

# Chechen Migration and Integration in Ukraine

Working Paper

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### A. Introduction of Chechen Migration in Ukraine

“I am seeking asylum in Ukraine because my Uncle told me that Ukrainians are good people. He told me that during the Ukrainian famine,<sup>1</sup> many Ukrainian families came to our land to survive. One of these families lived at my Uncle’s house, and he always spoke about their kindness and warmth.”

--57year-old, male asylum seeker

Since the first Chechen War, thousands of people have entered Ukraine from the Republic of Chechnya, Russian Federation, to seek refuge from the destruction of their land. From 16 February 1995 until 30 May 1997, the Cabinet of Ministers of Ukraine approved a decree<sup>2</sup> providing interim protection for approximately 1,500 - 2,000 refugees, who fled continuous violence and instability spilling over from the Chechen independence movement. This group was granted temporary protection in Ukraine on a prima facie basis, without individual interviews or screenings. The majority of them had family or other contacts within the country, or were families of mixed Chechen-Slavic ethnicity.

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<sup>1</sup> In 1932-1933, Ukraine was greatly affected by an artificial famine ordered by Stalin.

<sup>2</sup>Decree No. 119 of the Cabinet of Ministers of Ukraine, “On measures of providing assistance to individuals who were forced to leave their places of permanent residence in the Chechen Republic of the Russian Federation and arrived in Ukraine.”

It has become increasingly more difficult for Chechens to access international protection in Ukraine. Following the termination of this decree, Ukrainian migration authorities ceased to provide temporary protection to Chechen refugees.<sup>3</sup> The rising notoriety of their ethnic group, implicated as terrorists, criminals, and wahhabists, negatively affected the reception of Chechens migrants.<sup>4</sup> Chechen mistrust of Ukrainian authorities grew around the suspicion that Ukrainian and Russian government security agencies collaborated on the forced return and punishment of Chechen asylum seekers in Ukraine.<sup>5</sup>

Ukrainian officials argue that Chechens do not qualify for refugee status in their country. They claim that Chechens do not fall under the 1951 Refugee Convention and have Internal Protection Alternatives within other parts of the Russian Federation.<sup>6</sup> Meanwhile, the United Nations High Commission for Refugees (UNHCR) and the European Council on Refugees and Exile (ECRE) have clearly announced the necessity to protect Chechens, given the threats they confront in Chechnya and throughout Russia.<sup>7</sup> Refugee recognition rates of Chechen asylum seekers in European Union Member States are significant; the Austrian government recognizes 93% of all Chechen asylum seekers under the 1951 Convention,<sup>8</sup> indicating great concern for Chechens' safety in the Russian Federation. In her speech on 24 February 2006, the United Nations Commissioner for Human Rights urged Russian government authorities operating in Chechnya to purge "the climate of fear,"<sup>9</sup> which drives Chechen migration. It is not yet clear whether counter-terrorism feats<sup>10</sup> achieved in the summer of 2006 will improve the safety of Chechen civilians in Russia.

Ukraine has an obligation under international law to provide victims of the Chechen Wars protection in its territory, despite misconceptions of the Ukrainian authorities. Though many human rights advocates contend that Chechens should be considered refugees under the 1951 Convention,<sup>11</sup> Ukrainian refugee law remains problematic in granting Chechens safety: not only are most Chechens denied access to

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<sup>3</sup> Olena Malynovska of the National Institute for International Security stated on 19 May 2006 that Ukrainian migration authorities were undergoing reconstruction at the time and therefore were unable to renew the decree. She asserted that lack of interest amongst Ukrainian politicians and citizens discouraged the protection of Chechens afterwards.

<sup>4</sup> Russian media distributed in Ukraine vilified Chechens, and the Russian government interpreted Ukrainian temporary protection of Chechens in the country as an insult, according to Olena Malynovska. Russian opposition to Chechen refugee recognition became stronger in 2004, when Russia openly criticized western countries providing Chechens with refugee protection as having "double standards in the attitude toward terrorism." (Holley, David. "Chechen rationalizes attacks; Putin criticizes West." Seattle Times. 18 September 2004.) In a 2004 report, UNHCR Kyiv stated that the Ukrainian government and media support the Kremlin's policies towards Chechens and Chechnya. (UNHCR Regional Representation for Ukraine, Belarus and Moldova. "The Situation of Refugees, Asylum-Seekers and Migrants of Chechen Origin in Ukraine." October 2004)

<sup>5</sup> Confidential conversations with Chechens in Ukraine reveal their belief that the Security Service of Ukraine provides the Russian Federal Security Bureau with detailed information on Chechen asylum seekers registered in Ukraine.

<sup>6</sup> Interviews with Major General Boris Nikolaevich Marchenko, from the Department of European Integration of the State Border Guard Service of Ukraine, completed on 4 April 2006, Natalia Naumenko and Elena Us, Main Specialists of Kyiv Regional Migration Services, on 23 March 2006.

<sup>7</sup> UNHCR. "UNHCR Paper on Asylum Seekers from the Russian Federation in the context of the situation in Chechnya," February 2003. Paragraph 7. ECRE. ECRE Guidelines on the Treatment of Chechen Internally Displaced Persons (IDPs), Asylum Seekers and Refugees in Europe. May 2005. Paragraph 5.

<sup>8</sup> ECRE. Country Report 2004-Austria. <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf>

<sup>9</sup> Statement by the High Commissioner for Human Rights on her visit to Russia.

<http://www.unrussia.ru/eng/news/index.php?page=4&news=108>

<sup>10</sup> The death of Chechen separatist leader Abdul-Khalim Sadulaev was announced on 17 June 2006, followed by the 10 July 2006 death of successor Shamil Basayev.

<sup>11</sup> Svetlana Gannushkina, Memorial Human Rights Center, is one of the knowledgeable advocates who insist that Chechen asylum seekers' claims should be evaluated under the 1951 Convention. Conversation on 30 August 2006.

refugee status determination procedures in Ukraine,<sup>12</sup> but the government does not foresee the protection of victims of indiscriminate violence within its law *On Refugees*.<sup>13</sup> As of September 2006, its legal strategy to administer complementary protection to asylum seekers remained in draft form.<sup>14</sup> The basis for complementary protection<sup>15</sup> lies within the fundamental principles of the Geneva Convention on the Status of Refugees.<sup>16</sup> The drafting of these laws give evidence of progress in Ukrainian asylum procedures, but Ukraine must be further encouraged to implement complementary protection laws.

Ukrainian authorities must also refrain from forcing the return of Chechens to Russia until it is absolutely certain that their safety there is secure.<sup>17</sup> Ukraine has ratified international legal instruments, such as the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>18</sup> and the European Convention on Human Rights, which forbid the extradition of individuals at risk of torture.<sup>19</sup> Given the potential dangers Chechens face, as highlighted in ample country reports,<sup>20</sup> the return of ethnic Chechens to the Russian Federation without voluntary consent and due process is a violation of international law. Ukraine has assumed the responsibility of protecting foreigners at possible risk in their own countries; this includes Chechens. It has also ratified a number of humanitarian laws, including protocols that aim to protect victims of armed conflicts,<sup>21</sup> indicating a legal responsibility to defend civilian lives.

In order to ascend to European and international norms, Ukraine must undertake the successful legal integration of Chechens asylum seekers into the country. As former fellow citizens of the USSR, Chechens share cultural and historical references with Ukrainians that make their social integration in the country easier than it is for most other ethnic groups. Chechens in Ukraine maintain strong ties to their family and ethnic group, which facilitate the adaptation of newly-arrived asylum seekers to Ukrainian society. Chechen asylum seekers express willingness to adjust to Ukrainian regulations; they

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<sup>12</sup> Conversations with UNHCR Kyiv on 04 September 2006.

<sup>13</sup> Ukraine reformed its 1994 law *On Refugees* in 2001, but failed to address issues related to complementary protection.

<sup>14</sup> Conversation with UNHCR Kyiv on 4 September 2006.

<sup>15</sup> According to ECRE, complementary protection status serves “to protect those people whose reasons for flight are beyond a full and inclusive interpretation of the Refugee Convention, but who nevertheless require international protection.” ECRE. “Position on Complementary Protection.” September 2000. [www.ecre.org.positions/cp.shtml](http://www.ecre.org.positions/cp.shtml)

<sup>16</sup> General Assembly. Executive Committee of the High Commissioner’s Programme, “Fiftieth Session: Note on International Protection.” A/AC.96/914 7 July 1999

<http://www.unhcr.org/cgi-bin/texis/vtx/excom/opendoc.pdf?tbl=EXCOM&id=3ae68d98b>

<sup>17</sup> UNHCR underlines the obligation of the international community to “refrain from returning [asylum seekers and migrants] to countries where their life or liberty would be at risk.” (UNHCR. “UNHCR, refugee protection and international migration.” Basic Precepts 3. 29 June 2006.) There is ample reporting on discrimination and persecution that Chechens undergo in the Russian Federation, some of which is covered later in this paper.

<sup>18</sup> Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 3, ratified 10 December 1984.

<sup>19</sup> European Convention on Human Rights, Article 3, ratified 4 November 1950.

<sup>20</sup> Some of these reports are reviewed in following sections of this paper.

<sup>21</sup> Ukraine has put into force humanitarian laws, such as the Geneva Convention Relative To The Protection Of Civilians Persons In Time of War, the Protocol additional to the Geneva Convention of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), and the Protocol additional to the Geneva Convention of 12 August 1949, and relating to the protection of victims of non-international armed conflicts(Protocol II), which set standards for humanitarian protection during conflicts and operate upon principles of the protection of victims of wars.

work hard to make their way and hope to find peace in Ukraine. Yet, ethnic prejudice and unjust legal procedures push Chechen migration into the EU.<sup>22</sup>

The following information results from 11 months of in-depth research into the Chechen community in Ukraine, as well as 5 months of practical experience supporting Chechen asylum seekers during Ukrainian asylum procedures at the Hebrew Immigrant Aid Society (HIAS) in Kyiv.<sup>23</sup> This research reflects interviews with Chechen asylum seekers, refugees, permanent residents, citizens of Ukraine, discussions with Ukrainian authorities, such as Migration Services, the State Border Guard Service of Ukraine, and the Ministry of Interior, and meetings with international organizations in Russia and Ukraine. It also includes information gathered from non-government and international organizations during a site-visit to the North Caucasus. All meetings and interviews, except for those at international organizations, were conducted in Russian without a translator. The research was designed to describe trends of Chechen migration and integration in Ukraine, and includes the perspectives of Chechen asylum seekers in the country.

## B. Background of Chechen Displacement

“I am ruined. My nerves are shot. I had to leave in order to keep my sanity. I used to be a strong man; now I shake.”

--37 year-old male asylum seeker

Over a decade of instability, arbitrary violence, and terrorism has left the Chechen Republic in an extremely fragile state. Lack of housing, unemployment, collapsed social infrastructure, and massive corruption weigh heavily on Chechnya's population. UNHCR estimates that up to 800,000 people have been affected by the conflict, out of an estimated pre-war population of 1.2 million.<sup>24</sup> Research concerning the consequences of the war on 300 Chechen people in Chechnya showed that 92% had lost someone they knew during the war; 27% had lost immediate family members.<sup>25</sup> Five years after the “end” of the war, the International Helsinki Federation for Human Rights plainly declared that “the international community fails to provide an adequate response” to the violence and violation of humanitarian law in Chechnya.<sup>26</sup>

Deaths during this time have not been fully documented. The democracy-oriented organization, Freedom House, reports that 200,000 people have died from the effects of the violence since 1994,<sup>27</sup> while the estimated loss of Russian soldiers reaches at least 20,000 people.<sup>28</sup> These are considered

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<sup>22</sup> ECRE statistics show increasing numbers of Chechen asylum seekers moved into Europe to seek protection after 2001. In 2003 and 2004, Russian asylum seekers, mostly from Chechnya, made up the largest group of asylum seekers in Europe, while in 2005, they were the second largest. <http://www.ecre.org/factfile/statistics.shtml>

<sup>23</sup> HIAS operates a legal clinic for asylum seekers in Kyiv and is the most heavily frequented of UNHCR's partner NGOs.

<sup>24</sup> Office for the Coordination of Humanitarian Affairs in the Russian Federation. 2006 Inter-Agency Transitional Workplan for the North Caucasus. 12 December 2005. Pg. 12.

<sup>25</sup> Bersanova, Zalpa. “Values Stronger than War.” Paper Presentation for Radio Free Europe, 3 August 2004. <http://www.chechnyaadvocacy.org/Zalpa/research%20presentation.pdf>.

<sup>26</sup> International Helsinki Federation for Human Rights. Chechnya: More of the Same: Extrajudicial Killings, Enforced ‘Disappearances,’ Illegal Arrests, Torture. 30 March 2005, Pg. 6.

<sup>27</sup> Freedom House. The Worst of the Worst: The World's Most Repressive Societies 2006. 6 September 2006 <http://www.freedomhouse.org/template.cfm?page=138&report=40www.freedomhouse.org/uploads/WoW/2006/Chechnya2006.pdf>

<sup>28</sup> Gilbert, Steve. “Chechens, Ingush and North Ossetians united in fear of expanded conflict.” Care Canada. 21 September 2004. [http://www.care.ca/field/chechnya/chechnya\\_e.shtml](http://www.care.ca/field/chechnya/chechnya_e.shtml)

relatively conservative approximations. In an open letter to the international community, Said-Emin Ibragimov, the former Minister of Communications in Chechnya, claimed that 250,000 Chechen civilians have been killed.<sup>29</sup>

The population of Chechnya has been up-rooted and dispersed. Between 400,000 and 600,000 people were displaced during the 1994-1996 war; another 600,000 fled from 1999-2003, presumably some for a second time.<sup>30</sup> After the 1999-2000 Chechen War, the population of Chechnya in 2001 was reduced to a third of its previous size, before the fall of the Soviet Union, in 1989.<sup>31</sup> Flight continued after the 2000 cease-fire; through May 2001, the UN reported that more Chechens were leaving Chechnya than returning home.<sup>32</sup> By January 2004, there were 140,000 IDPs in Chechnya and 66,792 in Ingushetia.<sup>33</sup> It is now believed that the population in Chechnya has returned to approximately 1 mn people, but records are unreliable.<sup>34</sup> While the security situation has reportedly improved over the past two years,<sup>35</sup> issues surrounding the displacement of Chechen IDPs within Russia have not yet been resolved.<sup>36</sup>

The Russian Federation has acquired a poor track record for the treatment of IDPs of Chechen origin. Of the hundreds of thousands of ethnic-Chechen refugees during the second war, government migration officials had allegedly provided only 5% with Forced Migrant Status,<sup>37</sup> which designated assistance with housing, job placement, and loans to victims of forced migration and displacement. In areas outside of the North Caucasus, local branches of the Ministry of Interior purportedly refused to register Chechens through the Russian “propiska,” system, restricting their rights to movement, to choose their place of residency, and to access education and healthcare.<sup>38</sup> Chechens still face significant ethnic prejudice in

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<sup>29</sup> Ibragimov, Said-Emin. “Open Letter Re: Human Rights Violation in Chechnya.” Strasbourg, France. 9 June 2006.

