



**Report from seminar on IDPs from Chechnya
Moscow
August 30 – 31 2004**

The seminar was part of the European Council on Refugees and Exiles' (ECRE's) advocacy project on IDPs and refugees from Chechnya. The project is coordinated by the Norwegian Refugee Council, and was initiated in January 2004. The seminar was funded by the Norwegian Ministry of Foreign Affairs, and organized jointly by Memorial Human Rights Center and the Norwegian Refugee Council.

The seminar brought together different actors that in one way or another are working with persons displaced as a result of the conflict in Chechnya. The general purpose of the seminar was to exchange views on current protection concerns regarding IDPs from Chechnya, and to discuss policy recommendations. The seminar also aimed at raising awareness about the rights of IDPs as defined in the UN Guiding Principles on IDPs. Because the Russian government currently is encouraging return to Chechnya, the seminar had a special focus on the issue of return. Current challenges regarding protection of Chechen asylum seekers and the issue of internal protection were addressed at the seminar.

This report contains a summary of the main points of the presentations and discussions at the seminar. Information from the seminar will also be included in a more extensive report on IDPs and refugees from Chechnya to be published by ECRE/ the Norwegian Refugee Council by January 2004.

Protection of IDPs from Chechnya

Physical security of IDPs in Chechnya and Ingushetia:

Presentation by Alexandr Cherkassov, Memorial Human Rights Centre

Alexandr Cherkassov gave an overview of concerns regarding the physical security of the IDP population in Chechnya and Ingushetia. According to Mr. Cherkassov, the general security and human rights situation in Chechnya has not improved. In the first half of 2004, Memorial, who only monitors about one third of Chechnya's territory, documented 194 disappearances. A climate of impunity prevails, and there are still small groups of people leaving Chechnya to become IDPs in Ingushetia.

Mr. Cherkassov noted that the pressure on IDPs in Ingushetia to return to Chechnya continued. All the tent camps for IDPs in Ingushetia have now been closed, but alternative shelter for IDPs who do not want to leave Ingushetia has been lacking, or is of a very poor condition. Many IDPs were promised compensation for their ruined houses if they returned to Chechnya, but then did not receive it, or received only part of it upon return.

The security situation for Chechen IDPs in Ingushetia has deteriorated over the past year with a sharp increase in disappearances. There was, however, a further worsening of the situation after the guerrilla attacks on four Ingush cities in June 2004. Police operations were conducted in many of the temporary settlements of Chechen IDPs. Some operations involved severe human rights violations. Unexplained mass detentions, beatings, intimidation and robbery took place. IDPs were threatened so that they signed papers that they were willing to return to Chechnya immediately. Most of the IDPs that were detained were released shortly afterwards, and no disappearances were reported. But the operations left many of the IDPs in panic, fearful of similar events. Many of them left Ingushetia for Chechnya.

In fact, in Memorial's view, the situation in Ingushetia is not much better than the one in Chechnya - the feeling of safety that people used to have in Ingushetia is no longer there. This observation made several of the participants conclude that Ingushetia has now become part of the conflict zone, and should no longer be regarded a "safe haven" for IDPs from Chechnya. It was argued that this underlines the importance of providing other resettlement options for IDPs who do not want to return to Chechnya, and that it is the responsibility of the Russian government to establish the necessary conditions for this.

Regarding the security situation in Chechnya, one participant pointed out that on August 20, major armed attacks – similar to the June attacks in Ingushetia - took place in Chechnya but that there had been very little media attention on this. It was argued that the Russian government are deliberately trying to prevent such information from spreading, in general, but particularly before the presidential elections (which took place on August 29).

Access to humanitarian assistance

Presentation by Dmitry Medlev, Liaison Officer, Danish Refugee Council

Dmitry Medlev presented the challenges international humanitarian agencies are faced with when providing IDPs in Chechnya and Ingushetia with humanitarian assistance. According to Mr. Medlev, humanitarian assistance has been offered to all IDPs from Chechnya in Dagestan and Ingushetia, and 60 per cent of the entire population in Chechnya. Mr. Medlev stressed, however, that access to humanitarian assistance is hampered by donor fatigue, the security situation and bureaucratic or political obstacles. Assistance to IDPs from, and especially inside, Chechnya could be improved through better coordination between the government and international actors. Due cooperation between the aid community and the Government is often superficial, without systematic and regular character. The line of command within the

Government agencies engaged in coordination with humanitarian community is very vague. Sometimes humanitarian actors may be stopped from entering the war affected territory and may therefore not be able to deliver humanitarian aid to the civilian population in need. The authorities may be stopping aid for various reasons linked to political, military or economic interests.

Mr. Medlev suggested that the Russian authorities should take the following steps to improve the current situation:

- Facilitate the procedure for permission to enter Chechnya for international humanitarian organizations
- Give humanitarian organizations permission to use VHF radios in Chechnya
- Assist international aid agencies with fund-raising by making the federal program on socio-economic reconstruction of Chechnya more transparent and better known to the international community.
- Engage in direct lobbying of donors for funding relief and rehabilitation activities that are not covered by the current Federal Program.

Finally, Mr. Medlev pointed out that many people have been living as IDPs as a result of the ten-year old conflict between Ingushetia and North-Ossetia, and that these people must not be neglected by the international community.

