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Situation of refugees and displaced persons in the Russian Federation and some other CIS countries

Report
Committee on Migration, Refugees and Population
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Summary

The numbers of refugees and displaced persons in the Russian Federation, Ukraine, Moldova and Belarus have decreased considerably over the last few years, mainly as a consequence of the naturalization process. Furthermore, all these countries have made considerable progress in terms of bringing their national legislation concerning refugees, displaced persons and other migrants in line with international standards. It is, however, a matter of concern that federal or national legislation is not systematically enforced throughout the Russian Federation and the regional or local authorities adopt their own regulations which are in contradiction with national laws and do not meet international standards.

The Parliamentary Assembly calls on the countries concerned to elaborate and implement short-, medium- and long-term strategies in the field of migration, setting out of priorities, to prepare projects for integration and repatriation and actively search for financing in co-operation with the international community.

I Draft recommendation

1. The Parliamentary Assembly recalls its Recommendation 1334 (1997) on refugees, asylum-seekers and displaced persons in the Commonwealth of Independent States (CIS), Recommendation 1544 (2001) on the *propiska* system applied to migrants, asylum seekers and refugees in Council of Europe member states, Recommendation 1455 (2000) on the repatriation and integration of the Tatars of Crimea, and Recommendation 1499 (2001) on the humanitarian situation of refugees and internally displaced persons (IDPs) from Chechnya.
2. The Assembly notes with satisfaction that the numbers of refugees and displaced persons in the Russian Federation, Ukraine, Moldova and Belarus have decreased considerably over the last few years, mainly as a consequence of the naturalization process.
3. Furthermore, all the countries concerned have made considerable progress in terms of bringing their national legislation concerning refugees, displaced persons and other migrants in line with international standards.
4. It is, however, regrettable that, although the Russian Federation, Ukraine and Moldova have signed the European Charter for Regional or Minority Languages, none of them have ratified it, despite the Assembly's recommendation to this end. Moreover, Russia and Ukraine have not ratified the European Convention on Nationality¹. Yet this Convention has explicit provisions concerning non-discrimination and the avoidance of statelessness.
5. The Assembly is also concerned by the fact that the Russian Federation does not accept entirely the concept of internally displaced persons (IDPs) as defined in the 1998 United Nations Guiding Principles on Internal Displacement. The Assembly recalls and reiterates its Recommendation 1631 (2003) on internal displacement in Europe in which it asked the member states to observe the Guiding Principles and incorporate them into their domestic laws.
6. At the same time, it is a matter of concern that federal or national legislation is not systematically enforced throughout the Russian Federation and the regional or local authorities adopt their own regulations which are in contradiction with national laws and do not meet international standards.
7. *Propiska* (obligatory residence permit), although formally outlawed in all countries concerned, can be traced in administrative regulations and practice causing undue hardship to the displaced population. It should be totally abolished in accordance with Assembly Recommendation 1544 (2001).
8. Statelessness should be eliminated and, more specifically, the Meskhetians living in the Russian Federation deserve urgent regularisation of their status including the granting of Russian citizenship.
9. There is an urgent need for clear commitment and political will to tackle migration issues in a positive way in the countries concerned. This implies elaboration and implementation of short-, medium- and long-term solutions, setting out of priorities, preparation of projects for integration and repatriation and active search for financing in cooperation with the international community.
10. The Assembly reiterates that any repatriation of refugees and displaced persons should be totally voluntary and not based on blackmailing or negative incentives. Reported pressure on the Chechen refugees raises much concern and should be totally abandoned.
11. More efficient integration measures should be elaborated and implemented. This goes together with concrete measures undertaken with a view to combating racism and xenophobia.
12. Reliable statistics concerning well defined categories of migrants in accordance with generally accepted international principles is one of the preconditions of efficient migration policies.

¹ Status as of 10/03/2004.

13. The Council of Europe Development Bank has an important role to play. It could be instrumental in improving the situation of refugees, asylum-seekers and displaced persons in all the countries concerned.

14. Consequently, the Assembly recommends that the Committee of Ministers:

- i. monitor closely the observance of asylum-seekers', refugees' and displaced persons' rights in the Russian Federation, Ukraine and Moldova and especially the principle of *non-refoulement*;
- ii. urge the Russian Federation, Ukraine and Moldova to review the compliance of their regional regulations and administrative practices with federal or national legislation in the field of migration;
- iii. continue and intensify programmes aimed at improving the situation of different categories of migrants including awareness-raising and training programmes;
- iv. invite the Russian Federation, Ukraine and Moldova to ratify the European Charter for Regional and Minority Languages as soon as possible;
- v. call on the Russian Federation, Ukraine and Moldova to:
 - a. observe strictly the fundamental principles of international law concerning the protection of rights of refugees, asylum seekers and displaced persons;
 - b. elaborate clear migration policies including short-, medium- and long-term solutions for integration and repatriation and actively seek financing in co-operation with the international community;
 - c. undertake concrete measures with a view to combating racism and xenophobia in co-operation with the Council of Europe's Commission against Racism and Intolerance (ECRI);
 - d. collect reliable statistics on well defined categories of migrants;
- vi. call on the governments of the Russian Federation and Ukraine to join the Council of Europe Development Bank and present concrete projects for financing in the field of migration;
- vii. call on the government of Moldova to step up its co-operation with the Council of Europe Development Bank and present concrete projects for financing in the field of migration;
- viii. call on the government of the Russian Federation to:
 - a. reconsider its position concerning the concept of internally displaced persons as defined in the 1998 United Nations Guiding Principles on Internal Displacement;
 - b. reconsider its position and review the legislation concerning the Meskhetian Turks with a view to abolishing statelessness;
 - c. ensure that there is no pressure on the Chechen displaced population to return.

15. Moreover, the Assembly recommends that the Committee of Ministers launch an appeal to the government of Belarus to fully comply with international instruments and standards concerning asylum seekers and refugees.

16. The Assembly calls on:

- i. the Council of Europe Commissioner for Human Rights to examine existing human rights problems in regard to migrants and displaced persons in the CIS countries concerned with a view to proposing concrete measures to be taken;

ii. the Council of Europe Development Bank to consider in a positive way possible projects in the field of migration presented by Moldova and to encourage the Russian Federation and Ukraine to become members;

iii. the Congress for Regional and Local Authorities of the Council of Europe to step up the co-operation with local and regional authorities of the Russian Federation, Ukraine and Moldova, in particular in the regions inhabited by large numbers of migrants.

17. The Assembly underlines that the co-operation with international organisations and development of civil society should be considered as an important element of migration policies. In this context it invites the Interparliamentary Assembly of the Commonwealth of Independent States to step up the co-operation with the Assembly in the field of migration in the framework of the Agreement on Co-operation.

II. Explanatory memorandum by Mr Iwinski

1. Introduction

1. The Committee on Migration, Refugees and Population has been following the question of displacement in the Russian Federation and other CIS countries, Ukraine and Moldova for a long time. It has initiated the adoption by the Parliamentary Assembly a number of texts on different aspects of the subject, in particular Recommendation 1334 (1997) on Refugees, asylum-seekers and displaced persons in the Commonwealth of Independent States (CIS), Recommendation 1544 (2001) on the *propiska* system applied to migrants, asylum seekers and refugees in Council of Europe member states: effects and remedies, Recommendation 1455 (2000) on the Repatriation and integration of the Tatars of Crimea. Moreover, the Committee has been closely following the situation in the northern Caucasus, its delegations have carried out several fact-finding missions to the region and a number of recommendations have been presented.

2. The present report stems from Order 533 (1997) of 24.6.1997 which instructed the Committee to "monitor the situation of the refugees and displaced persons in Transcaucasia and report back to the Assembly if necessary". The Committee has decided to prepare separate reports on the displacement in the South Caucasus¹ and in the Russian Federation and other CIS countries.

3. Following the discussions in the Committee, the Rapporteur has decided to focus on those CIS countries which, mainly thanks to their geographical situation, encounter similar problems and concerns. Thus apart from the Russian Federation he has selected Ukraine, Moldova and Belarus.

4. The present report is based on a number of sources including updated information received from the relevant authorities and non-governmental organizations and associations. Furthermore, the Committee organized a Seminar on the subject which was held in Voronej and Borissoglebsk in June 2002 (see programme in appendix).

5. The Committee is currently preparing another report closely related to the subject, on the plight of Meskhetian Turks (Rapporteur: Gaby Vermot-Mangold). For that reason, the question of Meskhetian Turks is not examined in this report.

6. The Russian Federation, Ukraine and Moldova are undergoing the monitoring procedure carried out by the Committee on the honouring of obligations and commitments by member States of the Council of Europe.

7. Finally, the Rapporteur would like to express his gratitude to Dr Wladyslaw Raczka whose expertise contributed largely to the elaboration of the present report.