<sup>30</sup> Deng, Francis M. “Specific Groups and Individuals Mass Exoduses and Displaced Persons, Report of the Representative of the Secretary-General on internally displaced persons, Profiles in displacement: the Russian Federation.” E/CN.4/2004/77/Add.2. 24 February 2004, Pg. 8.

<sup>31</sup> Office for the Coordination of Humanitarian Affairs. Northern Caucasus Humanitarian Action: An Update. May 2001. The UN Office for the Coordination of Humanitarian Affairs (OCHA) reported 400,000 people in Chechnya in May 2001, whereas 1,270,429 were registered there in 1989 according to a background paper published by UNHCR in 2000 (Iskandarian, Alexander. Background Information On Chechnya. Moscow: UNHCR, 2000). It is believed Chechnya has lost all of its non-Chechen residents, who, in 1989, made up approximately 42% of the population.

<sup>32</sup> Office for the Coordination of Humanitarian Affairs. Northern Caucasus Humanitarian Action: An Update. May 2001.

<sup>33</sup> Deng, Francis M. “Specific Groups and Individuals Mass Exoduses and Displaced Persons, Report of the Representative of the Secretary-General on internally displaced persons, Profiles in displacement: the Russian Federation.” E/CN.4/2004/77/Add.2. 24 February 2004, Pg. 9.

<sup>34</sup> Meeting with UNHCR in Nazran, Ingushetia, on 18 October 2006.

<sup>35</sup> Ibid.

<sup>36</sup> On 29 April 2006, Ramzan Kadyrov, the Chechen Prime Minister, set up a commission to assess the numbers of IDPs still in need of lodging in government Temporary Accommodation Centers (TACs). The commission was established in order to eliminate fraudulent TACs and the misuse of government funds. (Jamestown Foundation. “Kadyrov Finds Fifth Column among Displaced Chechens.” Chechnya Weekly, Volume 7, Issue 17 (April 27, 2006)). During a meeting with UNHCR in Nazran, Ingushetia, on 18 October 2006, UNHCR supported the formation of this commission, but explained that government evaluations of IDPs’ housing situations are not always accurate and impartial.

<sup>37</sup> This percentage is based on the fact that at least 250,000 refugees fled Chechnya during the second war, and that most of these people were ethnic-Chechen. UNHCR reports that 13,232 individuals received force migrant status from 30 September 1999 and 31 December 2000. Some of these individuals were refugees from the first conflict, due to prolonged procedures in granting this status. UNHCR. “UNHCR Paper on Asylum Seekers in the Russian Federation in the Context of the Situation in Chechnya,” February 2003. Pg. 10.

<sup>38</sup> This problem continues today. Gannushkina, Svetlana. On the situation of Chechens outside Chechnya, July 2005 – February 2006. Memorial Human Rights Center. <http://www.memo.ru/eng/memhrc/texts/2006chechinrussia1.shtml>

other parts of Russia, as the 2006 late-summer violence against Chechens in the northern Russian city, Kondopoga, showed.<sup>39</sup>

Beginning in 2002, the Russian government instituted aggressive measures to pressure the return of IDP populations.<sup>40</sup> Declaring that State forces had adequately abated violence in Chechnya, the government urged IDPs to return there from neighboring republics, promising to provide alternative housing options. In July and December 2002, the IDP tent camps were closed despite the objections of humanitarian organizations.<sup>41</sup> Human Rights Watch condemned Russian methods of return and cited intense government pressure on IDPs.<sup>42</sup> In an interview in February 2006, UNHCR representatives in Moscow recalled the “protection crisis” caused by these camp closures.<sup>43</sup>

After the international criticism that these closures caused, the government agreed to cooperate more closely with UNHCR to devise shelter alternatives and to carry out voluntary return.<sup>44</sup> Evidence suggests that incentives proposed were not great enough to prompt mass voluntary return. Humanitarian and human rights organizations continued to condemn the efforts of the Chechen Republic’s Committee on Refugee Affairs and the Federal Migration Services to expedite the return of displaced people.<sup>45</sup>

In mid-2003, the government launched a compensation program for IDP returnees, offering funds to rebuild homes in Chechnya that were destroyed in the war. Funds allotted for reconstruction were denounced as insufficient and difficult to obtain.<sup>46</sup> Memorial Human Rights Network operating on the ground in the North Caucasus, reported that 70-80% of refugees living in Ingushetia were compelled to return to Chechnya without compensation from the government.<sup>47</sup> Local human rights groups discovered that much of the money was absorbed by corrupt bureaucrats overseeing payments.<sup>48</sup> By August 2004, only 8,000 of 88,000 applicants had been compensated.<sup>49</sup>

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<sup>39</sup>Bigg, Claire. “Russia: Kondopoga Violence Continues Unabated.” Radio Free Europe/ Radio Liberty, 6 September 2006. <http://rfe.rferl.org/featuresarticle/2006/09/6cc8626f-be02-4054-957b-d0872dc41157.html>

<sup>40</sup> UNHCR. “UNHCR Paper on Asylum Seekers from the Russian Federation in the Context of the Situation in Chechnya,” February 2003. Pg. 15.

<sup>41</sup> Summary of statement by UNHCR spokesperson Kris Janowski at a press briefing, on 3 December 2002, at the Palais des Nations in Geneva. “Ingushetia: UNHCR’s grave concerns on Aki Yurt camp.” <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=3dec92581&page=news>

<sup>42</sup> Human Rights Watch. Into Harm’s Way: Forced Return of Displaced People to Chechnya. Vol. 15, No.1(D), Human rights Watch Publications, January 2003. <http://hrw.org/reports/2003/russia0103/>

<sup>43</sup> Interview with UNHCR Moscow, 14 February 2006.

<sup>44</sup> In a meeting with UNHCR in Nazran, Ingushetia, on 18 October 2006, UNHCR representatives stated that cooperation with the government had greatly improved after these camp closures.

<sup>45</sup> On 2 October 2003, Amnesty International noted “tactics such as intimidation, harassment, threats of deregistration from official camp lists of IDPs and the curtailment of vital services such as water, electricity and gas supplies were reportedly utilised by the authorities to compel the IDPs to return.” <http://web.amnesty.org/pages/rus-021003-action-eng>

<sup>46</sup> Gannushkina, Svetlana. On the Situation of Residents of Chechnya in the Russian Federation, June 2003—May 2004. Memorial Human Rights Center. Pg. 18

<sup>47</sup> Ibid. Pg. 17. This is the percentage that Gannushkina claims is ineligible for compensation, as the Russian government provides funds only to those whose houses have been determined unfit for reconstruction. During three years, from 2001-2004, the Chechen Republic Committee on Forced Migrants resettled 180,000 people from Ingushetia to Chechnya. It is unknown how many of these returns were voluntary.

<sup>48</sup> Ibid. Memorial Human Rights Center asserts that applicants paid 30-50% of their allotted compensation to bribe government officials in order to obtain the rest of the funds.

<sup>49</sup> OCHA. Chechnya 2005: Consolidated Appeals Process. 11 November 2004.

Meanwhile, Russian counter-insurgency policy allegedly condoned widespread human rights abuses and violations against civilians, in the name of fighting terrorism.<sup>50</sup> Fear of the government police ran as great as that of separatist and bandit groups. The 13,000-14,000 member Chechen police force in place in 2004 carried out notorious “clean-up” operations, known as “zachistki,” all over Chechnya.<sup>51</sup> Meanwhile, the 75,000-100,000<sup>52</sup> Russian forces in the area reportedly provided almost no protection from this violence. Instead, they allegedly profited from the absence of rule of law through narcotics trafficking, prostitution, illegal arms trade, and kidnapping.<sup>53</sup>

The Council of Europe opposed Russian assertions that the conflict in Chechnya was “normalizing.” In a statement on 17 September 2004, the Council of Europe noted enduring insecurity for civilians:

"The number of people killed, wounded and disappeared in Chechnya has declined, but there were still several hundred people killed and missing in 2003 according to various sources. These figures are still shocking and cannot be regarded as part of normalization in Chechnya. In the summer of 2004 – June, July August and September – there has been a clear escalation of violence and political terrorism. Two weeks at the end of August and early September cost the life of more than 500 people in Russia."<sup>54</sup>

The October 2004 election of Alu Alkhanov as Chechen President and the appointment of his government have not alleviated government corruption.<sup>55</sup> The recent accession of Ramzan Kadyrov,<sup>56</sup> son of the late President and former Head of the Presidential Guard, as Prime Minister of Chechnya on 4 March 2006, has fueled political in-fighting.<sup>57</sup>

As former commander of a villainous 'Presidential Guard,' otherwise known as ‘kadyrovtsy,’ numbering several thousand men, Ramzan Kadyrov is reputed for ruling with an “iron fist.”<sup>58</sup> The “kadyrovtsy” have been implicated in abduction, torture, blackmail, and murder. They “have become a byword for brutality,” according to the Norwegian Refugee Council, which also calls Ramzan a “psychopath” in its

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<sup>50</sup> International Helsinki Federation for Human Rights. Chechnya: More of the Same: Extrajudicial Killings, Enforced ‘Disappearances,’ Illegal Arrests, Torture. 30 March 2005. Pg. 4

<sup>51</sup> Kramer, Mark. "The Perils of Counterinsurgency: Russia's War in Chechnya." *International Security* - Volume 29, Number 3, Winter 2004/05, Pg. 10

<sup>52</sup> Ibid.

<sup>53</sup> Kramer, Mark. "Guerrilla Warfare, Counterinsurgency, and Terrorism in the North Caucasus: the Military Dimension of the Russian Chechen Conflict." *Europe-Asia Studies*, March 2005, Vol. 57 issue 2, Pg. 221.

<sup>54</sup> Council of Europe (COE), Parliamentary Assembly, Political Affairs Committee, “The Political Situation in the Chechen Republic: Measures to Increase Democratic Stability in Accordance with Council of Europe Standards,” Doc. 10276, 17 September 2004, Paragraph. 6.

<http://assembly.coe.int/Main.asp?link=assembly.coe.int/Documents/WorkingDocs/Doc04/EDOC10276.htm>

<sup>55</sup> Fuller, Liz. “Chechnya: New Council Points to Divisions in Republic's Leadership” *RadioFreeEurope/ RadioLiberty*. 19 August 2006. <http://www.rferl.org/featuresarticle/2006/08/3414bb14-1324-493e-9f80-5e8d75172339.html>

<sup>56</sup> BBC News. “Kadyrov appointed as Chechen PM.” 4 March 2006. <http://news.bbc.co.uk/1/hi/world/europe/4774262.stm>

<sup>57</sup> The Jamestown Foundation. “Kadyrovtsy and Alkhanovtsy Reportedly Exchange Fire.” *Chechnya Weekly*, Volume 7, Issue 17 (April 27, 2006)

<sup>58</sup> Feifer, Gregory. “Chechnya Rebuilds Amid Atmosphere of Fear.” *National Public Radio*, 31 July 2006. <http://www.npr.org/templates/story/story.php?storyId=5591083>



2005 Global IDP Database Report.<sup>59</sup> However, neither severe governance nor the deaths of Chechen separatist leaders<sup>60</sup> guarantee the security of Chechnya.<sup>61</sup>

Though the “zachistki” mass round-ups have subsided,<sup>62</sup> civilians still note cases in which the police arbitrarily victimize young men, while claiming to rely on “special intelligence” to target its operations.<sup>63</sup> Few external controls are in place to verify that arrests follow proper investigation; subsequently, the detection of “terrorist suspects” often has become based on the likelihood of receiving ransom for a suspect’s release.<sup>64</sup> The UN reports a continued and heavy presence of armed federal and regional forces in Chechnya, amounting to approximately 70,000 military and police.<sup>65</sup>

The extent of persisting human rights abuses in Chechnya (abduction, police brutality, extrajudicial murder, rape) is unclear. Media coverage of Chechnya appears to remain limited by the Russian government.<sup>66</sup> Local human rights and development organizations and legal clinics reportedly struggle against project closure due to actions of the local government.<sup>67</sup> Though fewer civilians report kidnappings and other offenses, NGOs working in the area attribute the decline of reported instances of abuse to civilians’ fear that complaints will lead to targeted government persecution.<sup>68</sup> Chechens in Ukraine corroborate that those who bring complaints to government administration suffer consequences.<sup>69</sup>

It is certain that the situation in Chechnya has not yet normalized. Many people still live displaced, in box tents or temporary accommodation provided largely by UNHCR.<sup>70</sup> The number of Chechens requiring protection from “widespread violence, criminality, and human rights violations” from the conflict in Chechnya totals 847,500,<sup>71</sup> according to the UN.

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<sup>59</sup>Global IDP Database. Profile of Internal Displacement: Russian Federation. Norwegian Refugee Council/Global IDP Project, 14 March 2005. Pg. 26 <http://www.idpproject.org>

<sup>60</sup> On 17 June and 10 July 2006, respectively, Chechen separatist leaders Abdul-Khalim Sadulayev and Shamil Basayev were killed. Doku Umarov, an influential field commander, has now assumed the head of the separatist movement. He has called for the spread of attacks against Russian “occupation.”

<sup>61</sup>On 28 July 2006, the UN downgraded the security phase of the Chechen Republic from V to IV, permitting UN agencies to establish offices in the area. However, on 27 September 2006, UNDSS reported escalating violence in Chechnya and Ingushetia during the week of 20-27 September 2006 (OCHA. Note for File: General Coordination Meeting. Nazran, Ingushetia. 27 September 2006). It is clear that the situation remains volatile.

<sup>62</sup> According to local staff working at NGOs in Ingushetia, mass zachistki no longer take place. However, they say their safety is not yet guaranteed and young men are still at risk for arbitrary abuse.

<sup>63</sup> Discussions with local staff of NGOs in Nazran, Ingushetia, 19 October 2006.

<sup>64</sup> Human Rights Watch. Worse Than a War: “Disappearances” in Chechnya—a Crime Against Humanity. Human Rights Watch Publications, March 2005. Pg. 19.

<sup>65</sup> Meeting with the United Nations Department of Safety and Security (UNDSS) on 18 October 2006.

<sup>66</sup>According to the 05 November 2006 BBC Country Profile on Chechnya, “Media freedom groups have accused Moscow of trying to muzzle independent coverage of the Chechen conflict.” [http://news.bbc.co.uk/2/hi/europe/country\\_profiles/2565049.stm](http://news.bbc.co.uk/2/hi/europe/country_profiles/2565049.stm)

<sup>67</sup>During a coordination meeting at UN Offices in Moscow on 13 May 2006, NGOs reported great difficulty in obtaining government approval to enter certain areas of the region where their projects were located.

