

2. Special Procedure Reports

A/HRC/4/19/Add.3

HUMAN RIGHTS COUNCIL, 40th session

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, 30 May 2007

V. RECOMMENDATIONS OF THE SPECIAL RAPPORTEUR

83. The Government should also consider the establishment of an independent body at Federal level aiming at the promotion and protection of human rights and the combat against racism, xenophobia and discrimination in a holistic manner, including discrimination on grounds of race, religion, ethnicity, nationality, citizenship, residence,

gender, age, disability, sexual orientation and any other status. The composition of this body, whose work would be supported by regional branches, should be representative of the diversity of Russian society, with its members being appointed by Parliament on the basis of proposals presented by the Government, civil society organizations and cultural, religious and linguistic communities. This body would work in close cooperation with relevant State and civil society actors, in particular the Office of the Ombudsman and regional ombudsmen, and should be given administrative, legal and normative powers to investigate acts of racism and discrimination and provided with adequate human, material and financial resources.

84. The Government should determinedly continue to reinforce legislation aimed at combating racism, racial discrimination and xenophobia, both at criminal and civil and administrative law levels. Particularly important is to explicitly prohibit racial discrimination, in line with article 1, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, in constitutional, civil and administrative legislation, using a clear and comprehensive definition of discrimination. Issues related to immigration, asylum and the situation of foreigners should be treated on the basis of the pertinent international instruments and not only on the basis of the security dimension and the combat against terrorism. The Special Rapporteur also encourages the revision of the law of 2002 on “Counteracting Extremist Activities” with a view to more clearly defining its scope.

88. The Government should take firm measures to prevent that discriminatory practices linked to granting citizenship and residence registration continue to be used against certain groups, and thus ensure that decisions of the Constitutional and Supreme Courts on the unconstitutionality of such practices are strictly implemented and respected. The situation of a large number of former Soviet citizens who, despite having lived long or permanently in Russia, are considered as illegal migrants since the entry into force of the Federal Laws on Citizenship and on the Legal Status of Foreign Citizens, should be addressed as a matter of urgency.

91. The Government should adopt a comprehensive federal plan for the Roma community, aiming at both promoting and respecting their cultural identity and at eradicating their social and economic marginalization, in particular, poor housing conditions, lack of documents, the high level of dropouts of Roma children at school and the difficulties of the Roma to access employment. The plan should also aim at sensitizing the Russian society to Roma history and traditions, in order to eliminate the negative stigma and stereotypes Roma are recurrently associated with. The problem of housing evictions should be treated as a matter of priority.