2. Historical background and general overview of the situation

8. More than 10 million people have moved across the previously internal borders of the former Soviet Union since 1989. The collapse of the USSR two years later left about 65 million people outside what they regarded as their ethnic home, including more than 25 million Russians outside the new Russian Federation. Today, in Russia, the number of all categories of displaced persons (refugees, forced migrants, internally displaced, transit migrants, etc.) is, according to various sources, between 3.5 million and 4 million persons. Since its independence, Ukraine has also experienced migration on a massive scale including almost a million of ethnic Ukrainians from other countries of the Commonwealth of Independent States (CIS), some 250.000 Crimean Tatars and several thousands of Armenians, Bulgarians or Germans deported previously. Although migration issues did not strike Moldova to the same extent, the internal civil strife of 1992, current disastrous economic situation and the country's kinship condition with the neighbouring Romania made it increasingly a land of migrants. Nearly 2 million Belarusians were living outside Belarus in 1991. Out of this figure, only approximately 200 000 have returned to their country.

¹ Report on the situation of refugees and displaced persons in Armenia, Azerbaijan, and Georgia (Rapporteur: Mrs Ruth-Gaby Vermot-Mangold) was presented to the Assembly in June 2002 (Recommendation 1570 (2002)).

9. Whether for reasons of armed conflicts, violent nationalism, violations of human and minority rights, economic and social conditions or general insecurity, these unprecedented population movements have for the most part been involuntary. Although a great majority of migrants have come from within the CIS, a growing number of those who originate from South Asia, the Middle East and Africa take advantage of Russia's long and porous borders and remain stranded in this and other countries due to mounting difficulties of reaching western Europe. Ukraine, Moldova and Belarus have become increasingly transit countries for illegal migrants from outside the CIS. While no reliable statistics exist, some estimates point at a figure close to 100.000 for Ukraine alone.

10. Since the CIS countries have hitherto had relatively little experience with such spontaneous large movements and no great tradition of receiving refugees, the existing legislative body (by now considerably improved), national policies and practice as well as public awareness are still inadequate to cope with migration-related problems. Low priority assigned to the issues relating to refugees and displaced persons by national governments makes the problem even more dramatic and should therefore prompt the international community to become more involved in the provision of viable solutions. As to social conditions, refugees and other migrants perceive little or no financial assistance from the state in any of the three countries. In Russia, «official» asylum seekers (those with a certificate) are entitled to a one-off cash allowance equivalent to a minimal monthly salary (about 20€). Those without such a certificate are denied any financial assistance and any social rights. Most applicants, especially from outside the CIS, must therefore rely on the UNHCR- or NGOs-based programmes. In Ukraine, there is no assistance provided by the state to either asylum seekers or to recognised refugees. Any form of assistance is similarly provided by the UNHCR, ICRC or by NGOs. In Moldova, assistance to refugees from outside the country is non-existent and only very limited to the internally displaced persons issued from the Transdnistrian conflict. In Belarus, state provides assistance to asylum seekers and recognized refugees. UNHCR does not conduct refugee status determination procedure except in compelling cases in need of third-country resettlement. However, UNHCR and the Belarus State University run the Refugee Counselling Service to assist asylum seekers throughout the process.

3. Refugees – General situation

11. In mid-2002, in the **Russia Federation (RF)** about **15.500** persons were in possession of the officially recognised refugee status. Another 3.000 persons or so were registered with the UNHCR as asylum seekers looking for formal registration with the Russian authorities. This is a sharp drop from previous figures, attributable primarily to the fact that most of the previously registered refugees came from the CIS and adopted in the meantime Russian citizenship. Out of those 15.500 persons, 97% originated in the CIS, while only about 500 individuals came from elsewhere. A great majority of formally recognised CIS refugees were from Georgia (South Ossetians), while most of the non-CIS refugees were Afghan nationals. The cases of about 630 asylum seekers (mostly Afghans) were pending with the Interior Ministry that year and almost 1.000 persons were granted temporary asylum. Contrary to the pre-1997 situation, the status of refugee does not apply any more to ethnic Russians who come to the Russian Federation from other former Soviet republics and who usually immediately apply for Russian citizenship.

12. As a result of a much stricter interpretation of the RF «Law on Refugees » in its 1997 version, during 2002 the Ministry of Interior granted refugee status to only 424 persons (almost all Afghans), confirming the downward trend begun since the enactment of the law (5751 recognised refugees in 1997, 382 in 1999). These figures also reflect the elimination of many socio-economic benefits accorded in the past. In the face of the difficulty to obtain the official refugee status, the number of the UNHCR-registered asylum seekers has tended to grow. These low numbers may indicate that potentially many more refugees are to be found among the illegal migrants who simply do not trust asylum procedures in Russia and lack confidence in the success of being granted a formal refugee status. Asylum seekers who are refused the certificate confirming the status-determination procedure are in precarious situation which seems to satisfy all parties: without it, they do not have the right to cash allowance nor have access to medical care; when employed illegally, they satisfy employers who pay low wages and who can fire them at will; though subject to regular police harassment and money extortion, they do not risk *refoulement* (forcible repatriation).

13. Irrespective of the status of foreigners, xenophobia, racism and anti-foreign violence are commonplace in Russia's all big urban centres, making the prospects of their integration into the society extremely poor. The target of organised «skinhead» groups and of the militants of nationalistic political parties are coloured people: Africans, Afghans, Gypsy, and anybody «dark-skinned» of Caucasian origin (especially Chechens). Russian authorities seem to be rather passive as far as both preventive and punitive actions are concerned. Intimidation, money extortion and violence by the police itself *vis-à-vis* illegal immigrants are frequently reported, while murderers of foreigners receive benign punishment for «hooliganism». Many cases of physical violence have been dismissed. Misery and economic insecurity in all three countries, coupled with insufficient education, make of foreigners easy scapegoats.

14. All this means that integration of refugees into the local Russian communities is relatively difficult. Apart from negative public moods and prejudice, the attitude of local and regional authorities is not helpful either since the practice of *propiska* (see below), a limited or no access at all to public services, and an inability to enjoy civil and political rights especially in local affairs prevent these persons from full participation in the life of local communities. In all four key areas of integration - employment, housing, education and health - institutionalised racism is one of the most insidious and overwhelming obstacles to integration of refugees. To a varying degree, this concerns all four countries examined here.

15. In **Ukraine**, the number of persons with official refugee status amounted in 2001 to about 6.000, half of which were Abkhassians from Georgia and one-fourth from Afghanistan. This figure includes 450 cases positively examined by the authorities during that year (of which 370 were Afghans). Only about 900 persons applied for asylum in Ukraine in 2001 (1.893 in 2000). More than 50% of all recognised refugees are based in Kyiv. Regardless of where they reside, all recognised refugees must apply for registration (*propiska*) with the local Passport and Registration Office within days of receiving or renewing their refugee card (valid for several months only), provided that they show a proof of housing (which they are often unable to do). Those without such registration are refused any social rights, including that of taking up a legal employment, although they are still protected against forcible repatriation.

16. According to the new 2001 «Law on Refugees», those who enter legally the country must be registered at the port of entry and have five working days to apply for asylum, while illegal immigrants are given three working days to apply once in the country.

17. In **Moldova**, the number of refugees in the country amounted in 2002 to about 300, mostly from Chechnya and the Middle East (Afghanistan, Iraq, Sudan), although this figure is in disagreement with the UNHCR statistics. In the mid-1990s, the country also hosted about 13.000 displaced persons from other CIS countries, although this number has recently rapidly diminished. Though persons registered with the UNHCR are tolerated, they are generally prohibited from working and do not enjoy the same legal status as the officially recognised refugees. The newly incoming migrants are presently almost regularly turned away from Moldovan borders without having a chance to meet UNHCR officials.

18. The asylum seekers who already find themselves on the Moldovan territory and who decide to stay there (many after transiting through Transnistria) are often unable to register and lead very precarious existence: have no access to medical care, enjoy very limited income and are exposed to occasional fines. Protected against *refoulement*, their illegal stay seems to be increasingly tolerated by the authorities. The UNHCR-issued Protection Letters have gained some recognition and are generally respected by security officials. Among asylum seekers there is a growing number of Russian citizens, mostly of Chechen origin, whose existence is equally precarious and who either approach the UNHCR for protection or attempt to continue westward. Although the authorities tolerate the UNHCR-recognised Chechen asylum seekers, no attempts are made to integrate them locally, barring them from legal status or from the right to work.

19. There is a growing organised infrastructure, mostly based in Transnistria, aimed at smuggling migrants to Moldova (via the Transnistrian region) from the CIS and other countries. Migrants then usually either ask for asylum while planning to head further West or choose the latter solution immediately, often assisted by other organised groups specialised in smuggling migrants.

20. The number of asylum seekers and refugees in **Belarus** amounted to 3 600 at the end of 2002. These included 656 persons recognized as refugees by the Belarusian government, 37 asylum seekers with pending cases, 274 persons who were registered with UNHCR, and 2617 persons, mostly from outside the former Soviet Union (including 2009 from Afghanistan), who were rejected by the Belarusian authorities, but whom UNHCR regards as "in need of protection". They remain of concern to UNHCR because Belarus lacks a humanitarian status to provide complementary protection to refugees fleeing generalized violence that do not meet the criteria for asylum according to 1951 Geneva Convention, and because of procedural barriers, including the government's wide application of the safe-third-country concept, barring all arrivals from bordering countries from the asylum procedure.