<sup>68</sup> Interview with Svetlana Gannushkina from Memorial Human Right Center, 15 February 2006.

<sup>69</sup> Chechen asylum seeker in Ukraine explained that he was followed and threatened after reporting his son’s disappearance and requesting investigation.

<sup>70</sup> UNHCR. “UNHCR Shelter Activities in the North Caucasus.” UNHCR North Caucasus, January 2006.

<sup>71</sup> Office for the Coordination of Humanitarian Affairs (OCHA) in the Russian Federation. 2006 Inter-Agency Transitional Workplan for the North Caucasus. December 2005. Pg. 39.

United Nations agencies in Russia state that they are working closely with the Russian government to stabilize and rebuild necessary infrastructure in the area.<sup>72</sup> Though relief and development organizations look to move forward, insecurity and lack of transparency have suppressed support from the international community.<sup>73</sup> From 2002 to 2004, the Russian Federation has allocated more than \$2.3 billion to the reconstruction of Chechnya; it is believed that only \$350 million actually reached Chechnya by September 2004 due to mismanagement and extortion.<sup>74</sup>

Chechen officials argue that the situation in Chechnya appears to be improving, but human rights organizations are not yet convinced.<sup>75</sup> Hope exists: A July 2006 amnesty extended to Chechen rebels encouraged an end to fighting;<sup>76</sup> construction booms in the Republic have been remarked upon internationally,<sup>77</sup> and NGOs projects in the area progress from humanitarian aid towards sustainable development. According to the UN, reconstruction and development indicate the amelioration of conditions in the Chechen Republic.<sup>78</sup> The insurgency movement is also extremely weak after the losses of leaders in the summer of 2006.<sup>79</sup> However, arbitrary violence and persecution of innocent civilians has yet to cease. Human rights issues remain pressing; desperation and instability continue to drive Chechens from the Russian Federation.

### C. Background on Migration Issues in Ukraine

“We understand that the migrants are not criminals, but we do not have the capacity to spend 1 million Euros on 130 people. It’s a serious problem.”

--Boris Nikolaevich Marchenko,  
Major General, Department of European Integration  
State Border Guards Service of Ukraine

The political and economic circumstances in Ukraine render life for migrants, asylum seekers, and refugees extremely difficult. Transitioning political, social, and economic ideologies, corruption, and changes in government personnel and operations have impeded the advancement of welfare and social services and led to the deep disillusionment of Ukrainian citizens. “Struggling to adapt to an unfamiliar

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<sup>72</sup> Meetings with representatives from OCHA, UNDP, and UNHCR in Moscow, 14 February 2006 and meeting with UNHCR in Nazran, Ingushetia, 18 October 2006.

<sup>73</sup> According to the NRC, corruption prevents the international community from donating funds to Chechnya’s rehabilitation efforts; as a result, support is “modest.” Global IDP Database. Profile of Internal Displacement: Russian Federation. Norwegian Refugee Council/Global IDP Project, 14 March 2005. Pg140 <http://www.idpproject.org>. Organizations in the North Caucasus report “international donor fatigue” and abuse of government rehabilitation funds.

<sup>74</sup> Gilbert, Steve. “Chechens, Ingush and North Ossetians united in fear of expanded conflict.” 21 September 2004. Care Canada. [http://care.ca/field/chechnya/chechnya\\_e.shtml](http://care.ca/field/chechnya/chechnya_e.shtml)

<sup>75</sup> Mite, Valentinas. “Chechen President Touts Improvements, But Rights Groups Disagree.” RadioFreeEurope/RadioLiberty, 7 June 2005. <http://www.rferl.org/featuresarticle/2005/06/1FE07026-AB77-4C1B-86D9-D845B285DA6A.html>

<sup>76</sup> The brother of the new separatist leader, Doku Umarov, surrendered in response to this amnesty, according to Chechen officials. The Moscow Times. “Doku Umarov’s Brother Surrenders” 21 August 2006.

<sup>77</sup> Some experts on Chechnya view the construction boom with great skepticism, labeling new housing “Potemkin villages.” The Jamestown Foundation. “Observers Deconstruct Chechnya’s Construction Boom.” Chechnya Weekly, Volume 7, Issue 23 (June 08, 2006).

<sup>78</sup> In an interview on 14 February 2006, the head of the UN OCHA in Russia stated that international assistance prior to 2005 mainly consisted of humanitarian aid. The reconstruction efforts now underway demonstrate increased security and a more effective partnership with the Russian government.

<sup>79</sup> Meeting with UNDSS in Nazran, Ingushetia, 18 October 2006.

social and economic environment,”<sup>80</sup> Ukrainians are not unlike foreigners, adjusting to a new state. In this tense atmosphere, most Ukrainians do not deem the plight of migrants and asylum seekers pertinent to their lives, or, worse, accuse migrants of burdening the Ukrainian economy and government.<sup>81</sup> Overwhelmed by pressing issues affecting citizens, Ukrainian politicians do not push for tangible improvements to the situations of refugees. Despite the work and advocacy of international organizations and local NGOs involved in migration and asylum issues, deep-set disregard has rendered Ukraine one of the least attractive countries for asylum seekers and refugees in Europe.<sup>82</sup>

This paper considers the situation of Chechens in Ukraine involved in both irregular migration and official asylum processes. Though irregular migrants do not share the same legal rights that asylum seekers do, the distinction between these categories is not always respected in Ukraine. Migration management and asylum systems are inextricably linked, whereby the functioning of one relies upon the functioning of the other.<sup>83</sup> Migration management should protect a country’s asylum system from abusive individuals, but must allow for the adequate protection of refugees.<sup>84</sup> In Ukraine’s case, neither migration management nor asylum procedures have been perfected. Asylum seekers remain at risk for deportation, like irregular migrants, despite written laws. Because they do not trust the asylum system, Chechens, among other groups of foreigners, may choose to remain in Ukraine irregularly, although they have reason to seek asylum in the country. Upon the improvement of Ukraine’s asylum system, the distinction between irregular migrants and asylum seekers will become valid in the country; at present, the significance of these terms is confused in practice.

Migration in Ukraine has long been an extremely political issue. Ukraine is pressured to reduce irregular migration to the west, but must maintain a border flexible enough to host commercial, familial, and historical links with Russia to the east.<sup>85</sup> According to official data, 85,000 irregular migrants were stopped on the borders of Ukraine from 1991-1993;<sup>86</sup> there was no way to register the actual numbers of migrants who entered and exited the country undetected. Consequently, western governments reacted to the implied level of irregular migration through the country. Funding for projects to strengthen border control and asylum procedures surfaced in Ukraine. Various organizations<sup>87</sup> were commissioned by

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<sup>80</sup> Braichevska, Olena, Olena Malynovska, Nancy Popson, Yaroslav Pylynskyi, Blair A. Ruble, and Halyna Volosiuk. *Nontraditional Immigrants in Kyiv*. Washington, D.C.: Woodrow Wilson International Center for Scholars, 2004. Pg. 84

<sup>81</sup> Conversations with Ukrainians from June 2004 to August 2006 show this trend. On numerous occasions, Ukrainian citizens questioned why they should be concerned about migrants’ rights, when their own rights were seemingly not respected by the government.

<sup>82</sup> Human Rights Watch. *On the Margins*. Vol. 12, No. 8(D), Human Rights Watch Publications, November 2005. The researcher’s conversations with asylum seekers in Ukraine have exposed dissatisfaction and alleged abuses.

<sup>83</sup> UNHCR points out that mixed migratory movements are increasingly prevalent and require cooperation between migration and asylum agencies in order to protect the sovereign state and the individual. (UNHCR. “Addressing Mixed Migratory Movements: A 10-Point Plan of Action.” June 2006)

<sup>84</sup> UNHCR states that “Refugee Protection and migration management are distinct yet complementary activities,” acknowledging that some individuals in need of international protection move irregularly out of necessity. (UNHCR. “The High Level Dialogues on International Migration and Development: UNHCR’s observations and recommendations.” 28 June 2006)

<sup>85</sup> International Organization for Migration. *Migration Trends in Eastern Europe and Central Asia*. Geneva: International Organization for Migration, 2002. Pg. 149

<sup>86</sup> Malynovska, Olena. *International Migration in Contemporary Ukraine: Trends and Policy*. Global Migration Perspectives, No.14 Geneva: Global Commission on International Migration, 2004.

<sup>87</sup> Such organizations include the International Organization for Migration, North Atlantic Treaty Organization, and private companies, like Raytheon.

North American and European governments to study and assist migration and border control, while UNHCR focused on working with the government to develop asylum policies and procedures.

The responsibility for managing migration flows in and through Ukraine spans multiple government agencies. The Cabinet of Ministers of Ukraine oversees the general progress of the migration management system.<sup>88</sup> It determines the annual fiscal budgets of the agencies involved, and monitors the effectiveness of the migration legislation. Ukraine's migration management system focuses largely on preventing irregular migration to Europe,<sup>89</sup> as the Ukrainian government receives technical and financial support from EU and US donors.

The Ministry of Interior (MoI) coordinates activities to stem irregular migration within the territory of Ukraine through various departments and units.<sup>90</sup> It cooperates with other government agencies to work effectively, namely the State Border Guard Service of Ukraine (SBGS), Security Service of Ukraine (SBU), the State Committee on Nationalities and Migration (SCNM), and oblast and city Migration Services (MS). The SBGS oversees approximately 7,000 kilometers of borderland, up to 30 kilometers within the territory of Ukraine.<sup>91</sup> It operates over 200 checkpoints and patrols the green border, regulating migration flows foremost of all agencies. It is responsible for notifying all apprehended irregular migrants of their right to apply for asylum in Ukraine. The SBU analyzes information from various agencies in order to uncover illicit smuggling and trafficking routes and to combat cross-border crime.<sup>92</sup>

Two agencies administer proceedings and decisions on refugee and asylum issues. Ukrainian Migration Services registers asylum seekers in Ukraine, prepares primary recommendations on processing asylum applications, and keeps records of asylum seekers and refugees in Ukraine.<sup>93</sup> It receives and assesses asylum applications transferred from the SBGS and works with the MoI and SBU to conduct background checks on all asylum applicants. This information is passed to the State Committee on Nationalities and Migration. The SCNM makes final decisions on the approvals and rejections of asylum status, and conducts the appeals process.

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<sup>88</sup> Prybytkova, I.M. Analysis of Migration Situation in Ukraine: At the Base of State Statistics and Agency-Specific Statistical Data. Ukraine: International Organization for Migration, 2004.

<sup>89</sup> To appease European concerns and alleviate international pressures, the Presidential Decree *On Measures to Intensify Combating Illegal Migration* was signed by President Kuchma on January 18, 2001. The Decree approved the *Program for Combating Illegal Migration for 2001-2004*, which included many administrative and legislative revisions to Ukraine's effort to control migration through the country. Ukrainian authorities were requested to address irregular migration more effectively, through the tightening of border control, restricting movement by the issuance of visas, and revising refugee legislation.

<sup>90</sup> MoI departments and units dealing with migration include: the Department on Citizenship, Foreigners, and Registration of Foreigners, the Department of Organized Crime, the Department on Combating Trafficking in Humans, and the Counter-Smuggling Unit. EuroBorders Ltd. An Assessment of the Migration Management Capacity of the Government of Ukraine. Kyiv: International Organization for Migration, 2006.

<sup>91</sup> Interview with Major-General Marchenko, Department of European Integration, State Border Guard Service of Ukraine, on 4 April 2006.

<sup>92</sup> EuroBorders Ltd. An Assessment of the Migration Management Capacity of the Government of Ukraine. Kyiv: International Organization for Migration, 2006.

<sup>93</sup> This information was gathered through work experience at the Hebrew Immigrant Aid Society (HIAS) in Kyiv, where the researcher assisted migration lawyers to address the needs of asylum seekers.

Though migration management and asylum systems have developed rapidly over the past 15 years, the system must be propelled forward still. In interviews, Ukrainian authorities agree that the treatment of migrants and asylum seekers must be improved.<sup>94</sup>

*Problem areas in Ukrainian Migration Management and Asylum Systems:*

1. The Government of Ukraine fails to address migration management from a long term or comprehensive perspective.<sup>95</sup> The responsibility for managing migration flows in and through Ukraine spans multiple government agencies, and coordination is not sufficient.<sup>96</sup> There is lack of political will to improve migration management and asylum systems, specifically the reception, accommodation and return of migrants in Ukraine, as many other issues weigh upon Ukrainian governance. The improvement of migration management has depended largely on EU and US funding and technical support, without enough government investment.<sup>97</sup> All of this affects the asylum system in Ukraine.
2. Ukrainian Migration Services are paralyzed by constant restructuring, disorganization, and inadequate funds.<sup>98</sup> After revisions to the law *On Refugees* in 2001, only 7% of total asylum applications were processed from the summer of 2001 to the end of 2003.<sup>99</sup> For a period of 6 months in 2005-2006, the Kyiv City Migration Services could not provide essential registration papers to asylum seekers because its stock of blank forms had run out.<sup>100</sup>
3. Government assistance to asylum seeker and refugee integration require immediate development:
  - The government reportedly does not adequately explain the asylum process.
  - It is not clear how to access social services supposedly provided to asylum seekers.
  - No government programs exist for post-trauma counseling, job training, or language help to ease integration.
  - Locating affordable housing presents serious problems for asylum seekers.
  - The Ukrainian government does not assume proper responsibility in integrating asylum seekers and refugees; instead, it relies heavily on UNHCR and its partner NGOs for this.
  - While donor projects focus mainly on preventing irregular migration from Ukraine westward, the treatment of irregular migrants, asylum seekers and refugees within Ukraine is not adequately considered.
4. Police units patrol various Ukrainian cities to apprehend irregular, unregistered foreigners<sup>101</sup> in the name of national security, but also reportedly apprehend asylum seekers with official and

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<sup>94</sup> When asked what improvements the asylum system in Ukraine needed, a MS representative shouted, “System? What system?? We don’t have a system!”

<sup>95</sup> Malynovska, Olena. “International migration in contemporary Ukraine: trends and policy.” *Global Migration Perspectives*, No. 14 Geneva: Global Commission on International Migration, October 2004. Pg. 22.

<sup>96</sup> EuroBorders Ltd. *An Assessment of the Migration Management Capacity of the Government of Ukraine*. Kyiv: International Organization for Migration, 2006

<sup>97</sup> Discussions with the International Organization for Migration, 30 May 2006.

<sup>98</sup> Conversation with Natalia Naumenko and Elena Us, Main Specialists of Kyiv Regional Migration Services, 23 March 2006.

<sup>99</sup> Uehling, Greta. “Irregular and Illegal Migration through Ukraine.” *International Migration*, Vol. 42 (3) Oxford: Blackwell Publishing Ltd., 2004. Pg. 87.

<sup>100</sup> Kyiv City Migration Services ran out of printed ID forms to register asylum seekers from the end of October 2005 to the end of April 2006, which the researcher noted while working at HIAS. Asylum seekers were registered on the Migration Services computer system, but had no documents to prove their status when stopped on the street by authorities.

<sup>101</sup> Interview with Yaroslav Stanislavovich Zgerskee, Senior Inspector of the Department of Illegal Migration, and Yaroslav Dmitriovich Svorak, Head of Department of Illegal Migration, Ministry of Interior, Department on Citizenship, Registration and Foreigners, 05 April 2006.

legal identification documents.<sup>102</sup> Many asylum seekers recount being stopped and detained by local police units for one or two days. They claim to be routinely forced to pay bribes and sometimes to be beaten in detention.<sup>103</sup>

5. The Ukrainian asylum system recognizes only 3% of its caseload as refugees;<sup>104</sup> decisions are not clearly justified on objective bases.<sup>105</sup> The Ukrainian law *On Refugees* does not require asylum authorities to cite country of origin information in evaluating asylum claims. Therefore, approvals or rejections of asylum claims are not always directly substantiated by in-depth research.
6. Ukrainian asylum procedures can last up to 5 years, during which time the government provides no social assistance. If refugee status is granted, an individual receives a one-time payment of 17 Hrivna (approximately 3 US Dollars). The legal assistance UNHCR provides with Ukrainian asylum procedures is in high demand, though it is limited.

#### D. International Legal Obligations to Protect Chechen Asylum Seekers

“In 1995, there were masses of people entering the country who needed help. What could we do but help them? Ukraine is not a rich country, but we did what we could. We granted Chechens and Abkhazians legal status so that they could live with some sort of stability. Then asylum procedures went through restructuring and temporary protection for Chechens was revoked.”

--Olena Malynovska,  
Migration Expert<sup>106</sup>

National Institute for International Security

According to its 2001 law *On Refugees*, Ukraine undertakes the responsibility to protect non-citizens with well-founded fears of persecution owed to race, religion, nationality/citizenship, membership of a particular social group or political opinion.<sup>107</sup> It prohibits the expulsion or forcible return of individuals who face persecution for these reasons, as well as those who may suffer torture, degrading treatment or punishment subsequent to return.<sup>108</sup> Despite well-established evidence that Chechen asylum seekers may have survived targeted threats to life based on nationality or social group,<sup>109</sup> as well as the strong

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<sup>102</sup> This was noted on numerous occasions while working at HIAS from December 2005-May2006. Asylum seekers in Kyiv turned to HIAS after having been abused by the government to register complaints and seek justice, as HIAS represents the legal interests of asylum seekers and refugees in procedures with the Ukrainian government on behalf of UNHCR.

<sup>103</sup> Confidential conversations with asylum seekers from December 2005-May2006 revealed a number of such incidences.

<sup>104</sup> Iliinikh, O. “State Committee on Nationalities and Migration Statistics.” June 2006.

[http://www.scnm.gov.ua/ua/a?migration\\_stat](http://www.scnm.gov.ua/ua/a?migration_stat)

<sup>105</sup> Conversations with UNHCR in Kyiv, 4 September 2006.

<sup>106</sup> Olena Malynovska was involved in founding Ukraine’s refugee policies and procedures.

<sup>107</sup> Law *On Refugees*, Article 1, Paragraph 1. This corresponds to the conditions foreseen in the international 1951 Convention relating to the Status of Refugees.

<sup>108</sup> Law *On Refugees*, Article 3, Paragraph 2: “No refugee may be expelled or forcibly returned to countries where he/she may suffer torture and other severe, inhuman or degrading treatment or punishment, or to such country from where the refugee may be expelled or forcibly returned to the countries where his or her life or freedom is threatened for reasons of race, religion, ethnicity, nationality, membership of a particular social group or political opinion.” Ukraine is also responsible under the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the 1950 European Convention on Human Rights and Fundamental Freedoms not to return individuals at risk for torture.

<sup>109</sup> Asylum claims heard while working at HIAS Kyiv frequently showed that young Chechen men as a social group were at threat of persecution. There were also former officials of the Chechen government under President Mashkadov who allegedly fled Chechnya because of their political affiliation, and Chechens who reported abuses from Russian officials because of their nationality. These claims, upon substantiation, give cause for Ukraine to provide refugee protection to these individuals.

possibility that Chechen returnees may endure punishment upon re-entry to Russia,<sup>110</sup> Ukrainian authorities show reluctance to uphold international obligations, investigate the asylum claims of Chechen asylum seekers thoroughly, and provide Chechen asylum seekers refuge in Ukraine.

Ukraine's SCNM maintain that Chechen asylum seekers do not fall under Ukrainian refugee law.<sup>111</sup> Officials argue that Chechens are "war refugees," victims of indiscriminate violence, and therefore ineligible for protection under Ukrainian refugee legislation. Ukraine has not developed a system of complementary protection, which incorporates indiscriminate violence and war within reasons to grant asylum applicants international protection, though laws have been drafted.<sup>112</sup> Still, it should be pointed out that countries in the European Union provide Chechen refugees protection from "individual persecution" under the 1951 Convention of Refugees.<sup>113</sup> Many that do not grant Chechens "full" refugee status provide them complementary protection as victims of indiscriminate violence and war instead.<sup>114</sup>

Without properly understanding the criteria which determines cases "excluded" or "manifestly unfounded," Ukrainian asylum authorities drive many Chechens into an irregular position by misapplying these clauses. As discussed later in this paper, the Ukrainian asylum authorities do not suitably investigate reasons for preventing the admission of asylum applicants into extended refugee determination procedures.<sup>115</sup> Although adequate analysis is required by international law, it is not completed, and Chechen asylum seekers are refused from asylum procedures without due course.

By law, individuals who have a well-founded fear of persecution deserve protection as refugee in Ukraine. International laws, which Ukraine has ratified, underscore the essentiality of protecting human life. At this point in time, the international community largely agrees that Chechen asylum seekers have reason to claim asylum, based on trustworthy research and information. Asylum seekers who may undergo abuse or torture upon return to their countries of origin are safeguarded from deportation under international law.<sup>116</sup> Ukraine must further work towards fulfilling its international obligations by aligning its asylum practices with those of the international community, particularly in relation to Chechen asylum seekers.

1. Aware of the obstacles of obtaining asylum in Ukraine, increasing numbers of Chechens moved further into Europe to seek greater security and asylum after 2000. In 2003 and 2004, Russian

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<sup>110</sup> During interviews, Chechens in Ukraine reported planning trips home discreetly and upon necessity. They believed that if the Chechen government became aware of their return to Chechnya, they would be subject to detention, questioning, and abuse.

<sup>111</sup> Interview with Victoria Schmidt, Deputy Head of Department and Head of the Migration Section of the State Committee on Nationalities and Migration, on 30 November 2005.

<sup>112</sup> Vorontsova, Olga, Ed. Supplementary/ Complementary Forms of Protection. Kyiv: UNHCR Regional Representation for Ukraine, Belarus, and Moldova. 2004. Pg. 8. In a meeting with UNHCR on 26 October 2006, it appeared that the ratification process of drafted legislation was progressing.

<sup>113</sup> Austria, France, and Belgium are the countries with the highest recognition rates for Chechens under the 1951 Convention. Norwegian Refugee Council. Whose Responsibility? Protection of Chechen Internally Displaced Persons, Asylum Seekers and Refugees. May 2005. Pg. 44.

<sup>114</sup> Ibid.

<sup>115</sup> Conversation with UNHCR Kyiv, 15 August 2006. Discussed in the section on Chechen Access to Asylum in Ukraine.

<sup>116</sup> Ukraine has ratified international legal instruments, such as the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention on Human Rights, which forbid the return of individuals at risk of torture.

asylum seekers, mostly from Chechnya, made up the largest group of asylum seekers in Europe, while in 2005, they were the second largest.<sup>117</sup>

### E. Entry of Chechen migrants into Ukraine

“Legally?? How would I come legally? There is absolutely no way to enter through the border without paying bribes. Those times are gone.”

--40 year-old male asylum seeker

As citizens of the Russian Federation, Chechens have the right to enter Ukraine for 90-days without needing visas.<sup>118</sup> Chechens mainly travel through Rostov-on-Don, Russia, into Eastern Ukraine,<sup>119</sup> crossing the border by train, taxi, or foot. According to members of the Chechen community in Ukraine, most Chechens who choose to stay in the country have connections that facilitate their stay. Those who plan to penetrate the western border into the EU often stay in Mukachevo, in the Carpathian Mountains contiguous to Slovakia and Hungary, or Lviv, 40 kilometers away from the Polish border.<sup>120</sup>

In recent years, the Chechen community in Ukraine reports that it has become very difficult for Chechens to enter Ukraine from Russia legally.<sup>121</sup> They allege that border officials in Ukraine systematically refuse entry to ethnic Chechens at the eastern border of the country, in violation of their rights as Russian citizens, or require them to pay expensive bribes for entry.<sup>122</sup> Chechens assert that the use of smugglers is on the rise.

Ukrainian authorities have observed an increase in Chechens' use of smugglers since 2004. According to official information from the SBGS Administration, “Illegal trans-border smuggling of migrants from Russia (Chechens), Uzbekistan, Georgia, Armenia, Moldova and other CIS countries is now controlled by organised criminal groups that are engaged in trafficking in persons.”<sup>123</sup> An SBGS official commented:

“There are people in Chechnya who have maps and show [Chechen migrants] where they will stay, where they will eat, their travel path...they plan everything. This is because if people just try to cross the [green] border simply on their own, they will surely be apprehended by border guards or police.”<sup>124</sup>

However, the SBGS cannot determine the extent to which smuggling operations are successful. Chechens in Nazran, Ingushetia, explained that most Chechens traveling west travel first to Ukraine.<sup>125</sup>

1. A representative of the State Border Guard Service of Ukraine (SBGS) confirmed that 8% of 18,000 irregular migrants apprehended while transiting Ukraine in 2005 were from Russia, the

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<sup>117</sup> ECRE Statistics, <http://www.ecre.org/factfile/statistics.shtml>

<sup>118</sup> Ministry of Foreign Affairs of Ukraine, <http://www.mfa.gov.ua/mfa/en/509.htm>

<sup>119</sup> Travel trends were observed over the course of the research.

<sup>120</sup> This has been noted by NEEKA NGO on 17 August 2006.

<sup>121</sup> Research shows that some Chechens are now traveling to Ukraine through Belarus.

<sup>122</sup> In a confidential conversation, a Chechen permanent resident said that bribes to enter the Ukraine ran from 50-200 USD.

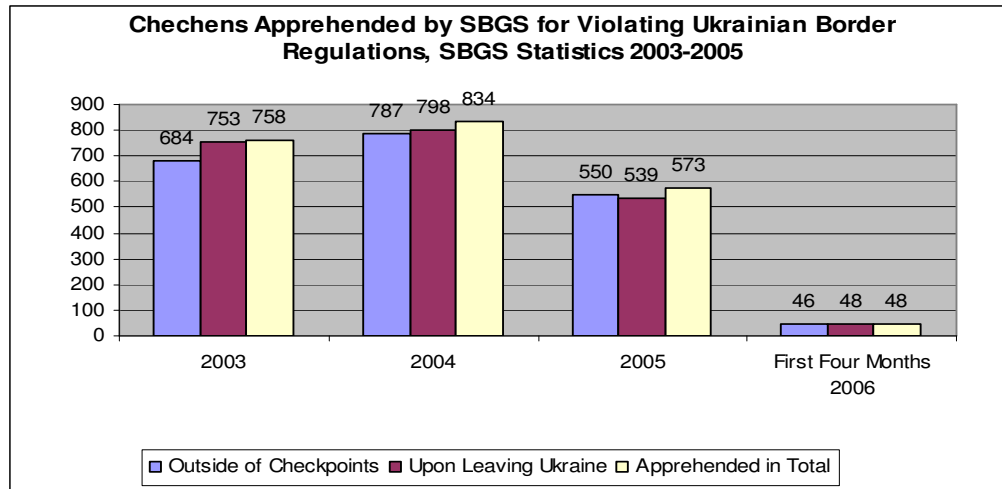
<sup>123</sup> The Administration of the State Border Guard Service of Ukraine. “Overview of illegal migration at the state border of Ukraine in the first half of 2004.” Courtesy of the International Organization for Migration.

<sup>124</sup> General-Major Marchenko, Department of European Integration, State Border Guard Service of Ukraine, 4 April 2006.

<sup>125</sup> Discussions with local staff at NGOs in Nazran, Ingushetia, 19 October 2006.



majority from Chechnya.<sup>126</sup> These were mainly people who are crossing the state border illegally, not registering their entry through checkpoints. The number of Chechens apprehended for crossing into the country illegally has decreased since 2004, when it was at its height. In 2004, the SBGS apprehended 834 Chechens, meanwhile in 2005, only 573 Chechens were apprehended.<sup>127</sup>



- When confronted with claims that the SBGS regularly refuse Chechens at the border, officials were unable to refute this allegation. The numbers of Chechens refused entry at checkpoints along the Ukrainian-Russian border have declined from 1,447 individuals in 2004 to 602 individuals in 2005.<sup>128</sup> The SBGS maintains that this reduction results directly from greater popular abidance to border regulations. However, it is possible that the reduction in refusals relates to increased instances of human smuggling amongst ethnic Chechens into Ukraine, corruption along the border,<sup>129</sup> or generally undocumented occurrences.

Number of Instances Recorded by State Border Guard Service	2003	2004	2005	First Four Months 2006
<b>Chechens Refused Entry into Ukraine</b>	64	1447	602	53
<b>Russian Citizens (mostly Chechens) Detained for 3 Days</b>	316	885	1083	140
<b>Russian Citizens (mostly Chechens) Detained for 10 Days</b>	621	369	423	46
<b>Russian Citizens (mostly Chechens) Deported from Ukraine</b>	620	785	704	91

<sup>126</sup>This information is taken from an interview with General-Major Marchenko, Department of European Integration, State Border Guard Service of Ukraine, on 4 April 2006.

<sup>127</sup> SBGS statistics differ according to their sources, but indicate similar trends. During an interview, one source claimed that of the 2357 Russians apprehended in 2004, and 1452 Russians apprehended in 2005, the vast majority in both cases were Chechen. These figures exceed the numbers recorded in printed materials. For all SBGS-labeled graphs, the research sources printed information supplied by the SBGS, courtesy of P. A. Shisholin, First Deputy Head of the State Border Guard Service of Ukraine: "Statistics related to citizenship of people refused entry to Ukraine at the Ukrainian-Russian border from 2003-2005."

<sup>128</sup> SBGS statistics, "Statistics related to citizenship of people refused entry to Ukraine at the Ukrainian-Russian border from 2003-2005."

<sup>129</sup> International Center for Migration and Policy Development. Overview of Migration Systems in the CIS Countries. Vienna: ICMPD. September 2005. Pg. 282.