4. Internally displaced persons – General situation

21. The government of the **Russian Federation** was often unable and even unwilling to tackle decisively the issue of internally displaced persons (IDPs) who lost their permanent residency as a result of the protracted conflicts in Chechnya and elsewhere in the North Caucasus. Whether for financial, political or other reasons, the relative indifference or, at times, only a selective concern of central authorities as to the fate of thousands of IDPs in this region contributed to a humanitarian disaster, to the exacerbation of inter-ethnic tensions, and to an increase in the sense of insecurity there.

22. The 1995 RF «Law on Forced Migrants» assigns to the category of *forced migrants* all internally displaced persons holding Russian citizenship and residing on the territory of the Federation as well as those persons who originate from other former Soviet republics claiming ethnic origins of peoples/nationalities of the Russian Federation, mainly Russians but also Tatars, Bashkirs and other, and being subject to a rapid grant of the Russian citizenship. This, however, is valid only if the person claiming such status is subject to persecution or discrimination for reasons of race, nationality, religion, language or membership in a social group or political opinion. According to the 2002 figures, cumulative registrations since 1991 point to about **470.000** persons recognised as forced migrants, among which about two-thirds from Central Asia (mostly from Kazakhstan) and about 10% from Transcaucasia. Out of the remaining 117.000 persons (mostly from Russia's North Caucasus) who were able to enjoy the «privileged» status of *forced migrant*, about 89.000 ethnic Russians and other non-Chechens fled the territory of Chechnya as a result of two military conflicts and who still benefited from this status in 2002: 77.000 from the first conflict of 1994-1996 and about 12.000 (no Chechens here) as a result of the post-1999 violence. Another 12.500 were the Ingush forcibly displaced from the 1992 conflict in North Ossetia-Alania.

23. The official figures on forced migrants are in sharp contrast with the *de facto* displaced Russian citizens on the territory of the Russian Federation that the UNHCR put for 2002 at about **400.000** displaced as a result of wars and violence in the North Caucasus. Out of this number, about **310.000** have been registered as such since the beginning of the second Chechen conflict in 1999. Although there is some statistical overlap with the Russian figures on *forced migrants*, the latter status has not been granted to the majority of IDPs because they are not victims of ethnic, confessional or political discrimination. Indeed, the *forced migrant* status does not cover those persons whose displacement from permanent residency is due to the operations of the federal security forces which, unfortunately, have shown a striking lack of respect for humanitarian-law principles (as often have the insurgent groups themselves). Therefore, while the above-mentioned 12.000 new forced migrants (mostly ethnic Russians) benefit from social assistance in support of their resettlement elsewhere in the Russian Federation, the Chechen, Ingush and other IDPs must in their great majority rely on international humanitarian assistance. The geographical distribution of these new 310.000 IDPs from the post-1999 conflict is roughly as follows: 110.000 in Ingushetia (of which about 7% are Ingush); 140.000 in Chechnya itself and 20.000 in Dagestan (8.000 from within Dagestan itself). However, the mobility of the IDPs, insecurity and the difficulty of access to some of the affected population makes it difficult to establish more precise and reliable figures. The remaining 40.000 IDPs from Chechnya have moved to other North-Caucasian republics and regions and elsewhere in the Russian Federation.

24. The usage of the category of *forced migrants* by the Russian authorities to account for displaced persons from the former USSR (the legacy of the «near abroad» concept and of a different perspective on the post-Soviet borders) has produced inconsistencies in the provided statistics

compared to internationally gathered data. On the other hand, the formal recognition of forced migrants among some nationalities and not among other within the Federation suggests that the Russian government is quite selective and not always objective as to the equal treatment of displaced persons. Thus, withholding the *forced migrant* status from the displaced Chechens amounts to the punishment of an independence-minded population.

25. Out of the total population of 785.000 Chechens, over 70.000 live currently outside their republic, mainly in the neighbouring Ingushetia while the remaining persons stay in less compact groups in major urban centres of the Russian Federation and abroad.

26. As to Ingushetia, its resident population of about 360.000 persons hosted in March 2004, 63.578 displaced persons from Chechnya and about 12.500 forced migrants from North Ossetia-Alania (from the Ingush-Ossetian territorial dispute). Roughly 7% of the former group were ethnic Ingush, as were virtually all of the latter group. Another 8.700 inner forced migrants resided in North Ossetia-Alania. In Dagestan, there were about 20.000 IDPs, of which 12.000 from Chechnya while the remaining 8.000 from within Dagestan. Thus, in North-Eastern Caucasus (North Ossetia-Alania, Ingushetia, Chechnya and Dagestan), there were in the beginning of 2004 around 200.000 IDPs and about 21.100 forced migrants. Altogether, the total number of forced migrants and internally displaced persons (correcting for double counting) in the RF amounts today to about **780.000** persons.

27. The government of **Moldova** made very limited attempts to tackle the issue of internally displaced persons who lost their permanent residency as a result of the 1992 short-lived war in Transdnistria. As a result of the conflict, about 100.000 persons fled Transdnistria: about half of them onto the western bank of the Dnistr river and the other half into the neighbouring Ukraine. Today, most of the latter group have attempted to integrate in Ukraine, almost all of the former group of IDPs have by now returned to Transdnistria, in conditions of almost total government indifference and leaving the material assistance to NGOs and to the UNHCR. Several thousands (about 10%), however, were still unable to return, prompted in their decisions by the political situation in the self-proclaimed Transdnistrian Republic and a lack of economic perspectives there. Most of these persons have by now integrated in Moldova proper and it seems that only a small number still maintains IDP status in search of a durable solution. In several cases, the Transdnistrian authorities have reallocated «abandoned» properties or apartments to newly arrived ethnic Russians, thus considerably altering the pre-conflict ethno-linguistic status.

28. The Transdnistrian region continues to generate displaced persons who whether for economic (unemployment), civil and political (censorship) or other reasons (e.g., draft evasion) keep arriving to the central-government-controlled territory. They can no longer register as IDPs, though, and their existence is extremely precarious: some stay in Moldova proper, other attempt to head West, while some (draft-evaders) are forcibly turned back to the Transdnistrian authorities.

5. Other categories of displaced persons - General situation

a. Formerly deported persons

29. Over 3 million people were deported to Siberia and Central Asia during the 1936-1952 period in the USSR, among them:

- **Chechens** (RUS) – although a great majority of Chechens (deported by Stalin in 1944 to Kazakhstan) returned to their country of permanent residence after 1956, the two military conflicts encouraged some of them to undertake measures to return back to Kazakhstan (considered by some as the «second historic mother country») where some of their relatives still reside.

- **Meskhethians** (GEO) – deported in 1944 from the territory of the Georgian Soviet Republic, their repatriation is highly unlikely as a great majority of them does not wish so. Dispersed on the territory of the Russian Federation, they integrated relatively well into local communities. The exception is the Krasnodar region where they remain *de facto* stateless people (see below on «stateless people»).

– **Crimean Tatars (UKR)** – more than 250.000 persons returned to Crimea during the last 10 years. The new 1998 legislation on the simplified naturalisation process was amended several times to speed up the process of adoption of the Ukrainian citizenship which is about to end successfully. Only the newly arriving Crimean Tatars from Uzbekistan and Georgia (2.000-3.000 a year) require to naturalise after a short period of statelessness (in refugee-like conditions). However, apart from this formal/legal recognition, the integration of the Crimean Tatars into the region and into the local population is now of paramount importance. This includes the socio-economic (land restitution, provision of shelter, the right to use their language in public affairs as part of the rehabilitation programme) and the civil-political dimension. The latter means that Crimean Tatars should be protected against public discrimination and harassment by local police and should be more involved in the region's decision-making. Such measures are necessary in order to move from a formal to an effective integration of this indigenous population.¹

b. Stateless people

30. **Meskhethians** are formerly deported people (in 1944, from south-western Georgia to Central Asia) of Islamic religion who, after inter-ethnic riots in 1989 in Uzbekistan, were forced to re-settle in various parts of the USSR (about 90.000 persons), mainly in Azerbaijan and in Russia. Most of them, after an acquisition and/or recognition of the citizenship of the Russian Federation (in accordance with the 1992 «Law on Citizenship») have successfully integrated. However, the misinterpretation of federal laws and the decisions of the Krasnodar Region's authorities have prevented the integration of over 13.000 Meskhethians living for more than 12 years in refugee-like conditions of *de facto* statelessness. Their legal status still being non-regularised, they are treated as «illegal migrants» prone to arbitrary expulsion, harassed by the local police and by the Cossack paramilitary organisations, and subject to generalised discrimination (no legal right to work, to lease land, to marry, etc.). In 2002, the regional administration issued resolutions which amount to further restricting Meskhethians' rights and liberties.