## F. Reception of Chechen Migrants into Ukraine

“Russian citizens are not troublesome for Ukraine. They have 3 months to be in the country legally [without a visa] and generally abide by legislation.”

--Yaroslav Dmitryvich Svorak  
Head of Unit on Illegal Migration  
MoI Department of Citizenship, Foreigners, and Registration

“There are about five Chechen families in Lviv, and already they have established a mafia. You don’t want to mess with Chechens.”

--40 year-old Ukrainian man

Ukraine does not currently grant temporary or complementary protection to Chechens asylum seekers. Most Chechen migrants in Ukraine believe that there is little chance of obtaining refugee status in the country, and therefore do not approach government Migration Services for assistance.<sup>130</sup> Instead, they may seek other ways to reside in the country.

1. The law *On Immigration*<sup>131</sup> sets quotas for foreign immigration of specialized workers, investors of 100,000 USD or more, those who have family in the country, and refugees living in Ukraine for more than 3 years.<sup>132</sup> It also establishes the issuance of permanent residence permits to those who have Ukrainian spouses, act as guardians to Ukrainian citizens, have territorial ties to Ukraine, or whose residence in the country presents specific advantages. These can last for up to two years.
2. According to the instructions *On Ways to Extend the Stay of Foreigners and Stateless Persons in Ukraine*,<sup>133</sup> a foreigner is able to lengthen the duration of visa limitations based on valid reasons. The individual must explain the reasons why the duration of stay should be lengthened, supporting the request with relevant documentation. The foreigner must have entered the country legally, and present a passport, visa, and registration. The extension, which is issued through the Department of Immigration, Citizenship and Registration of the Ministry of Interior, will last for the period of the original visa, which in the case of Chechens is 90 days. It is therefore required to continually apply for this extension.

In the past, it was possible to obtain right to remain in Ukraine “unofficially” as well through the MoI.<sup>134</sup> However, Chechens claim to experience unusual difficulty in obtaining visa extensions and residence permits since 2001.<sup>135</sup> In October 2004, UNHCR noted that government willingness to approve Chechen applications for lengthened stay had decreased.<sup>136</sup>

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<sup>130</sup> Numerous conversations with Chechen informants.

<sup>131</sup> *On Immigration*, approved by President Kuchma on June 07, 2001.

<sup>132</sup> *On Immigration*, Article 4.

<sup>133</sup> *Instructions for Extending the Period of Stay of Foreigners and Stateless Persons in Ukraine*, approved by the Ministry of Interior on December 1, 2003.

<sup>134</sup> UNHCR Regional Representative Office of Ukraine, Belarus and Moldova. “The Situation of Refugees, Asylum Seekers and Migrants of Chechen Origin in Ukraine.” October 2004.

<sup>135</sup> Conversation with Chechen asylum seeker who arrived in Ukraine in 2003 on 11 May 2006.

<sup>136</sup> UNHCR Regional Office in Ukraine, Moldova, and Belarus. “The Situation of Refugees, Asylum Seekers and Migrants of Chechen Origin in Ukraine.” October 2004. Pg. 2.

The Ministry of Interior's Department on Citizenship, Foreigners, and Registration deny that Chechens have problems registering or prolonging their stay in Ukraine.<sup>137</sup> At the same time, the MoI has detained significant numbers of Russian citizens over the past few years for violating Ukrainian migration laws. From 2003-2005, the MoI detained approximately 47,000 irregular migrants.<sup>138</sup> Russian citizens made up the second largest group of those detained.<sup>139</sup> In 2005, 2,808 Russians were detained for violating their term of stay. Of these individuals, 2,510 agreed to return to Chechnya voluntarily, while 160 were forcibly deported.<sup>140</sup> In the first four months of 2006, 684 Russian citizens were detained out of 2,712 illegal migrants.<sup>141</sup> It is unclear how many of these individuals were Chechen.

3. Up to 75% of Chechens entering Ukraine forgo official registration with government authorities.<sup>142</sup>
4. Chechens who wish to reside legally in Ukraine, while avoiding formal residence registration with Ukrainian authorities, note having done so in two ways:<sup>143</sup>
  - Legitimately: Crossing the Ukrainian/ Russian border every 90 days to re-register legally in Ukraine, as the Ukrainian-Russian bi-lateral agreement dictates. This is relatively risky and costly, as many Chechens are prevented from re-entering Ukraine, required to pay large bribes to do so, or fear being handed over to Russian police.
  - Fraudulently: Buying migration cards from train conductors traveling from Russian to Ukraine at the Kyiv central train station every three months. These cards have been stamped by Border Guards and serve to legalize an individual's status. They reportedly cost 30 USD each.

## G. Chechen Access to Asylum in Ukraine

"Chechens do not get refugee status in Ukraine because they are citizens of Russia and are not qualified according to Ukrainian policy. There are other problems, too, that influence the situation, like Ukrainian-Russian relations and terrorism."

--Victoria Schmidt<sup>144</sup>

Deputy Head of Department, Head of Migration Section  
State Committee on Nationalities and Migration

The majority of Chechens are not admitted into substantive asylum procedures, rejected by the Ukrainian government as "manifestly unfounded" or "excluded" as a threat to national security, without adequate investigation of their claims.

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<sup>137</sup> Interview with Yaroslav Stanislavovich Zgerskee, Senior Inspector of the Department of Illegal Migration, and Yaroslav Dmitriovich Svorak, Head of Department of Illegal Migration, in Kyiv on 5 April 2006.

<sup>138</sup> This figure includes approximately 17000 irregular migrants in 2003, 15000 in 2004, and 15000 in 2005.

<sup>139</sup> According to a phone interview with Yaroslav Stanislavovich Zgerskee, Senior Inspector of the Department of Illegal Migration, on 16 May 2006, 9128 Russian citizens were detained over the three-year period.

<sup>140</sup> Ibid.

<sup>141</sup> Ibid.

<sup>142</sup> Chechens in Ukraine reported various percentages related to the number of Chechens who register for asylum; this percentage was heard most often.

<sup>143</sup> This is in reaction to the difficulty and complications of formal registration, according to a Chechen asylum seeker, during an interview on 7 April 2006.

<sup>144</sup> Interview on 30 November 2005.

**Manifestly Unfounded:** The majority of Chechen asylum claims are determined manifestly unfounded in Ukraine, which indicates the over-application of this legal mechanism.<sup>145</sup> The Manifestly Unfounded Resolution was adopted to ensure that asylum systems are not clogged by unqualified asylum applicants.<sup>146</sup> While European States employ this evaluation to accelerate asylum procedures of particular cases, their asylum systems are still obligated to review each case individually and objectively. Authorities should confirm that there is “no substance” to an applicant’s claim of persecution or that an applicant has deliberately deceived asylum procedures in order to apply this resolution and expedite the processing of an asylum claim.<sup>147</sup>

In Ukraine, more than half manifestly unfounded cases are immediately rejected from asylum procedures for bureaucratic reasons without adequate investigation. Under Ukrainian law, an asylum seeker is required to pass a questionnaire and interview process proving his claim is founded within 15 working days after submitting an initial registration request in order to be further considered for refugee status.<sup>148</sup> Unfortunately, the government does not have capacity or funds to provide all asylum applicants these tests; asylum applicants miss their opportunity to enter into substantive asylum procedures.<sup>149</sup> They are excluded by default, not for reasons acceptable vis-à-vis international norms. This suggests that Ukrainian asylum authorities use the judgment “manifestly unfounded” to avoid fully processing an asylum applicant’s claim.<sup>150</sup>

**Excluded:** A fear exists in Ukraine that Chechen asylum seekers may provoke the advent of terrorism to the country or increase organized crime. While a state can refuse to provide an asylum seeker protection in order to conserve national security under Article 1F of the 1951 Convention on Refugees,<sup>151</sup> Ukrainian authorities appear to interpret this too liberally and exclude significant numbers of Chechen asylum applicants. The Article 1F is meant to safeguard host countries from accepting perpetrators of serious criminal acts as refugees. The crimes understood in this so-called “exclusion” clause are defined in international legal instruments, and host countries must have a high standard of proof against an applicant in order to apply this jurisdiction.<sup>152</sup> Chechen asylum applicants do not generally undergo stringent investigation in Ukraine.<sup>153</sup> Despite their potential involvement in separatist movements, the seriousness of their crimes is often not proven with adequate evidence nor is the threat they present to national security.<sup>154</sup> They are therefore excluded from protection without due process.

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<sup>145</sup> Correspondence with UNHCR Kyiv on 4 September 2006 indicates that over 50% of Chechen asylum claims are determined manifestly unfounded.

<sup>146</sup> Resolution on Manifestly Unfounded Applications for Asylum, London, 30 November and 1 December 1992.

<sup>147</sup> Ibid.

<sup>148</sup> According to the Law on Refugees (Art. 12) and the State Committee on Nationalities and Migration Instruction on Refugee Status Determination adopted on 29.04 2002.

<sup>149</sup> Asylum applicants must pass through procedures to prove their cases is well-founded within 15 days of registration. Due to difficulty in finding translators for questionnaires and interviews, asylum applicants are unable to meet these requirements and their cases are determined manifestly unfounded by default.

<sup>150</sup> According to UNHCR Kyiv, Migration Services appear to be taking substantive decision (requiring detailed assessment under article 10 of the Ukrainian law On Refugees) within this 15-day period.

<sup>151</sup> This Article states that provisions of the convention should not apply to those who have committed crimes against peace, war crimes, or crimes against humanity. Recently, counties account for terrorism as a “crime against humanity.”

<sup>152</sup> UNHCR. Addressing Security Concerns without Undermining Refugee Protection. November 2001.

<sup>153</sup> This was noted by the researcher while working at HIAS.

<sup>154</sup> Written correspondence with UNHCR Kyiv, 14 August 2006.

Chechen asylum seekers are considered of concern to UNHCR while undergoing government procedures and appeals.<sup>155</sup> As the refugee processes in Ukraine can take 1 to 5 years,<sup>156</sup> UNHCR carries out a legal assessment for each case, to determine whether an individual's case warrants legal support in applying for asylum in Ukraine. This procedure intensifies advocacy for certain asylum seekers in Ukraine applying to the Ukrainian Migration Services. Because of UNHCR's position<sup>157</sup> on Chechen refugees and asylum seekers, Chechens normally qualify for UNHCR legal assistance, except in cases where the exclusion clause may apply.<sup>158</sup>

UNHCR attempts to limit refoulement and to supplement Ukrainian government protection for vulnerable cases, such as those of Chechens. UNHCR cooperates with the Chechen community, whose members bring violations against Chechens to the organization's attention. Chechens asylum seekers who register with UNHCR NGO partners receive letters which confirm they are receiving legal assistance from UNHCR. These letters are not legal documents, however, and have been questioned by the government.<sup>159</sup> UNHCR notes that their assistance to Chechen asylum seekers remains limited.<sup>160</sup>

Chechens who register with these NGOs schedule follow-up interviews in order to record their asylum claims in greater detail. HIAS, UNHCR's NGO partner in Kyiv, reports that approximately half of the Chechens who register with UNHCR through their offices do not return for extended interviews, although their appointments are scheduled.<sup>161</sup> It is believed that these people either return to Russia because they cannot afford to stay in Ukraine until their interview dates (usually scheduled one month after the registration date), or move further west to attempt to cross into the EU.<sup>162</sup> They see little hope in waiting through asylum procedures in Ukraine.

1. As of 1 June 2006, the State Committee on Nationalities and Migration reported 133 official refugees from Chechnya in Ukraine.<sup>163</sup> The actual number of Chechens in Ukraine is estimated at 2,500-4,500.<sup>164</sup> This figure includes official refugees, asylum seekers, irregular migrants, registered residents, and citizens.
2. From the beginning of 1996 to 1 March 2006, 1,428 Chechen primary refugee applicants requested asylum in Ukraine.<sup>165</sup> This number does not include those who received temporary

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<sup>155</sup> Many Chechen asylum seekers consider UNHCR assistance essential to their protection in Ukraine.

<sup>156</sup> This was noted by the researcher while working at HIAS.

<sup>157</sup> UNHCR has a number of position papers on asylum seekers from Chechnya, including the UNHCR Paper on Asylum Seekers from the Russian Federation in the Context of the Situation in Chechnya, February 2003, and UNHCR Position Regarding Asylum Seekers and Refugees from the Chechen Republic, Russian Federation, October 2004. This position is still held according to UNHCR.

<sup>158</sup> According to a meeting with UNHCR in Kyiv, 26 October 2006.

<sup>159</sup> In a 2005 report, Human Rights Watch stated that UNHCR had negotiated agreements with the Ukrainian government so that carriers of these documents would not be refouled or detained. (Human Rights Watch. On the Margins. Vol. 12, no. 8(D), November 2005. Pg 27). However, this is not the case. UNHCR's letters are not legal documents in Ukraine and therefore not always effective, particularly outside of Kyiv.

<sup>160</sup> Conversation with UNHCR Kyiv, 4 September 2006.

<sup>161</sup> This was noted by the researcher while working at HIAS.

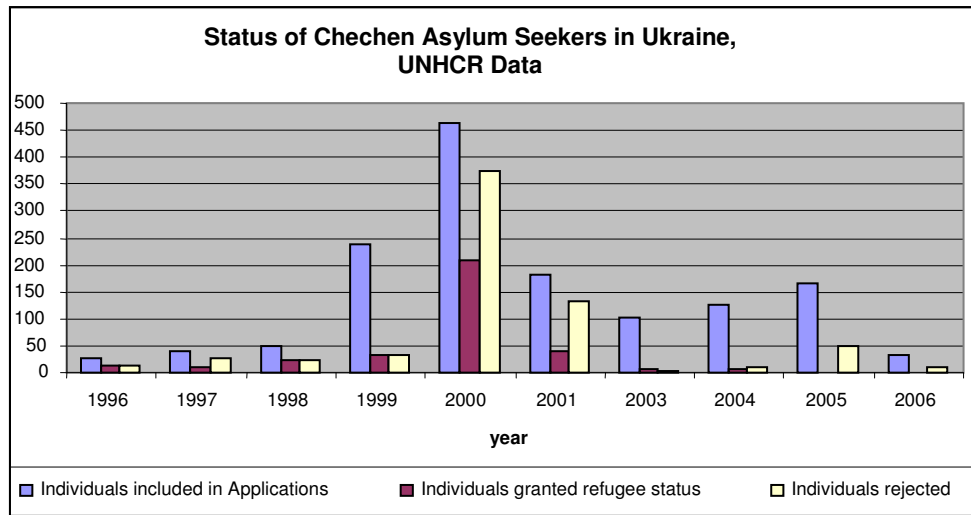
<sup>162</sup> Ibid.

<sup>163</sup> Of 2,338 refugees in Ukraine, 133 are Chechen. The number dropped from January 2006, when there were 155 Chechen refugees, to June 2006. Ilyinikh, O. Statistics. State Committee on Nationalities and Migration. June 2006. (In Ukrainian) [http://www.scnm.gov.ua/ua/a?migration\\_stat](http://www.scnm.gov.ua/ua/a?migration_stat)

<sup>164</sup> This estimate is made by the researcher, after studying the Chechen population in Ukraine over 11 months.