31. While one admits that the Krasnodar Region's population of about 5 million has seen, during the past years, an important influx of immigrants (several hundreds of thousands), the Meskhethians were legal residents at the time of the adoption of the 1992 «Law on Citizenship». The urgent regularisation of their status passes through their full political and moral rehabilitation by the Russian Federation and Georgia and by the following dual procedure: the granting of the Russian citizenship to all those who wish to remain in the Russian Federation, coupled with residence registration at their current residence; the granting of the right to return for all those who wish to return to Georgia, according to this country's commitments taken upon its accession to the Council of Europe. Resettlement to a third country should still be an option.

c. Repatriates

32. In the **Russian Federation**, «repatriates» are included in the «forced migrant» category of people of mainly Russian ethnic origin who, for reasons which may be of political, economic or cultural character, leave the former Soviet republics to resettle mostly on the territory of Russia proper. Their geographical origins are primarily Central Asian (Kazakhstan, Tajikistan) and Transcaucasian (Georgia). Many who left North Caucasus, especially Chechnya, also enter implicitly this category of persons. The repatriation process began before the collapse of the USSR, accelerated after 1991, and assumed its greatest dynamics when military conflicts and violence broke out, particularly in the North-Eastern Caucasian republics. Anti-Russian sentiment, coupled with frequent abuses and indiscriminate killings by Chechen rebels, contributed to a massive exodus of Russians. Out of roughly 230.000 ethnic Russians living in the Chechen Republic in 1991 (besides the 785.000 ethnic Chechens), less than 10% still remained there in 2002.

d. Ecological migrants

33. Some 3.3 million **Ukrainians** need special social support due to the effects of the 1986 Chernobyl catastrophe on their health or because they were forced to evacuate their homes in the contaminated zone. This constitutes half of the total number of about 7 million affected people (including Belarussians and Russians). After the initial urgent humanitarian assistance, the new

¹ The Committee held a Seminar on the repatriation and integration of the Tatars of Crimea in Yalta (Ukraine) on 5-6 October 2001.

support is to concentrate on economic, environmental and health-care initiatives. A long-term community redevelopment program is needed which would focus on development and reconstruction of society and institutions.

6. Transit migrants

34. According to the **Russian** government, the number of *illegal immigrants* (mostly economic migrants) in 2001 reached about 3 million, up by about 10% from the previous year. About one-third of them were Ukrainians, followed by Chinese and Vietnamese (together about 15%). Clearly, the nature of migration has changed compared with the early 1990s when asylum seekers and forced migrants constituted the dominant category. Their illegal status and oftentimes transient character may contribute to their inability and unwillingness to register either with government institutions or with international organisations (like the UNHCR). In spite of this, most of the persons within this large category were hitherto not subject to forcible return to their country of origin, primarily, it seems, for the lack of financial resources necessary for such expulsions. At the same time, due to pockets of perceived labour shortages, Russian authorities largely tended to tolerate their presence. However, deportation of the newly arriving immigrants (including potential refugees) to the frontiers of the Russian Federation is now a regular procedure. According to the Federal Border Service, about 70.000 foreigners were deported from Russian land borders in 2000.

35. This ambiguous situation requires prompt action by the Russian government in favour of some sort of regularisation of illegal migrants' status by, for example, covering them with an official labour quota issued for short, medium or long terms. This would reduce the precarious character of their stay, would protect them against constant harassment by police forces and would prevent them from being recruited to illegal activities, including organised trafficking of persons to western Europe.

36. In **Ukraine**, in 2001, 4.620 illegal migrants (15% less than in 2000) were apprehended by border troops, of whom almost one-third were Afghans and about 10% Iraqis. Migrants from Asia and the Middle East constituted about 98% of all such persons, the rest being Africans.

37. At the same time, the total number of illegal migrants in the country amounted to 26.130 in 2001, most of them on transit to further migration westward. Of that number, 17.500 were ordered deported and about 10% of the latter figure were actually expelled. The low percentage of expulsions is primarily due to the lack of funds necessary to carry them out. Apart from Kyiv and the Kyiv region, transit migrants tend to flow into south-western Ukraine (especially to the Transcarpathian region) where they hope to cross into one of the three future EU members (Poland, Slovakia, Hungary). If unsuccessful, they are often detained in the Mukachevo detention centre for days before being able to contact the local migration service.

38. There are no reliable figures concerning the illegal migrants in **Moldova** and they tend to vary heavily from one year to another. Because of a very difficult economic situation in the country, almost all of them are in fact in transit on their way to reach Romania and the European Union. The arrival of illegal migrants to Moldova is probably facilitated by the fact that, due to the consequences of the Transdnistrian conflict, the Moldovan authorities do not entirely control the country's eastern border with Ukraine.

7. Legal framework applying to all categories of displaced persons

a. Current national legislation

39. The **Russian** Constitution of December 12, 1993 (Section 63) provides for the granting of *«political asylum to foreign citizens and stateless citizens in conformity with the commonly recognised norms of the international law»*. Additionally, the President of the Russian Federation is empowered to grant asylum (Section 89).

40. The RF «Law on Refugees» of 1997 significantly amended the previous law of 1993 which was primarily geared towards the regulation of the legal status of former Soviet citizens without Russian citizenship. This law was not adapted to refugees originating from outside the CIS and its implementation proved therefore difficult. The 1995 RF «Law on Forced Migrants» now deals primarily with CIS migrants of Russian origin or with those who are apt to receive Russian citizenship

relatively quickly. The existence of such a dual legal basis, although helpful during the first years following the collapse of the USSR, proves to be a handicap: statistics on various categories overlap, assistance and policies of international organisations and NGOs are made more difficult, while discriminatory practices operated between different categories of migrants now have a legal basis.

41. The 1997 law on refugees, similar to that in many other European countries, is generally considered good. However, the subjects of the Russian Federation (republics, regions, or autonomous areas) can adopt their own regulations on residence registration of refugees which may severely restrict or even prohibit access to the asylum procedures, especially for those who do not originate from the CIS. Despite the persistent contradiction with the federal law, the duality of rules remains one of the main obstacles to the appropriate implementation of the 1997 RF «Law on Refugees».

42. The «safe third-country» principle has been incorporated into Russia's national legislation but its application is at times questionable. *Refoulement* is being practised when an asylum-seeker finds himself at the Russian border after having crossed a post-Soviet Central Asian republic, generally deemed «safe».

43. In Russia, the Federal Law of July 2002 «On the legal status of foreign citizens in the RF» («Law on Foreigners») came into force on November 1, 2002, although it is not yet fully operational as a number of legal acts need to be adopted. Its major aim is to fight illegal migration and to regulate labour market of foreigners. Even though the new law does not contain any single mentioning of a «refugee», it is likely to have several direct implications to asylum seekers and refugees. One will have to watch carefully what effect the new law can have on stateless persons (e.g., Meskhetians), how quota requirements for residence permissions will be applicable to refugees, or how the new migration card can be obtained by those among asylum seekers who enter Russia illegally and who do not possess appropriate documents.

44. The new 2001 **Ukrainian** «Law on Refugees» is much more in tune with the 1951 «UN Refugee Convention» and its 1967 Protocol than the previous laws. In particular, the new law incorporates the Convention's refugee definition and includes the «no-forcible-return» provision. It has abolished the time limit on refugee status, making instead the duration of the status dependent on condition in the country of origin. Importantly, the new law provides recognised refugees with the same rights as Ukrainian nationals regarding medical care, education, work, choice of residence and right to move. The «safe-third-country» provision has also been clarified in accordance with international standards.

45. According to the **Moldovan** Constitution of 1994, *«[t]he right to asylum shall be granted and denied by the rule of law in compliance with those international treaties the Republic of Moldova is a party to»*. The very recent adoption of international standards on refugees (cf. below) does not provide yet much evidence as to how these are being implemented in practice. The distinction between «refugee» and «IDP» is now possible and legal provisions allow for the status determination procedures of asylum seekers (absent until then) to begin. The year 2002 was the first in which refugees were recognised on the basis of this new legal framework.

46. The letter of the «Migration Law» of December 2002 (entered into force in January 2003) and of the «Refugee Law» of July 2002 (entered into force in September 2002) is generally in line with acceptable international standards. As to the refugees, they are protected against any form of discrimination or *refoulement*. Since these are very recent documents, the practice of their implementation is yet to be established.

47. The Commission on Citizenship and the Granting of Political Asylum created in 1998 has turned out to be a futile exercise in dealing with some aspect of asylum seeking and virtually no case has been filed according to this procedure.

48. The new Law on Refugees in **Belarus**, drafted with advice from UNHCR and NGOs following the ratification by the government of the 1951 Geneva Convention (in 2001) entered into force in 2003 replacing the previous law of 1995. The amended law removes certain grounds for inadmissibility into the asylum procedure, extends the duration of refugee status beyond three years, and includes provisions for the protection of unaccompanied minors.

49. The Belarus Migration Service determines admissibility of cases into asylum procedure. Asylum seekers must register with one of the seven regional migration services which forwards them to the central authority (Ministry of Labour and Social Protection) granting status. Already at this stage asylum seekers are often rejected on procedural grounds (safe-third-country, deadline of 24 hours to lodge an asylum request, complicated and sometimes difficult to meet rules on the registration of asylum seekers).

50. Chechens are barred from the asylum procedures in Belarus, as according to the government's interpretation of the Union Treaty between Russia and Belarus, they may settle legally, obtain their residence permit based on their Russian citizenship and have no need to enter the asylum procedure. In practice, officials discriminate against Chechens in granting residence permits.

b. Bilateral and multilateral agreements and conventions

51. **All three countries** have ratified the Convention for the protection of Human Rights and Fundamental Freedoms, the Framework Convention for the Protection of National Minorities and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Although all three of them have signed the European Charter for Regional or Minority Languages, **none** of them have ratified it as yet.

52. **Moldova** has ratified the European Convention on Nationality, **Russia** and **Ukraine** have signed but not ratified it. The Convention has explicit provisions on non-discrimination as well as on the avoidance of statelessness.

53. **All three countries** have ratified the 1999 CIS Agreement on Combating Illegal Migration and signed the 2000 CIS Decision on the Creation of a Common Data Base on Illegal Migrants. The Russian Federation is responsible for the creation and functioning of such a database.

54. The **Russian Federation** ratified the 1951 UN Convention on Refugees as early as 1992, **Moldova** in 2001 and **Ukraine** in 2002. It seems, however, that not all amendments in the domestic law of the latter two countries have been enacted yet in order to bring them *de facto* into compliance with the Convention. Although legal equality of refugees and displaced persons with other citizens is now guaranteed, the implementation of these standards still leaves much to be desired.

55. **Ukraine** has ratified readmission agreements concerning illegal migrants with all its Western neighbours including Poland, Slovakia, Hungary, Romania and Moldova.

c. Specific legal measures aiming at integration, repatriation

56. In **Russia**, assistance and integration programmes (some vocational training and assistance in finding jobs) are available to holders of «status-determination certificates» which are more easily obtainable for asylum seekers from CIS countries. For others, without such a certificate, no state assistance exists. Children of such «illegal» asylum seekers have generally a very limited, if any, access to schools.

57. The attempts by the Russian authorities to convince the exiled **Chechens** to return to the places of their permanent residency in Chechnya has met with relatively weak response, the IDPs apparently preferring the misery of camps to the insecurity of their ruined homeland. About 10% of persons inhabiting tent camps, however, went back from Ingushetia to Chechnya but many of these, having lost their homes, have inflated the numbers of the inner IDPs there. UN missions reported in the meantime that many of the temporary accommodation centres to host returnees in Grozny were inadequate. After the October 2002 Moscow theatre siege by Chechen extremists, abusive behaviour against civilians, which had already been pervasive before, increased again. Sweeps by Russian military forces in towns and villages, which regularly result in the abduction or disappearances of civilians, have been stepped up while indiscriminate killings by Russian soldiers, torture of detained persons, summary executions, rape and other sexual violence against women and men, looting and burning of homes and extortion of money were and still are commonplace. It is evident that in such circumstances, any attempt at enhancing voluntary return of the IDPs to the Chechen Republic would generally amount to a forced return.

58. About 12.500 forced migrants of **Ingush** ethnic origin from North Ossetia-Alania, currently residing in Ingushetia, await repatriation to the home country. The 1992 interethnic clashes made flee about 35.000 Ingush. The return, based on the 1997 Programme of Action signed by the two interested republics and on the co-operation agreement signed in October 2002, is occurring in an atmosphere of hostility and violence on the territory that Ingushetia still claims she was illegally deprived of. While according to the official figures almost 20.000 Ingush have already returned permanently to North Ossetia-Alania, several thousands are likely to integrate permanently in Ingushetia due to the continued climate of insecurity surrounding the returnees.

59. In **Ukraine**, largely due to a very poor state of the country's economy and of the government's finances, there exists no state integration programme and no state-funded language tuition. Language courses are provided by local NGOs only to recognised refugees. No housing is provided by the state and both refugees and asylum seekers have to find their own accommodation.

60. The situation is very similar, if not worse, in **Moldova** where, apart from some limited assistance provided to Transnistrian IDPs, no integration programmes sponsored by the state and targeting refugees and other migrants exist. Refugees and asylum seekers must rely exclusively on assistance provided by international organisations like the UNHCR or by NGOs.

8. Administrative structures responsible for refugees and displaced persons

a. Administrative structures

61. The Federal Migration Service (FMS) of the **Russian Federation** was dissolved in July 2000 and the Ministry of Federal Affairs, National and Migration Policy was created in its place. By a presidential decree of October 16, 2001, this new ministry was again dissolved and all functions related to the implementation of federal policies on migration and refugee matters was transferred to the Ministry of Interior. The recent restoration of the FMS under the aegis of the Ministry of Interior underlines this on-going administrative restructuring and points to a relative inability of Russian authorities to address and resolve quickly and adequately urgent problems relating to displaced persons. Continued personnel rotation also affects negatively the government's capacity to deal more effectively with migration and refugee issues on a daily basis and prevents it from elaborating a suitable long-term strategy.

62. In **Ukraine**, because of an administrative disarray, the normal procedures of registering asylum seekers were temporarily interrupted in 2001. The State Committee for Nationalities and Migration (responsible for overseeing the implementation of the 1993 «Law on Refugees») was disbanded, replaced by the State Department for Nationalities and Migration. The latter was dissolved in turn in the wake of the new 2001 «Law on Refugees», after which the former institution was recreated (without legal authority to implement the new law). For more than a year, the regular process of adjudication of asylum status was interrupted which largely accounted for a relatively small number of official refugees in the country.

63. Until recently, there was no central authority in **Moldova** responsible for asylum related questions. In 2001, reflecting the growing awareness of the presence of persons in need of national and international protection, the Refugee Directorate opened within the Justice Ministry in 2001 with a modest budget of about € 20.000 for 2002 (the UNHCR spent about €1 million). In 2002, the State Department for Migration was established to deal with the mounting migration-related issues.

b. Improper administrative practices

64. In **Russia**, regional and republican authorities in North-West Caucasus (Krasnodar and Stavropol regions as well as the republics of Kabardino-Balkaria and of Karachai-Cherkessia) variously sought to limit the short-term stay and residence of incoming population, usually originating from North-East Caucasus and from Central Asia, in clear breach of the existing federal laws and decisions. The main concern seems to be officially the maintenance of a delicate inter-ethnic balance

and what is at stake is the legalisation of the Meskhetians remaining *de facto* stateless and the registration of other Russian citizens, mainly Chechen IDPs. However, all over the region, racist sentiments and xenophobic practices are commonplace and their goal is to marginalise and to eventually expel «non-indigenous» persons, especially of different colour, ethnic origin or religion.

65. This situation is in striking contrast with the destiny of some 76.000 Russians who, as *forced migrants*, have been quite successfully integrated into the local communities of the Stavropol region, many of them having also found jobs. This shows that the status assigned to displaced persons as well as matters of ethnic origin and religious affiliation can dramatically change the attitude of regional authorities and of the local population when hosting displaced persons of specific origin.

66. In Moscow and in the Moscow region, the most serious problem encountered by asylum seekers is the long waiting period (and the consequences of it) before accessing the refugee status-determination procedure, period which can last up to two years. The failure of the Moscow City Migration Department to process timely refugee applications, without formally acknowledging receipt of application, exposes asylum seekers to police harassment and threatens them with detention or deportation. Needless to say that such undocumented persons are unable to register with the local administration which prevents them from working legally, prohibits access to health care and makes them vulnerable to recruitment into illegal activities. One should stress that detention of undocumented asylum seekers or no entitlement to public relief (while waiting for the refugee-status determination procedure) contravenes the 1951 Geneva Convention. Similarly, the detention or deportation of asylum seekers who appealed following a negative decision on the issuance of the refugee status violates the Convention.

67. Altogether, the 1997 RF «Law on Refugees», though globally considered a good piece of legislation, lacks appropriate implementation, the main two reasons being the role of the subjects of the Federation adopting their own regulations and the bureaucratic red tape keeping asylum seekers from obtaining valid documents and thus making them vulnerable. Discriminatory practices proliferate, including the refusal to grant non-CIS asylum seekers an access to temporary accommodation centres, usually reserved to forced migrants, especially if being of Russian ethnic origin.

68. In **Ukraine**, the 2001-2002 period was characterised by administrative dysfunction and many cases of asylum seekers were inappropriately adjudicated according to the old 1993 «Law on Refugees». However, it is to be assumed that those whose demands were rejected during that time would have had their claims reconsidered by the end of 2002 on the basis of the new 2001 law.

c. Vestiges of *propiska*

69. The 1993 «Law on Freedom of Movement» within the **Russian Federation** has established a two-tier system of registration of individuals: «temporary registration» and «permanent registration» whereby citizens notify the local authorities of their place of, respectively, stay and residence. Thus, the *propiska* regime which used to empower the police authorities to authorise or to deny citizens staying or residing in a given location, has been abolished. Nonetheless, the transition from the *propiska* regime to the registration system based on simple notification has been far from smooth and decisions by the Russian Constitutional Court as well as interventions by the Ombudsman have only in part checked abuses and violations.