<sup>165</sup> Information provided by UNHCR Regional Mission in Ukraine, Moldova & Belarus, based on Ukrainian government data.

protection from 1995-1997. Ukraine received its highest number of Chechen asylum applications in 1999 (240) and 2000 (465).<sup>166</sup>



3. Until 2001, the recognition rate of Chechen asylum seekers in Ukraine averaged 32.6%.<sup>167</sup> This rate dropped significantly after 2000, when the Ukrainian Migration Services underwent restructuring in 2001.
4. In 2003, 5.8% of Chechen asylum applicants were recognized as refugees.<sup>168</sup> In 2004, the recognition rate dropped to 4.9%. Since the beginning of 2005, the recognition rate of Chechen asylum seekers in Ukraine is 0%. Information from the State Committee on Nationalities and Migration shows that 12 out of 426 Chechen cases have been granted status since 2002.<sup>169</sup>
5. According to SBGS, efforts to inform migrants of their right to apply for asylum in Ukraine have increased. The number of asylum applications transferred from the SBGS to the Migration Services has also augmented. In 2005, the SBGS transferred 951 asylum applications to Migration Services, whereas in 2004 only 262 applications were transferred.<sup>170</sup>

## H. Refusals of Chechen Asylum Seekers

“Why do Chechens need refugee status in Ukraine, anyway? They have a many other ways that they can stay in this country.”

--Elena Us  
Main Specialist  
Kyiv Regional Migration Services

“Everyone in Chechnya sleeps with their clothes on. You never know when you will have to get up and run.”

--26 year-old male asylum seeker

<sup>166</sup> Ibid.

<sup>167</sup> Ibid.

<sup>168</sup> Ibid.

<sup>169</sup> Ibid.

<sup>170</sup> Interview with General-Major Marchenko, Department of European Integration, State Border Guard Service of Ukraine, on 4 April 2006.

There is deep mistrust of Chechen asylum seekers among Ukrainian government authorities. Both SBGS and MS officials expressed that they believe Chechen asylum seekers manipulate the country's asylum system. Officials also argued that Chechens do not require international protection under refugee law either because of the internal flight alternative they imagine exists in Russia, or because they hear that the situation in Chechnya has normalized.

The SBGS believe that the majority of migrants in Ukraine hold the hope of eventually entering the EU.<sup>171</sup> They suspect that many irregular migrants avoid detention inside the country by applying for asylum, which legalizes the prolongation of their stay until they are ready to attempt crossing the western border. Whereas other migrant groups avoid detention by applying for refugee status in Ukraine upon arrival, SBGS contend that Chechens wait until they are at risk for deportation to apply for refugee status.<sup>172</sup> According to the SBGS, Chechen migrants do not bother to seek asylum when they transit Ukraine:

“Most [Chechens] who are faced with deportation don't even state that they want to receive refugee status. Those who do seek refugee status only begin to seek it after they are going to be deported. Their status as refugees is questionable because they don't seek protection until the breaking point, whereas if they were really refugees they would seek status right away. These people are economic migrants, not refugees.”<sup>173</sup>

According to officials from Migration Services, Chechen asylum seekers abuse government assistance and seek to deceive authorities.<sup>174</sup> Officials stated that, most often, single Chechen women with many children approach them for help. These women claim that their husbands disappeared in Chechnya and ask to receive emergency assistance from UNHCR and its NGO partners. Representatives from Migration Services believe these individuals hope to fit into the “most vulnerable” category of UNHCR's caseload, so that UNHCR arranges their resettlement to more attractive countries, which offer refugees comprehensive welfare programs. After such governments agree to accept these cases, the women's husbands suddenly emerge to join their families' resettlement, mainly to Europe.

Migration Services representatives argue that Chechens have other legal alternatives to remaining in Ukraine besides obtaining refugee status, and imply that Chechens therefore need not apply. They dismiss allegations that Chechens are disadvantaged in accessing fair asylum procedures. They justify the low recognition rate for Chechen refugees by claiming that this group is able to remain in the country through various other legal means. Representatives mention residency acquired through the Ukrainian law *On Immigration*,<sup>175</sup> and the instructions *On Ways to Extend the Stay of Foreigners and Stateless Persons in Ukraine*,<sup>176</sup> as the MoI representatives do.

Neither of these “alternatives” presented by the Migration Services constitutes a viable replacement for refugee status. First and foremost, eligibility depends on certain conditions that are usually quite difficult for refugees to meet. As previously noted, a foreigner must have family members with

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<sup>171</sup> During the researcher's work in Ukraine, this belief was widely expressed by SBGS officials.

<sup>172</sup> Major General Marchenko, interview 4 April 2006.

<sup>173</sup> Ibid.

<sup>174</sup> Interview with Natalia Naumenko and Elena Us, Main Specialists at Kyiv Regional Migration Services, 23 March 2006.

<sup>175</sup> *On Immigration*, approved by President Kuchma on June 07, 2001.

<sup>176</sup> *Instructions for Extending the Period of Stay of Foreigners and Stateless Persons in Ukraine*, approved by the Ministry of Interior on December 1, 2003.

Ukrainian citizenship, access large capital for investment in Ukraine, offer highly specialized skills to the marketplace, or find an elderly Ukrainian to accept his or her guardianship and care, in order to obtain a Ukrainian residence permit. Meanwhile, to extend visa limitations, foreigners must present documents verifying enrollment in university, on-going medical treatment at a hospital, or proof of family necessity. These conditions are not often met by individuals seeking international protection in the country. Most importantly, residence permits and visa extensions fail to provide protection against deportation, which is essential for Chechens who fear forcible returns ordered by the Russian Federal Security Bureau.

Ukrainian authorities cannot be blamed for their frustration and cynicism. Many of the asylum seekers in the country are in fact interested in reaching Europe and find themselves “stuck” in Ukraine.<sup>177</sup> The Ukrainian government does not budget for the proper care of these individuals, and the officials who work with them on the “front-lines” confront their desperation, dissatisfaction, and anger.<sup>178</sup> Migration authorities’ mistrust must be met with appropriate support from the government and international partners.

1. SBGS and Migration Services representatives state that Chechens are interested in seeking asylum only for the purposes of family reunification with relatives abroad; or to prevent the threat of deportation.<sup>179</sup> Because “lots of Chechens in Moscow are living just fine and have their own businesses,”<sup>180</sup> Ukrainian SBGS officials support internal relocation as an alternative solution for Chechen refugees.
2. In 2005, 11 Chechens lost their refugee status in Ukraine.<sup>181</sup> At least four other Chechen families who gained Ukrainian citizenship have recently alleged that their passports were revoked by the Ministry of Interior.<sup>182</sup>
3. Migration Services representatives argue that Chechens have other legal alternatives to remaining in Ukraine besides obtaining refugee status, and imply that Chechens therefore need not apply. However, the “alternatives” presented by the Migration Services do not constitute viable replacements for refugee status. Eligibility depends on certain conditions that are usually quite difficult for refugees to meet. Most importantly, residence permits and visa extensions fail to provide protection against deportation.
4. It is believed that Chechens are often deported from Ukraine without proper access to asylum procedures or verification of their safety upon return to Russia. NEEKA NGO, UNHCR’s partner on the Ukrainian-Slovakian and Ukrainian-Hungarian borders, asserts that approximately 1680 Chechens were refouled in 2005 from the Slovakian border alone.<sup>183</sup> UNHCR Kyiv is well aware of these activities, and attempts to prevent the deportation of Chechens from Ukraine.<sup>184</sup>

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<sup>177</sup> Conversations with asylum seekers.

<sup>178</sup> Non-government parties verify that anxious and fearful asylum seekers sometimes use deceptive tactics to try to remain in Ukraine.

<sup>179</sup> Interviews with State Committee on Nationalities and Migration, 30 November 2005, with Migration Services on 23 March 2006, and with State Border Guard Service on 4 April 2006.

<sup>180</sup> Major General Marchenko, interview 4 April 2006.

<sup>181</sup> Ilyinikh, O. Statistics. State Committee on Nationalities and Migration. January 2006.

<sup>182</sup> Interview with Chechen former Ukrainian citizen, Zaporizhia City, 19 July 2006.

<sup>183</sup> In addition, NEEKA states, 470 Chechens were returned officially in 2005. The number has greatly reduced in 2006; NEEKA reports seeing fewer and fewer Chechens. It supposes that they now go more frequently to Lviv Oblast, which borders Poland. Interview with NEEKA NGO, 17 August 2006.

<sup>184</sup> UNHCR Regional Representation in Ukraine, Moldova, and Belarus. “The Situation of Refugees, Asylum Seekers, and Migrants of Chechen Origin in Ukraine.” October 2004.



There is limited information about deportation and denial of entry available to non-government organizations; non-refoulement policies relevant to potential victims of torture, explained by the Convention Against Torture and the European Convention on Human Rights, are not clearly applied.

5. The monitoring of detained migrants' rights and well-being is restricted. NGOs do not have free access to persons in detention; it is therefore unclear as to whether detained migrants know about their right to asylum in Ukraine or wish to register with migration authorities. Violations that occur against detained migrants are also unknown.
6. European Union governments are also implicated in forced returns of Chechen asylum seekers from the EU to Ukraine, despite indications that Chechens do not receive adequate protection in the country.<sup>185</sup> This trend puts Chechen asylum seekers at risk. It also further burdens the Ukrainian asylum system, which is not yet prepared to take on additional asylum seekers.

### I. Demographics on a Sample Population of Chechen Asylum Seekers<sup>186</sup>

"I went to Chechnya from the refugee camp in Ingushetia for a week to visit my parents. When I came back, my husband had already left. He never spoke about what he was doing during the wars. When I asked a few times, he always told me that it was better that I didn't know. So I stopped asking. Soon, it was clear that I should leave too."

--32 year-old female asylum seeker

"There are more single men coming to Chechnya than women because the men are on the run. They ask for asylum in Ukraine because they know that, if they don't, they will be deported....Deported back to violence in Chechnya."

--35 year-old female refugee

This analysis illuminates demographic trends of Chechens interested in gaining refugee status in Ukraine. Chechen society in Ukraine remains rather closed, given the persecution that many of its members have undergone, as well as the constant fear of deportation that persists in Ukraine.<sup>187</sup> For this research, many initial discussions with Chechen asylum seekers were made possible through HIAS. Longer-term relationships only occurred with a handful of Chechen contacts. Chechen interviewees

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<sup>185</sup> ECRE Guidelines on the Treatment of Chechen Internally Displaced Persons (IDPs), Asylum Seekers and Refugees in Europe, Paragraph 5, May 2005. Pg. 16.

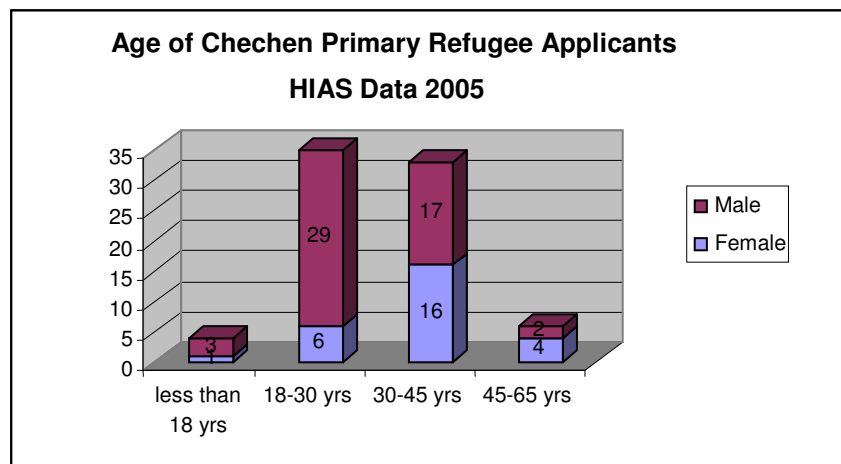
<sup>186</sup> This analysis melds data from the HIAS 2005 caseload database, specifically 79 Chechen primary applicants seeking asylum in Ukraine (incorporating 28 women and 51 men primary refugee applicants, and amounting to 171 Chechens in total with their dependents); interviews with 29 Chechen asylum seekers in 2006; and discussions with the permanent Chechen community in Ukraine. Twenty-three asylum seekers were interviewed at HIAS with the purpose of registering new protection requests; 6 asylum seekers were interviewed outside of HIAS; one Chechen who had already received refugee status in Ukraine greatly facilitated the research. Three Chechens with residence permits in Ukraine also offered their thoughts on completed integration in Ukraine. Through questions asked of these individuals, along with the asylum seeker accounts registered on the HIAS database from the 2005 caseload, the perspectives and experiences of Chechens currently located in Ukraine were assessed.

<sup>187</sup> The threat of deportation from Ukraine resonates loudly with Chechens, many of whom have heard of its regular occurrence from fellow Chechens. Ukraine has been widely criticized for practicing refoulement in violation of international law, specifically upon extraditing 11 Uzbek asylum seekers on 14 February 2006. In August 2006, Ukrainian authorities extradited a Chechen man to Russia, Beslan Gadaev, who was tortured near death by Russian authorities. The journalist, Anna Politovskaya was planning to write an article about him before she was murdered on 7 October 2006.

were sometimes reluctant to provide names and contacts of other Chechens.<sup>188</sup> Though the sample population is limited, the information depicts characteristics of this group.

According to members of the Chechen community in Ukraine, individuals who do not plan to stay in Ukraine often do not approach UNHCR, NGO partners or the Ukrainian authorities for assistance. Based on the human rights and protection work that currently takes place in the Caucasus, Chechens enter Ukraine familiar with the work of UNHCR and its protection mandate. Chechens hear about the services of UNHCR’s partner organizations by word of mouth. Often, upon arrival, men visit mosque to contact the Chechen community, learn more about the location of UNHCR and its partner NGOs, and get advice on seeking asylum in Ukraine.

The Chechen caseload consists of relatively young people. Migration from conflict situations is often characterized by mass migration; irrespective of age, men and women flee their homes to find safety with their families.<sup>189</sup> In the case of Chechen migration, the clear majority of Chechen primary refugee applicants are between 18-45 years old. This could indicate the mixed motivations that compel Chechens to leave their homes. This age group experiences the greatest risk of violence; it also looks to found and support a family and faces limited economic opportunity to do so in the North Caucasus. Few of the Chechen asylum seekers arriving in Ukraine are over the age of 45, perhaps because this age group is not subject to the same pressure and scrutiny by the Chechen authorities, or has family members whom it cannot uproot. This trend was confirmed by data from the 2005 HIAS caseload (see below), which included 4 primary refugee applicants of minor age, as well as by the local staff of NGOs in Ingushetia, who were mostly Chechens.

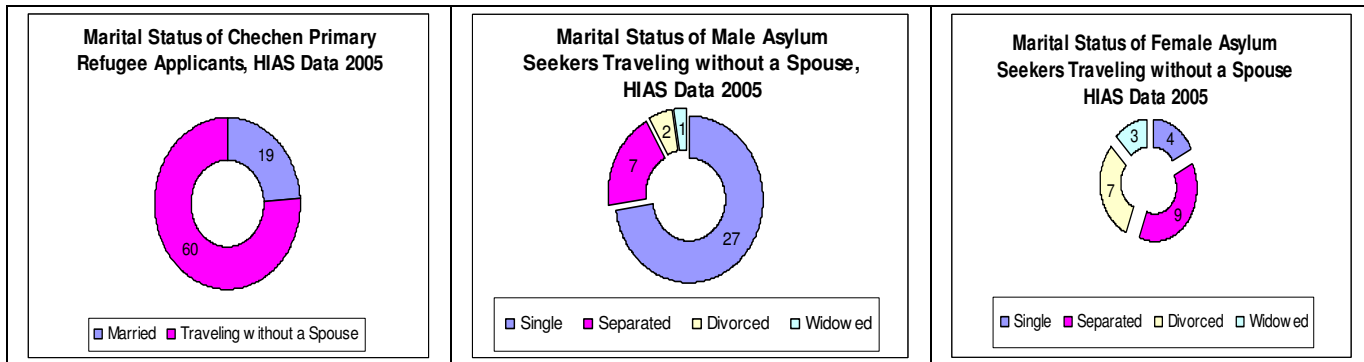


The Chechen community in Ukraine attests that many young Chechen families enter Ukraine in order to raise their children in a stable environment. However, data from the HIAS 2005 caseload shows more adults traveling alone to seek asylum in Ukraine than married couples or families. It could be that Chechens who do not travel within a family unit feel more vulnerable to deportation and therefore are

<sup>188</sup> In fact, upon my requesting contact with more people, one of my contacts told me that no one would want to speak to me, as my interest was suspicious. For this reason, information gathering consisted of in-depth, qualitative interviews with individuals, not quantitative survey collection.

<sup>189</sup> Braichevska, Olena, Olena Malynovska, Nancy Popson, Yaroslav Pylinskyi, Blair A. Ruble, and Halyna Volosiuk. *Nontraditional Immigrants in Kyiv*. Washington, D.C.: Woodrow Wilson International Center for Scholars, 2004. Pg. 22

more likely to formally seek asylum in Ukraine. Data suggests that many men traveling alone have never been married. On the other hand, unmarried women rarely seem to travel alone. Women who seek international protection abroad on their own are generally separated or divorced from their husbands.



Chechen women assume principal responsibility for taking care of children during migration movements. There were 66 children accompanying the 2005 HIAS primary refugee applicants who registered for assistance from HIAS. Chechen women and couples were responsible for all but 10 of these children. Almost two-thirds of female Chechen asylum seekers without spouses traveled with children to Ukraine. Thirteen of the 19 couples fled Chechnya with children. Meanwhile, less than one-fifth of the male asylum seekers brought children to the country.

NGOs providing humanitarian aid to refugees and asylum seekers note that mainly Chechen women request social assistance, not men. The Centre for Social Adaptation in Lviv reports that the 78 Chechen families it supplied with food and shelter from 2002-2005 were mostly groups of women and children.<sup>190</sup> According to the NGO director, these Chechen groups typically were comprised of a male leader chaperoning two women, each with three to five children. Rokada NGO, UNHCR's partner providing social assistance to refugees and asylum seekers in Kyiv, also observed that the majority of its 28 primary applicant Chechen caseload, which included 78 individuals, consists of women with children.<sup>191</sup> The staff of Rokada does not know the whereabouts of the male members of the Chechen families, or whether they are alive.

It appears that Chechen asylum seekers in Ukraine are not generally associated with separatist movements; instead, they are hoping to find a place to rebuild their lives and live in peace. They are mostly victims of a combination of conflict-related consequences, including individual persecution, public disorder, and economic instability.<sup>192</sup> Data from the 2005 HIAS caseload shows that, of the 79 primary refugee applicants, 43 persons had no personal or family involvement in either the politics or actions related to the war. Only 27 individuals fled Chechnya because of fear drawn from direct familial participation to the war or to connections to previous political figures. Asylum seekers have suffered human rights abuses that induced their flight, no matter what their personal position on the separatist movement was.

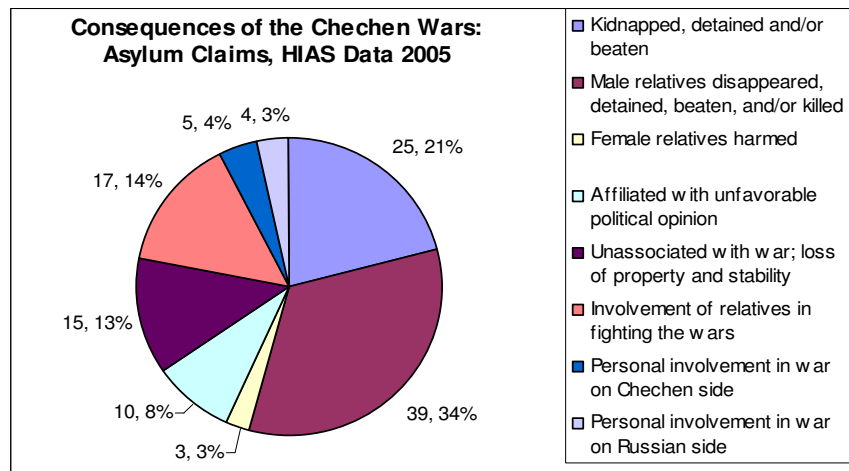
<sup>190</sup> Discussion with the Regional Center for Social Adaptation (RCSA) 12 December 2005.

<sup>191</sup> Discussion with Rokada, 28 October 2005.

<sup>192</sup> This has been observed by UNHCR Kyiv, according to a discussion on 15 August 2006.

Within the 2005 HIAS Chechen caseload, only 5 of 79 individuals claimed personal involvement in the separatist movement. These individuals contributed either in combat or by supplying medicines and food to Chechen soldiers. Asylum seekers report great pressure to fight in Chechnya: young men are allegedly heavily recruited by both Chechen separatist and pro-Russian forces. Asylum seekers describe the pro-Russian force’s retribution against Chechen separatists as collective: Anyone who does not actively support the pro-Russian Chechen government is punished, regardless of his association with the Chechen rebels. Meanwhile, a young man who joins Pro-Russian services puts his family’s reputation and safety at risk within the Chechen community.<sup>193</sup>

Four individuals in the HIAS 2005 caseload served in the Russian army or the “Pro-Russian Police.” These men left Chechnya fearing imminent repercussions for “betraying” their people. They said that they joined the pro-Russian authorities mainly in order to avoid accusations of collaboration with rebels and to ensure their own safety.



Many young male asylum seekers in Ukraine claim mainly to flee Chechnya in order to remove themselves completely from potential fighting. They renounce both Chechen rebels overseeing separatist attacks along with the Russian “invaders” and their Chechen cronies. Disillusioned by the downfall and corruption of their independence movement, men who supported Chechen resistance to Russian “occupation” now look to secure their futures. One asylum seeker left Chechnya with his brother because the only jobs they could find required toting arms.

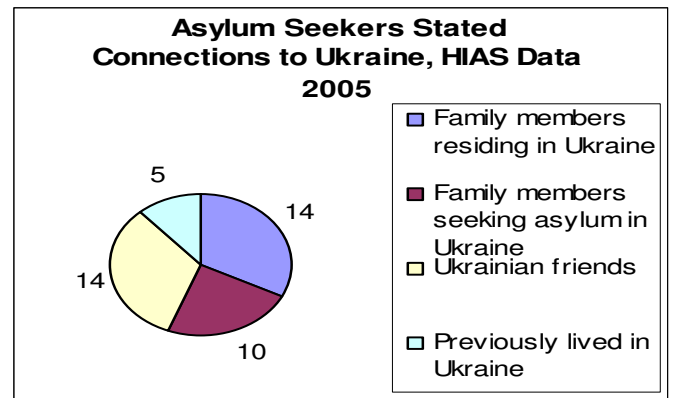
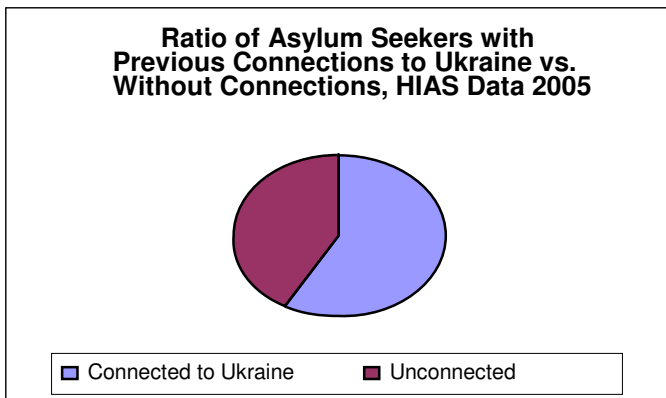
Human rights advocacy groups state that the conflict in Chechnya puts young men of fighting age at highest risk for persecution.<sup>194</sup> The demographics of the asylum seeker group in Ukraine corroborate this information. According to asylum seekers in Ukraine, the Chechen authorities suspect adolescent boys as young as 14 years old of participating in rebel movements, compelling young men to leave Chechnya. Some families sent their male children to Ukraine to stay with relatives:

<sup>193</sup> Two young men sought asylum in Ukraine after having joined the local police force in Chechnya, which they claimed endangered their family and ruined their reputations.

<sup>194</sup> Global IDP Database. Profile of Internal Displacement: Russian Federation. Norwegian Refugee Council/Global IDP Project, 14 March 2005. Pg. 21.

“My sister called me up and told me what happened to her son. Can you imagine? We spent all this time, ensuring he wouldn’t be involved in the wars. Now, for some reason, he was targeted during one of the “clean-up” operations—a 21-year old bus driver on his shift! They detained him for one month. I told my sister to send him here, send him to Ukraine, as soon as they got him released. He is so traumatized that he still can’t speak; his memory is loose because of all the beating.”<sup>195</sup>

Research suggests that many Chechen asylum seekers entering Ukraine have previous connections to the country. Over half of the primary refugee applicants within the HIAS 2005 caseload had friends, family, or past work or living experiences in Ukraine (41 cases out of the total 79). Most asylum seekers who enter Ukraine do not have the associations that Chechens do in the country, originating from shared Soviet history and space. The network Chechens have is greater than it is for many other asylum seeker groups.

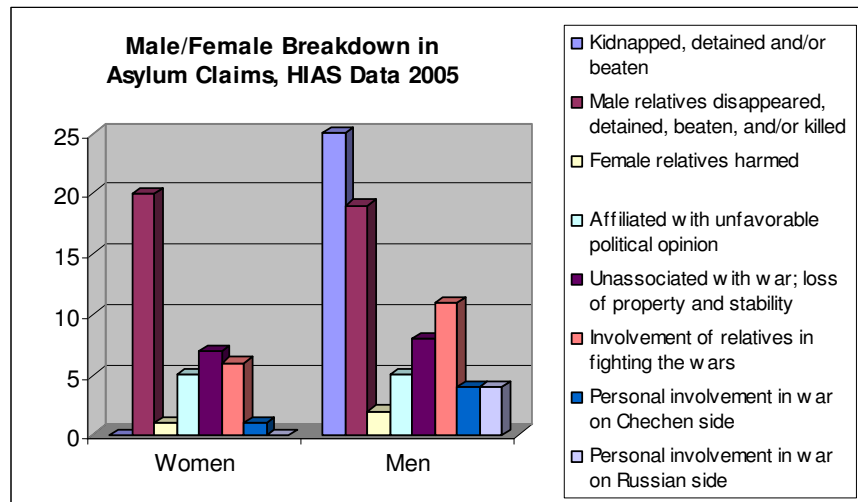


Though some Chechen asylum seekers mentioned paying bribes to taxis to drive them across the Russian-Ukrainian border illegally,<sup>196</sup> few stated that they had employed smugglers. During interviews with Chechen asylum seekers, only two men confirmed having paid a smuggler in hopes of reaching France. Instead, the smuggler duped each of them out of 750 USD, which they had brought from Chechnya after selling their property and other possessions. Meanwhile, 11 of the 79 cases within the 2005 HIAS caseload admitted to employing smugglers. Two of them had family relations in Ukraine. The smugglers had abandoned these people in every circumstance.

<sup>195</sup> Female Chechen Asylum Seeker, representing her nephew, on 26 January 2006.

<sup>196</sup> They paid these taxis because they were unable to enter legally, due to refusal at the border by SBGS.

1. Of 79 Chechen asylum seekers registered at HIAS Kyiv in 2005, 64 alleged that they or their immediate family members had endured detention, torture, murder, disappearances, and loss of property. Twenty-five of the 51 men reported having undergone personal threats to safety (detention, beatings, torture); 17 of 28 women experienced the death or abuse of their male relatives. This caseload reported 118 instances of extreme violence impacting them personally or their families, which instigated their flight.



2. The majority of Chechen asylum seekers are between 18-45 years old. Few are over the age of 45. Many families enter Ukraine with children, but do not necessarily apply for asylum.
3. Most female primary applicants traveling to Ukraine were divorced, separated, or widowed. Approximately two-thirds of these women entered with children.<sup>197</sup>
4. NGOs working with Chechen asylum seekers report that Chechen children are more likely to attend school than children from many other ethnic groups of asylum seekers.<sup>198</sup>

## J. Chechen Residence in Ukraine

“We were one of the first families to enter Ukraine. We came in 1997, when [the Ukrainian authorities] let a group of us in. There are not many of the original families here anymore, maybe only 200. Many left for Europe or returned to Chechnya after Ukraine stopped giving Chechens refugee status.... It’s hard here. We have refugee status, but we haven’t managed to get citizenship yet.”

--35 year-old female refugee

The largest groups of Chechens residing in Ukraine live in Kyiv, Odessa, Dnipropetrovsk, Zaporizhia and Kherson. These are areas that are traditionally Russian speaking. Chechens who have lived in Ukraine for a number of years have established businesses and contribute to the Ukrainian economy. They manage small enterprises like cafes and market stands, as well as larger enterprises involving agricultural production. Chechens with legal status in Ukraine integrate well into Ukrainian society.

<sup>197</sup> This trend was seen at HIAS Kyiv in 2005, and is believed to hold true across the country.

<sup>198</sup> Discussion with Rokada, 28 October 2005.