70. In fact, there are frequent cases of the continuation of the former practice of *propiska* by regional authorities and of a partial failure by federal organs to correct these violations. This applies in particular to the category of internally displaced persons and to persons who are denied the appropriate legal status. We deal with both formal regulations by regional or local authorities acting contrary to the federal law or with unlawful administrative practices. In many instances, the politically «undesirable» Chechens have been restricted in their possibility to reside legally outside Chechnya, especially in Moscow and other big urban centres as well as in North-Caucasian republics (e.g., North Ossetia-Alania). In other places, like in North-West Caucasus, the desire to protect the local labour market and to control the internal flow of migrants resulted in many restrictive practices.

71. The gap between the federal law and the law and practice of regional and local executive bodies is flagrant in the Russian Federation. Although this phenomenon concerns many domains, it has a particularly negative effect upon the most vulnerable part of the population: refugees, asylum

seekers and internally displaced persons seeking protection and stability. According to some estimates, a variety of illegal restrictions on registration were in force in several dozens regions. One should emphasise that the inability to register properly in a given location prevents the above-mentioned categories of persons from entering legally local labour markets, from benefiting from basic social and civil rights and from being admitted to public services such as medical service or education. Although considerable overall progress related to the abolition of the *propiska* system has been made since the collapse of the Soviet Union, little effective change for better has been registered in the Russian Federation since the Council of Europe's Report and Recommendations (Doc.9262) of October 2001.

72. In **Ukraine**, having proclaimed a free choice of residence and a right to move, the 2001 «Law on Refugees» abolished the Soviet system of internal passports (*propiska*) which had survived until that year. Furthermore, the Constitutional Court declared in November 2001 the *propiska* system unconstitutional. Accordingly, the registration of foreigners should now occur only at ports of entry and no additional registration should take place for those who legally reside in the country. One should add, however, that a *de facto* access to many social services and healthcare in Ukraine is tied to *propiska*.

73. In **Moldova**, the Constitutional Court declared on several occasions (1996, 1997) the unconstitutional character of the obligatory residence permits and the administration launched new identity cards which do not have place of residence shown on them. Nonetheless, in practice, the IDPs of the Transdnistrian conflict still require a residence visa as a condition for employment.

74. In **Belarus**, it is estimated that in 2002, only 50% of recognized refugees had residence permit (*propiska*). Bureaucratic difficulties in acquiring even a temporary residence permit forced some asylum seekers and refugees to rent apartments illegally.

9. Contribution and assistance of the international community

a. The CIS Conference

75. The CIS Conference on refugees, displaced persons and on other forms of involuntary displacement held in Geneva in 1996 under the aegis of the UNHCR and the IOM was a success in terms of providing a forum for the interested countries to discuss the issues of population displacement and to clarify a variety of categories of such persons. The participating countries recognised the importance of displacement and protection issues within the CIS area and forged a degree of consensus on the nature and magnitude of migration challenges. However, the Conference was a relative failure in its attempts to devise an integrated strategy for the region in this domain. In fact, growing differentiation among the former Soviet republics on issues such as domestic political dynamics, economic performance, socio-cultural evolution and foreign policies coupled with different nature and magnitudes of migration issues in each of them, cast a doubt as to the need to adopt such an ambitious geographic and functional approach in the future.

76. What seems therefore more appropriate is to take a much more flexible approach which would target selected countries with specific methods adapted to their particular needs:

– a narrower geographical approach

77. To maintain a broad CIS-based approach was legitimate in the period immediately following the collapse of the USSR in order to manage better the flows of millions of people resulting from geopolitical dislocations. Such an approach was also justified to accommodate the Russian interests concerning the fate and possible return of the Russian population to the Russian Federation. Today, such a broad and ambitious approach seems superfluous and politically not always appropriate. Most importantly, since migration- and refugee-related issues pertaining to the former Soviet Union have been mostly resolved, to maintain such cumbersome structure seems increasingly unwarranted.

78. The elaboration of narrower geographical structures seems more appropriate since these would regroup countries and regions which share similar concerns and problems. One should therefore propose regional structures which would replace the outdated CIS-based approach, among

which: Central Asia (and migration flows across its different intra- and extra-regional borders; Transcaucasia; future Eastern borderland of the European Union with the CIS countries.

– a more precise functional approach

79. Migration- and refugee-related problems dealt with by the CIS countries vary and will do so even more in the coming future, justifying a more precise functional approach. Countries close to the European Union are likely to become a stronger magnet for Asian and African economic migrants before their last attempt to enter the Union. Transcaucasian states and North Caucasia are confronted with political instability, military confrontation and security-related issues and therefore with important numbers of internally displaced persons as well as with refugees. The scale and character of problems affecting the huge territory of the Russian Federation are in itself very important and should be treated separately. Consequently, a more precise denomination of issues within smaller geographical areas will make it easier to focus the implementation of resources and to do it more efficiently.

b. Financial and humanitarian assistance

80. Most countries of the CIS area complain that, despite a strong political support by the European countries and by some international organisations as to the need to tackle migration issues with greater determination, there persists an inadequacy of financial assistance on their part in terms of both global funds and their more specific utilisation. Although one acknowledges that, within reasonable limits, such financial assistance could well be increased, the donor countries often point out the unprepared character of many recipient states as to their organisational capacity to manage migration and to protect refugees and other displaced persons.

81. Treating the CIS as a single and apparently coherent entity is one of the reasons of the risk of misappropriation of funds, the other being inadequate prioritisation of allocated resources within specific national administrations. A flagrant preferential treatment by the Russian Federation of forced migrants (of mainly Russian ethnic origin) compared with displaced persons (of mainly Chechen origin) is a good example of such policies. However, the crucial issue is that of organisational capacity-building and this is where attention should be focused before more serious attempts can be made as to the implementation of decision and policies and as to the operational activities of humanitarian assistance. Among the issues, the obvious problems in the Russian Federation and in the other CIS countries are: the establishment of clear and coherent administrative structures and of a smoother intra-governmental communication; the building of a simplified and coherent legal system and – very importantly – of the state's capacity to implement it nationwide; the improvement of the technical and infra-structural capacity, including the border-management schemes and the development of accommodation facilities (asylum seekers' reception centres and safe -third-country transfer centres); development of a solid human base.

c. Role of intergovernmental organisations and non-governmental organisations

82. The UNHCR and the IOM have been the main participants in the process of the organisational capacity-building and it should be stressed that efficient humanitarian assistance by the international community hinges largely on the adequacy of that capacity. The role of European intergovernmental organisations, including the OSCE (the ODIHR), the Council of Europe and of the European Union, is insufficient and their subsequent participation in this process must be re-evaluated as a function of the political will and of concrete achievements by the interested states.

83. On the operational level, UNHCR (food and non-food programmes: mine awareness, child and child-education programmes, shelter and water supplies, medical assistance, psycho-social counselling and legal advice) is all deeply involved in the management of flows of refugees and displaced persons and in assisting such persons from the humanitarian point of view. ICRC is also helping the same persons from a humanitarian point of view.

84. Despite an undeniable progress in the domain of NGO participation in refugee, displacement and migration issues within the CIS area, considerable improvement needs to be made in order to eliminate obstacles which hinder NGO's contribution. The obstacles concern NGO's capacities

(including their financial sustainability and personnel training) and the still inadequate NGO legislation, NGO-government relations and, more generally, the political climate related to NGO activities.

85. NGOs' contribution to solving problems relating to refugees and displaced persons has been insufficient although relatively more fruitful in such activities as integration of refugees or the humanitarian and emergency assistance. Some of them also contributed – directly or indirectly (through the links with inter-governmental organisations) – to the development of refugee law and protection in the countries in question. However, NGO activities in the refugee-related domains are dependent not only upon the actors' specific problems but also upon the general trends concerning the development of civil societies in these states, especially in Ukraine and Moldova where the progress was less substantial, reflecting more difficult socio-economic conditions and less favourable political climate.

86. Generally speaking, because of relatively low priority assigned to refugee-related issues in the respective countries, NGOs are likely to play in the future a more significant role in bridging the gap between national legislation and policies and the ability of the States to meet their objectives.

87. The frequently encountered overemphasis on security implications of refugee-related issues makes governments sometimes reluctant to accept a greater contribution from NGOs in developing solutions to problems of refugees and migration. Many NGOs complain about the Russian Federation's attitudes to curb their involvement in the geographical area of North Caucasus for reasons of «national security». However, in the same region, Russian NGOs were unable or unwilling to raise greater awareness of displacement and protection issues or to prevent the emergence of hostile public opinions and activities with respect to displaced persons, especially when they were of different ethnic and/or religious origin.