They emphasize that they are law-abiding and have good reputations amongst Ukrainians. One Chechen man, who has lived in Ukraine since 1991 and received citizenship, stated:<sup>199</sup>

“We all came [to Ukraine] with nothing...We were humble people who gathered our suitcases and fled...We came here, poor, modest. For 15 years, we worked day and night in order to be useful to this society and this government. We pay taxes. We live by the laws and values of this country, political, economic, and cultural. The problems of this government, of these villages, regions, oblasts—they are our problems. We live for this country, through its failures and successes.”

The Chechen Diaspora around the country forms an extremely close-knit network. Chechen cultural preservation is important to Chechens in Ukraine; clan (teip) affiliation, Chechen moral code (adat) and Chechen language retain value in Ukraine. Local communities celebrate holidays together, and meet at Mosque every Friday. In conversations during research, the Chechen community showed great appreciation for Ukraine and Ukrainians, but differentiated itself by pointing to Chechen traditions of hospitality, emphasis on honor, and respect for older people.<sup>200</sup>

Chechens permanent residents, refugees and citizens provide vital support for family members and friends arriving from Chechnya. Chechen asylum seekers are frequently dissatisfied with the NGO and UN assistance. Chechen new-comers often rely on the Chechen community to find work, a place to live, and a social-life. Mosques serve as a central meeting ground for Chechens in Ukraine, where new-comers can meet the permanent community. One asylum seeker in Kyiv explained the relationship between Diaspora and asylum seekers thus:<sup>201</sup>

“If an individual is unable to work, Chechens in the community help him. For a while, someone lent me a car to drive around the city as a taxi driver; some people gave us money. Wealthy Chechen businessmen give to people when they are really in trouble, but you can only ask those favors once or twice. They also finance the Sunday school, where all our children go, at the mosque.”

Despite its many resources, the Chechen community has not been able to advocate for the improved treatment of Chechens in Ukraine effectively. Efforts have been made to formalize Chechen-to-Chechen assistance through the creation of Chechen-run NGOs, but these are not adequately backed by the Diaspora. The Berkat NGO in Kyiv implements small-scale humanitarian aid projects to benefit asylum seekers in Kyiv generally and Chechen asylum seekers specifically. There is a Chechen cultural center in Zaporizhia, Voina (Our People), established in 2005 to promote tolerance in Ukrainian society. Neither of these organizations has adequate funding or resources to implement substantial projects. If Diaspora members pooled their efforts, the lobby for Chechen integration in Ukraine would be more powerful within the Ukrainian government.

1. The Chechen Diaspora makes important contributions to Ukrainian society, but retains strong ties to Chechen traditions in Ukraine. The generational transfer of “Chechen-ness,” including culture and language, from parents to children is extremely important to most Chechens. Parents

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<sup>199</sup> Interview on 19 July 2006.

<sup>200</sup> These are elements of adat, the pre-Islamic Chechen moral code.

<sup>201</sup> Interview on 7 April 2006.

who allow their children to fully assimilate and forget Chechen culture are often disparaged by other community members.

2. Chechen asylum seekers rely on the close-knit and powerful Diaspora to provide much of their practical integration support (locating jobs, finding schools for children, social community activities).
3. Chechen community leadership in Ukraine should be consolidated and strengthened in order to realize more effective assistance to Chechen asylum seekers in Ukraine.

## K. Challenges to Integration and Migration Intent

“Most of all, families enter Ukraine. They are interested in going to the European Union to try to set up better lives for their children. How can they do that in Ukraine?”

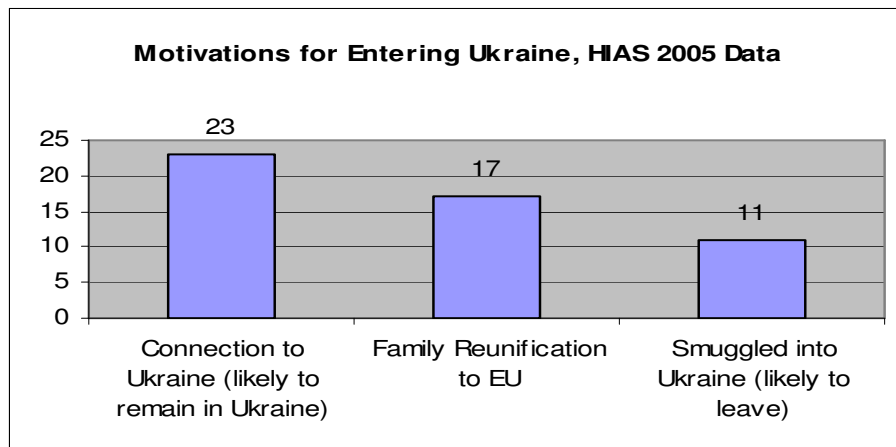
--30 year-old male asylum seeker

“If Chechens start coming to Ukraine, our crime will increase. They will bring their war here.”

--45 year-old Ukrainian woman

Ukraine attracts Chechen migrants because of its post-Soviet familiarity and geographical proximity to Chechnya. Many Chechens fear traveling as far as Europe, especially if they do not have relatives already there. Though the Ukrainian government does not facilitate their integration, Chechens adapt well to Ukrainian society. However, obstructions to legal residence prevent Chechens from registering with Ukrainian asylum authorities.

Chechen motivation to seek asylum in Ukraine is affected by stories about government migration services, which mostly evoke frustration and offense. Informed by their friends and family, Chechens are well-aware of their difficulty in obtaining asylum in Ukraine upon entering the country. As a result, they may forgo registration as long as possible. They depend on their contacts and their fluent Russian to help them pass undetected, particularly if they do not want to live in Ukraine permanently. Other ethnic groups, frequently abandoned by smugglers in Ukraine and without knowledge of the country, turn to Ukrainian authorities out of necessity. Chechens *decide* to enter the asylum system because of genuine desire to live in Ukraine, or to facilitate later movement to Europe.





Clearly, Chechens with pre-established links to Ukraine are more likely to apply for asylum than others, with actual intent to remain in the country. Because the Ukrainian migration system lacks many of the benefits Western European systems offer, migrants' incentives for registering as official asylum seekers remain low. Ukraine presents hardship and stress to its asylum seeker population; without relatives or friends to ease the transition, migrants have even fewer reasons to seek asylum in the country. Those reuniting with family or friends can rely on a private network to provide immediate support in finding a place to live, work, and school for children, while asylum procedures drag.

A fair number of those enlisted in asylum proceedings at HIAS in 2005 expressed hope for third country resettlement or family reunification. Chechen asylum seekers approach HIAS and other NGOs with the telephone numbers and addresses of family members in the European Union, expecting UNHCR to expedite their reunification. In interviews with Chechens, relatively many seemed to have relatives in Austria, France, Poland, Germany, or Scandinavian countries. According to UNHCR, family reunification happens rarely. In 2004, a Chechen minor joined his parents in Austria, while in 2005 a Chechen woman with two daughters was reunited with her husband and son, also living in Austria.<sup>202</sup>

Like the majority of asylum seekers in Ukraine, there are also Chechens who seek asylum by compulsion. After failed attempts to enter the EU, some Chechens settle in Ukraine as a temporary solution to escaping Chechnya. These Chechen new-comers often benefit from the assistance of the relatively small but powerful Diaspora community. They apply for asylum to remain in Ukraine while saving money to move further into Europe. During their stay, they may create lives comfortable enough to dissuade them from migrating illegally to the EU. However, difficulties in obtaining asylum encourage these cases eventually to leave Ukraine.

Until Ukrainian migration procedures gain a better reputation amongst Chechens, most will not apply for asylum in Ukraine. Two of the asylum seekers interviewed for this study had lived in Ukraine for over 3 years before requesting asylum in the country. Each had tolerated multiple police detentions over the three year period, but was released unofficially with friends' help every time. They forewent legalizing their status to avoid becoming ensnared in complicated proceedings. In another case, one young man who has lived in Ukraine for 7 years now plans to move further into Europe with his family. He says that they are tired of the instability, after four years of unsuccessfully requesting Ukrainian citizenship.

*Primary Obstacles to Chechen Integration in Ukraine:*

1. Most Chechens living in Ukraine are prevented from fully integrating into society because they cannot obtain legal status to remain in the country.
2. The Chechen Diaspora in Ukraine assists asylum seekers to find places to live and ways to earn income in the country, but Chechen-to-Chechen assistance is limited. It is not a permanent solution to facilitate full integration of Chechen asylum seekers.
3. Major obstacles to Chechen integration include mutual mistrust between government agencies and Chechen migrants.
4. Many Ukrainian civilians fear that a substantial community of Chechens will initiate terrorist or mafia violence in the country. Though there was initially support for the Chechen independence

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<sup>202</sup> Information from UNHCR Kyiv, 20 May 2006.

movement among Ukrainian intellectuals and some civilians,<sup>203</sup> the prospect of a large Chechen community in Ukraine provokes concerns.

*Trends in Chechen Migration:*

1. Cynicism and distrust of the government in Chechnya prevent Chechens from returning home. Though the situation may be improving, Chechens do not believe their safety in Chechnya is guaranteed.
2. Chechens in Ukraine currently appear more likely to continue further west than to return to Russia. New comers from Chechnya who pay smugglers to enter Ukraine are apt to reside in the country in order to earn enough money to facilitate the next leg of travel.
3. A third of the Chechens interviewed for this study overtly relayed plans to enter the EU, despite applying for asylum in Ukraine. This is due to the difficulties of life in Ukraine, and the improbability of their achieving legal status in the country.
4. Those who are interested in staying in Ukraine have generally reunited with relatives in the country.
5. Chechen asylum seekers and permanent residents who live comfortably in Ukraine wish to remain in the country. They express interest in returning to Chechnya once the area is peaceful. However, they expect that their children to remain in Ukraine.

## L. Conclusion

“Europe likes Chechen refugees because we are hard working and law-abiding. Meanwhile, I have lived in Ukraine for 3 years without legal status.”

--29 year-old male asylum seeker

“In some places, there is democracy, or rule of the people. In Chechnya, it is rule of the gun.”

--40 year-old male asylum seeker

In order to uphold its international commitments and promote international standards, the Ukrainian government must reform its approach to Chechen asylum seekers. Due to prejudice and stereotypes amongst government agencies, Chechens do not have proper access to legal residence in Ukraine. They are increasingly forced to employ smugglers to enter the country, and most often choose to live irregularly in order to avoid contact with the government. Ukraine must quash the threat of refoulement for Chechens, as it is in clear violation of international law. In failing to provide adequate support for asylum seekers, Ukrainian government agencies compound the difficulty of creating a functioning migration management system.

The issue of Chechen migration in Ukraine affects the international community. Absence of government social and legal integration efforts push Chechen migrants further into the EU. Ukraine needs support in improving its policies related to Chechen migrants. This entails training and requiring that government asylum case-workers thoroughly investigate asylum claims on an individual basis; the ratification of a revised refugee law which includes complementary protection; the provision of post-conflict counseling to migrants; and efforts to counteract xenophobia and racism in Ukraine.

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<sup>203</sup>In 1996, the western Ukrainian city, Lviv, renamed a central street after Jokhar Dudayev, who declared Chechen independence in 1991. In Kyiv, the poem “Kavkaz,” depicting the heroic bravery of Northern Caucasians against Russian Imperialists, opened the 180<sup>th</sup> birthday celebration of the national poet, Taras Shevchenko, at the Opera House in 1994.

Cooperation between the Ukrainian government, NGOs, and the Chechen community should be encouraged to enhance the positive impacts of migration in Ukraine. The Chechen community in Ukraine is well positioned to assist in the integration of Chechen asylum seekers in the country. Most of the Chechens who have been granted legal right to reside in the country, either as refugees, permanent residents, or citizens, contribute actively and positively to society. Well-established individuals assist other Chechens to transition relatively successfully to life in Ukraine. However, this community cannot stem continued Chechen irregular migration to the European Union, or enhance the protection of Chechen migrants, without support of the government and civil sector.

Until Chechens are convinced that there is lasting peace and stability in Chechnya, migration from Chechnya to the west will persist. With additional threats of terrorism and unrest in other areas of the North Caucasus, destabilization of the region has been predicted. While the future remains uncertain, if crisis ensues, Ukraine should be prepared to offer its former compatriots at least temporary protection and accommodation within its borders. The international community must boost its efforts to promote the legal rights and integration of Chechens in Ukraine.

## **Recommendations to the Ukrainian Government:**

1. Continue to promote the alignment of Ukrainian refugee legislation to international standards by enacting laws and procedures for the complementary protection of war-affected populations.
2. Reform law enforcement practices to pursue the fight against corruption at every level. Put a stop to the unauthorized detention, bribery, and violence inflicted on Chechen asylum seekers by government officers. Provide NGOs unfettered access to monitoring the well-being of detained migrants and of migrants at the Ukrainian border.
3. Stop the exploitation and endangerment of Chechen migrants at the Ukrainian border. Chechens should enter Ukraine freely, like every other Russian citizen.
4. Train asylum caseworkers in general migration law and provide up-to-date country of origin information to ensure that asylum cases are fairly evaluated. Require by law that asylum decisions are substantiated by unbiased and objective of country of origin information.
5. Publicly acknowledge migrants' economic and cultural contributions to Ukrainian society through public information campaigns to promote tolerance and reduce xenophobic tendencies.
6. Develop migrant integration policies and implement effective programs to maximize the benefits of migration, while protecting migrants' rights. Ensure that asylum seekers have access to employment while their claims are processed.

## **Recommendations to European Union and International Donor Community:**

1. Assist Ukraine in developing an adequate migrant integration system, particularly to simplify bureaucratic procedures, and to ensure security through employment opportunities, housing, necessary education and healthcare for asylum seekers.
2. Confirm that Chechen migrants have sufficient access to asylum procedures and complementary protection in Ukraine before returning them from the EU.
3. Enhance the economic development and migrant integration in Ukraine by supporting micro-credit projects for migrant communities in Ukraine.
4. Ensure that all EU member states provide access to fair asylum procedures for Chechen migrants and do not practice refoulement or forced returns.
5. Guarantee the safety of Chechens in EU host countries through complementary protection, at minimum.

## **Recommendations to the UN and NGOs:**

1. Empower NGO employees to affect positive change and advocate for their clients' rights. Information channels between UNHCR and NGO staff should be unrestricted; NGO caseworkers should receive adequate motivation, support, and authority in their work.
2. Strengthen partnerships between NGOs and the Chechen Diaspora to consolidate efforts to improve the situation of Chechens in Ukraine. Reinforce the integration and empowerment of Chechens through the initiatives of the Chechen Diaspora.
3. Develop employment opportunities for asylum seekers in Ukraine through established Chechen businesses. Forge contacts with Chechen and other migrant businesses to organize the economic integration of migrants.
4. Increase cooperation between UNHCR Russia and Ukraine to inform the Chechen community in Ukraine of the UN reconstruction efforts and successes. Though many hope eventually to return to Chechnya, Chechens in Ukraine are not always aware of positive changes occurring there.
5. Redouble efforts at finding alternative countries to which Chechens can be resettled while their safety is still at risk in Ukraine.

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