88. Access to refugee-related database and to government policies in this domain have been judged insufficient. Frequently changing administrative structures have also hindered co-operation between NGOs and governments. A closer co-operation between the UNHCR and the Council of Europe with respect to NGOs can ameliorate the situation if the former provides stronger assistance in the refugee-related areas while the latter supervises more closely NGO legislation developments and contributes to a better government-NGO climate. Regional and trans-national networking between and among NGOs (assisted by inter-governmental organisations) could enhance the efficiency of their activities in these domains.

d. Role of the Council of Europe (COE)

89. The COE's three main organs (Committee of Ministers, Parliamentary Assembly and Congress of Local and Regional Authorities of Europe) have elaborated an impressive body of legally binding and of non-binding documents in matters relating to foreign residents in general and to refugees and other involuntarily displaced persons in particular. They concern, among others, the rights of foreigners and their participation in public life; integration of foreigners (including refugees and forced migrants) into local communities through civil-societal associations, consultative bodies and involvement in local elections; and the access of such persons (including internally displaced persons) to public services.

90. The 1992 Convention on the Participation of Foreigners in Public Life at Local Level does not specifically address refugees and forced migrants but concerns more generally the problem of integration of foreigners into local civil society and of their participation in local elections. Although the prospects of adhesion of CIS countries, including those being object of this report, are relatively slim for the coming future, one should devise other measures and policies aimed at the enhancement of such integration and participation in these countries.

91. The **Committee of Ministers'** Recommendation No. R(97)22 on guidelines on the application of the safe-third-country concept, though not binding, is particularly relevant in view of the dramatically declining numbers of persons recognised as refugees, especially in comparison with the numbers of migrants turned away from the borders of the Russian Federation and of other CIS countries. Related to it are the Recommendation R(99)12 on the return of rejected asylum seekers and the Recommendation R(98)15 on the training of officials first coming into contact with asylum seekers, especially as far as the prevention of *refoulement*s concerned.

92. The Recommendation R(99)18 on the avoidance and reduction of statelessness seems to have had a positive echo in Ukraine where the process concerning the resolution of statelessness of the Crimean Tatars by granting them Ukrainian citizenship was sped up. However, the continued presence of an important stateless population (e.g., Meskhetians) in the Russian Federation suggests that the Recommendation's application, though non-binding, should be more thoroughly reconsidered. It is in particular inadmissible that regional authorities should contradict in their administrative acts the federal law and the decision of the Constitutional Court.

93. As to the work of the **Parliamentary Assembly**, the proposals included in the Recommendation 1334 (1997) on refugees, asylum seekers and displaced persons in the CIS have only in small part been implemented. There are still many cases of *refoulement* (forcible return), of the non-observance of the freedom of movement and freedom to choose one's place of residence in one's own country, of the proliferation of administrative barriers to these freedoms and of non-compliance by local and regional authorities with legislation concerning refugees, asylum seekers and displaced persons.

94. In view of the on-going enlargement of the European Union and the consequent extension of more restrictive measures on asylum, the Recommendation 1467 (2000) and the Recommendation 1467 (2000) on clandestine immigration are to be recalled, especially when the two major characteristics of the rising migratory flows are their illicit nature and an ever more elaborated criminal organisation. Russia, Ukraine and Moldova, as border countries of the prospective EU, are likely to become particularly affected by these flows of transit migrants. The Recommendation 1489 (2001) reminds that a number of persons who would qualify for asylum are to be found among those flows of migrants and they should have a guaranteed access to status-determination procedures.

95. The Recommendation 1544 (2001) on the application of the *propiska* system to migrants, asylum seekers and refugees based on the Report of the same year continues to be of utmost importance. It helps CIS governments and local authorities to abolish this obligatory residence permit and minimise its practical significance in these persons' civil and political rights and in their access to public services.

96. The **Congress of Local and Regional Authorities of the Council of Europe**'s work in the domain of refugees, asylum seekers, forced migrants and displaced persons concentrates on issues relative to their integration in local communities. In this perspective, its Recommendation 76(2000) and Recommendation 115(2000) concern the participation of foreign residents in local public life and its implications for social and democratic cohesion. However, the Congress must take initiative as to two further domains of actions: to take the stock of compliance by local and regional authorities in the Russian Federation, Ukraine and Moldova with constitutional and legislative measures as to the observance of rights of the above-mentioned categories of persons; to find out further venues for speedier integration of such persons through their participation in the local public (civil and political) life, for example in co-operation with the COE's extensive network of NGOs.

97. The intergovernmental Ad Hoc Committee on asylum, refugees and stateless persons (**CAHAR**) has reflected the continued interest of the COE in the situation of refugees, asylum seekers and displaced persons and it has contributed to enhancing co-operation among member states in the domains concerning these categories of persons. However, further harmonisation of concepts (e.g., the «forced migrant» status encountered in the Russian Federation and some other CIS countries has no equivalent in the rest of Europe) is necessary. One should also think of further means of a more effective practical implementation of this co-operation, not only in the documents adopted by governments but also as far as their *de facto* impact on the above-mentioned categories of persons is concerned.

98. On several accounts, the role of the **Council of Europe Development Bank** (CEB) in the domain of the furtherance of social cohesion in Europe has been clearly disappointing. First of all, considering all projects approved during 2001 financial year, about 60% of all loans went to the relatively rich countries of the European Union (and Norway) - Finland, France and Germany alone accounting for 40% (!) of all loans. In 2002, a considerable bigger percentage of loans went to the countries in transition. However, no CIS country has benefited from any loan since the collapse of the USSR. Thus, the least economically advanced borrowers were clearly not the main beneficiaries.

Secondly, despite being its statutory priority, aid for refugees, migrants and displaced persons was very low as reflected in just 0.8% of all loans spent on migration-related issues during the 1998-2002 period. Thirdly, apart from Moldova, no other CIS country (member of the Council of Europe) is a member of the CEB, which prevents it from receiving loans on its projects on preferential financial treatment.

99. One wonders whether in such acute cases like the fate of the formerly deported peoples (Crimean Tatars or Meskhetian Turks), like the internally displaced persons in Chechnya or like the victims of the Chernobyl disaster, the CEB could provide loans for projects for those who, for years now, have lived in refugee-like conditions. Clearly, since social cohesion is a top priority of the Bank, everything should be done to speed up the integration of the above-mentioned persons or to alleviate their fate. One could also question the strict link between membership of the Bank and the ability of the Council of Europe members to benefit from its loans. In fact, only the loosening of this link will make it possible for the CEB to grant loans to the least economically developed members of the Council of Europe and to contribute more effectively to a greater social cohesion in Europe. Sponsorship of projects by CEB members in non-CEB members might be a way to engage the Bank more actively in its statutory activity of migration-related problems. Since Poland, Slovakia, Hungary, or Romania are the first destinations of migrants waiting to cross into the future European Union from Ukraine, Moldova or Belarus, should not those prospective EU governments be interested in sponsoring projects aimed at stemming migration, at enhancing professional training and at providing social housing in the latter countries (possibly in co-operation with the ultimate-destination countries of Western Europe)?

10. Conclusions and recommendations

100. All three countries – the Russian Federation, Ukraine, and Moldova – have made during the last years impressive progress in terms of bringing their national legislation concerning refugees, displaced persons and other migrants in line with international standards. They have also signed and ratified relative international documents like the 1951 Geneva Convention and its 1967 Protocol.

101. However, the two most important outstanding difficulties in this respect are the following:

- preventing other (regional, republican, etc.) authorities from issuing their own administrative regulations which are in contradiction with national (or federal) law; bringing those regulations in line with the proclaimed national standards;
- implementing the proclaimed equality of rights of refugees and displaced persons with other citizens by providing them with the necessary means like shelter, health care, education, and other forms of assistance; facilitating integration.

102. While the former can be solved primarily on the basis of the political will of national/federal authorities enforcing the legislation nationwide, the latter, given the disastrous economic situation and the state of government finances (especially in Ukraine and Moldova), cannot be successfully dealt with without a more decisive support from the international community.

103. The *propiska* regime authorising or denying residence to Soviet citizens has been formally abolished by the federal authorities of the Russian Federation but the State organs have partially failed to effectively correct violations of the federal legislation on freedom of movement perpetrated by various subjects of the Federation (restrictive regulations and administrative practices), in particular with respect to refugees and displaced persons. This discrepancy should be adequately dealt with by the central authorities in the years ahead.

104. Governments must show their long-term political will to tackle the migration issue. Continuous administrative restructuring and personnel rotation must be addressed in order to ensure medium- and long-term strategies on migration issues. Intra-governmental co-operation must be improved as well. Clear priorities must be set out, including financial support. Only when such institutional cohesion and political determination are shown, can the issues of co-operation with international organisations be more effectively addressed. For example, complaints expressed by Russia and other CIS states about a low degree of international financial assistance could then be more adequately tackled with.

105. The Russian Federation does not accept the concept of *internally displaced person* (IDP) as defined in the 1998 «UN Guiding Principles on Internal Displacement»: «...persons obliged or forced to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border.». This definition is large enough to include the consequences of indiscriminate military actions carried out by police and/or armed forces. Its acceptance would make it possible to avoid the discrimination shown with respect to the Chechen civil population fleeing the conflict as well as to grant it necessary protection. One should work towards the acceptance of this definition by all three and by other CIS countries.

106. Population figures in the analysed countries are notoriously unreliable and may dramatically change from one year to another. One should further attempt to provide more precise statistics concerning well-defined categories of migrants in accordance with generally accepted international principles. The provision of accurate and reliable data is a key element for an effective assistance, be it at governmental, international or NGO level.

107. Racism and xenophobia directed against foreigners and in particular against refugees and asylum seekers should be dealt with more effectively. Harassment and money extortion by police should be investigated and appropriately punished. Governments should do their best to reduce the vulnerability and insecurity of such persons.

108. The Congress of Local and Regional Authorities of Europe should envisage the creation of a framework of co-operation between local and regional authorities, an NGO network and the self-help refugee associations with the purpose of helping to overcome institutionalised racism and discrimination and to facilitate integration of refugees and other displaced persons into local communities.

109. Statelessness should be eliminated and the countries in question should sign and ratify the appropriate international documents, including the European Convention on Nationality which explicitly states that «*statelessness shall be avoided*». More specifically, the Meskhetians deserve an urgent regularisation of their status based on their full political and moral rehabilitation, on the granting to them of the Russian citizenship and/or on the opening of the way to their return to Georgia who so desires. They should benefit from all civil rights and political rights enabling them full integration into the region of their current residency and steps must be taken to stop harassment and discrimination by local authorities, organisations and general population. One should also think about a possible ultimate solution of resettling Meskhetians into third countries in order to avoid the prolonged status of statelessness.

110. A follow-up to the 1996 CIS Conference addressing the problems of refugees and other displaced persons should be organised on a more targeted basis through precise functional and geographical approaches enhancing the effectiveness and efficiency of action.

111. Both the political and the legal/normative environment of NGOs' work in the domain of refugees and displaced persons should improve as governments, especially of countries with limited economic and financial capacities, are unable to provide protection and comfort to such persons. The highest European standards should be applied in order to ensure a more stable and cohesive NGO legislation, in co-operation with the UNHCR and the Council of Europe, together with a regular review of government-NGO practical cooperation.

112. Any repatriation of refugees and displaced persons should be totally voluntary. Forcible returns, blackmailing, negative incentives implemented by authorities should be proscribed, as already invoked on various occasions (OSCE documents, the conclusions of the 1996 CIS Conference). The recent efforts by the Russian officials to make Chechens return to Chechnya defies these principles and takes little account of Chechen realities by exposing returnees to threats and insecurity.

113. More efficient integration measures should be devised and implemented. The role of the Council of Europe Development Bank should be enhanced and improved, while targeting more

precisely refugees and other migrants. The goal of social cohesion should be redirected towards countries in real economic and financial need, i.e., to countries in transition. Such steps should go hand in hand with local authorities' political will and more favourable administrative measures. Russian and Ukrainian membership in the CEB should be encouraged. In the meantime, the idea of sponsorship of projects supported by countries-members of the Bank could be explored. For example, could Turkey (possibly in co-operation with other countries) sponsor the construction of lodgings for Crimean Tatars?

114. Further attempts should be made to resolve the Transdnistrian issue by tackling more decisively constitutional issues, thus opening the way to a final solution to Moldova's *de facto* division. The current situation, which leaves a considerable part of the country outside central governmental control, contributes to the proliferation of organisations dealing with human trafficking and other, migration-related illegal activities.

115. All three countries should be encouraged to ratify soonest possible the European Charter for Regional or Minority Languages. Crimean Tatars, for example, now back to Crimea, should enjoy to learn their language at schools and should be able to use it in administrative and judiciary structures, in places where their numbers are considerable.

116. A migration observatory could be set up on the eastern borders of the future European-Union frontier in one of the Council of Europe's member states. A large, non-capital city with the necessary infrastructure could host such an institution in collaboration with the UNHCR, IOM, the Council of Europe and the Russian Federation in charge of the database system on CIS migrations. Lviv (Ukraine) seems to be ideally placed, but Brest (Belarus) might be a good choice in the future as well.

Appendix

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4 June 2002

COMMITTEE ON MIGRATION, REFUGEES AND DEMOGRAPHY

Humanitarian situation of refugees and displaced persons in CIS countries

Voronej (Russia), 11 June 2002 (Seminar and Committee meeting)
(Lenin Square 1, 394018 Voronej, Russia)

Borisoglebsk (Russia), 12 June 2002 (field visits)

PROGRAMME

Tuesday, 11 June 2002

8.30 am	Arrival at Domodedovo airport (Moscow)
10.05 am	Departure from Domodedovo airport to Voronej by a charter flight
11.15 am	Arrival in Voronej, accommodation at the hotel "Don"
12.30 pm	Lunch at hotel "Don"

SEMINAR (<i>Lenin Square 1, 6th floor, 394018 Voronej</i>)
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1.30 pm	Registration of participants
2.00 pm	<p>Opening statements: Chair: Mr IWINSKI, Chairman of the Committee on Migration, Refugees and Demography</p> <ul style="list-style-type: none"> • Mr ROGOZIN, Chairman of the Parliamentary Delegation of Russia to the Parliamentary Assembly of the Council of Europe • Mr SLUTSKY, Member of the Committee, Russia • Mr W.G. KULAKOV, Head of Administration of Voronej district • Mr A.G. CHERNENKO, Deputy Minister of the Interior, Head of Migration Service • Mr A. BALAHOV, Head of the Council of resettlement organizations "HOKO"

Introduction (*historical background and general overview of the situation including statistics, areas of displacement, definition of different categories of displacement like refugees, IDPs, repatriates, stateless people, persons formerly deported, ecological migrants, transit migrants*)

- Mrs N. VORONINA, Senior Researcher, Institute of State and Law, Russian Academy of Science

Legal framework applying to all categories of displaced people (*current legislation and existing deficiencies, bilateral and multilateral agreements and conventions, specific legal measures aimed at integration, repatriation and resettlement*)

- Mrs A. JOHANSSON, Associate Protection Officer, UNHCR, Moscow Office

Economic and social aspects (*economic and social rights, living conditions, access to employment, health care, social services, etc*)

- Mr W. BITUCKIJ, Memorial

Coffee break

Discussion

The specific context of the Commonwealth of Independent States (*Regulation of migration processes in the CIS model legislation*)

- Mrs E. VLADIMIROVA, Counsellor, CIS Interparliamentary Assembly

Discussion

Coffee break

Meeting of the Committee on Migration, Refugees and Demography

6.30 pm End of the meeting

Wednesday, 12 June 2002

7.00 am	Bus departure to the settlement Khrenovoe
8.30 am	Breakfast at the Horse farm of the settlement Khrenovoe
9.30 am	Visit of the Horse farm
11.30 am	Departure to Borisoglebsk
1.00 pm	Lunch in Borisoglebsk
3.00 pm	Visit of the temporary residence settlement of the forced fugitives and the resettlement organization "HOKO"
5.00 pm	Performance at the local theatre
6.00 pm	Dinner
7.00 pm	Departure to the railway station
8.08 pm	Departure by overnight train to Moscow

Reporting Committee: Committee on Migration, Refugees and Population.

Reference to committee: Order No. 533 (1997) of 24.6.1997.

Draft recommendation adopted by the Committee on 10.3.2004 with 22 votes in favour, 0 votes against, and 1 abstention.

Members of the Committee: Wilkinson (Chairperson), de Zulueta (1st Vice-Chairperson), Søndergaard (2nd Vice-Chairperson), *Branger* (3rd Vice-Chairperson), Akgün, Akhvlediani, Alibeyli, de Arístegui, Bernik, *Bilozir*, *Bousakla*, Braun, Brinkel, *Brunhart*, Cabrnach, *Çavusoglu*, Christodoulides, Cilevics, *Cliveti*, Dacic, Danieli, Debarge, Debono Grech, Dedja, Dmitrijevas, Einarsson, Err, Fedorov, *Filipiová*, *Freiherr von und zu Guttenberg*, Grisseemann, Grzesik, Grzyb, *Gülçiçek*, Hagberg, *Hancock*, Higgins, *Hoffmann*, *Ilascu*, *Iwinski*, Jovašević, *Lord Judd*, Karpov, Kirilov, Kósá-Kovács, Kulikov (alternate: *Provkin*), *Kvakkestad*, Lambert, Le Guen, Liapis, Loutfi, Masi, Naro, Nasufi, *Nessa*, Olin, *Popa*, Prijmireanu, Puche, Pupovac, Raguž, Rakhansky, Reymann, Saks, Shakhtakhtinskaya, Skarphéðinsson, Slutsky (alternate: *Zavgayev*), Stamm (alternate: *Zapfl-Helbling*), Stoisits, Stübgen, Szabó, Tekelioglu, *Tkác*, Torosyan, Vera Jardim, Verivakis, *Vermot-Mangold*, Vieira, Wray (alternate: *Foulkes*), Yáñez-Barnuevo, Zhirinovsky.

N.B. The names of those members present at the meeting are printed in italics.

Secretariat of the committee: Mr Lervik, Mrs Nachilo, Mrs Sirtori-Milner