Situation for IDPs from Chechnya in other regions of the Russian Federation

Svetlana Gannushkina, Head of "Migration Rights Network", Memorial Human Rights Center, Member of the Commission for Human Rights under the President of the Russian Federation

Svetlana Gannushkina presented the main conclusions from Memorials report: "On the situation of Residents of Chechnya in the Russian Federation. June 2003- May 2004".

Ms. Gannushkina stated that there is very little knowledge about the UN Guiding Principles on IDPs in Russia. According to Ms. Gannushkina, the main problem for Chechen IDPs is still that they are not granted "forced migrant status". If they had it, they would not have been guaranteed – but would have had easier access to – free medical service, employment and education. The problems that Chechens have with access to these services have been documented in earlier reports by Memorial. These problems continue, but new problems have been documented in the latest report. Increasingly, Chechens are evicted from temporary placement centers in central Russian regions. About 1000 such centers exist, and they are controlled by the federal migration authorities. This problem is also connected to forced migration status. According to the highest migration body, these temporary placement centers are intended for forced migrants, and not for individuals who have left Chechnya. However, Ms. Ganushkina stressed that Chechens with a forced migrant status had also been evicted from such centers. Different measures are put in place to put pressure on Chechen residents to leave. In most places they no longer receive food and social support. Frequent passport checks and the issuance of warnings have taken place.

Another well-documented problem for Chechen IDPs is the obstacle they are facing obtaining residence registration, which is also a necessary prerequisite for access to basic social rights. The Soviet system of residence registration – the propiska- has been formally abolished on the federal level, but is still practiced in many regions of the Russian Federation. According to Memorial, there are special procedures in place for registering persons from Northern Caucasus. The procedure includes lengthy interviews, fingerprinting and often humiliating questioning and treatment. Ms. Gannushkina pointed out that if such procedures were needed, it should be the same procedures for everyone, not just for people from Northern Caucasus. She also stressed that it was a problem that many Chechens were rejected registration orally, something that made it more or less impossible to challenge the decisions in courts. The presentation also covered the issues of fabricated evidence in criminal procedures against Chechens, and attacks on Chechens by skinheads. These are topics that are all covered in the report.

In the discussion Ms. Gannushkina underlined that xenophobia is on the rise in the Russian Federation. Many groups are victims of racism, but ethnic Chechens are particularly vulnerable. People who are taken for ethnic Chechens are equally vulnerable.

The Return Process to Chechnya

UNHCRs efforts to uphold the principle of voluntary return

Gang Li, Senior Protection Officer, UNHCR Moscow
Inna Gladkova, Associate Protection Officer, UNHCR Nazran

For UNHCR it is a priority to maintain Ingushetia as a safe haven, and to uphold the voluntary nature of the return process. UNHCR acknowledges that during the last couple of months the government increasingly encourages return and there have been elements of pressure. As already mentioned, the attacks in Ingushetia in June had a negative effect on the situation of IDPs in Ingushetia. UNHCR has recognized that there is a need to increase level of protection activity, including in Chechnya.

UNHCR does not object to closing of camps as such, as long as alternative shelter is provided, and the closures are taking place in accordance with international standards. According to UNHCR, there has been some progress in the attitude of the government when it comes to adherence to the principle of voluntary return. The government has been willing to negotiate with international organizations and community groups, and government representatives are now referring to this principle in public statements. Also, the closure of the last camps was done in a relatively satisfactory manner compared to earlier closures. When Satsita camp was closed in June, more than 25 % of those who lived at the camps had been relocated by the time of the closure. According to UNHCR, the prospect of receiving compensation for lost property upon return seemed to be the most important factor for IDPs who had chosen to return - people did not want to leave the camp, but wanted to be first in line for compensation. Other stated reasons for choosing to return were: “asylum fatigue”, feeling unsafe, impact of return information campaigns

by the Chechen administration, belief that temporary settlements will be closed down too, threats and the fact the school year was starting up again in the fall.

Return to Chechnya – a voluntary process?

Svetlana Gannushkina, Head of “Migration Rights Network”, Memorial Human Rights Center, Member of the Commission for Human Rights under the President of the Russian Federation

Svetlana Gannushkina commented briefly on the return process, describing the controversy that the procedure for closure of some of the camps had created. Ms Gannushkina emphasized that although physical violence generally had not been used to close the last IDP camps, measures of pressure had been used. She pointed to the practice of excluding families from humanitarian assistance, and deficiencies with the system for paying compensation for destroyed property. According to Ms Gannushkina, there is no real progress in the attitude of the government, but simply a different tactic to implement the same policy. No-one, said Ms Gannushkina, can be said to go back voluntarily – no-one sane would return to Chechnya if there were other options.

International standards for return of IDPs

Christophe Beau, Training coordinator/ Senior Information Officer, Norwegian Refugee Council’s Global IDP Database

Christophe Beau gave a presentation about standards in the Guiding Principles on Internal Displacement applying to return. His presentation was followed by working groups where the participants were asked to apply these standards to the Chechen context.

According to the Guiding Principles (GP) on Internal Displacement, IDPs have the right to liberty of movement and to choose one’s residency freely (GP 14). GP 28 states that it is the duty of competent authorities to create conditions conducive to the voluntary return or resettlement of IDPs. Hence, it is clear that IDPs have the right to return, but also a right to choose to resettle in another part of the country. The right to return is not an obligation. Guiding Principle 15 prohibits forcible return to any place where life, safety, liberty and/or health would be at risk.

According to the Guiding Principles the following conditions should be met in order for return to take place in a satisfactory manner:

- 1) Return should be a voluntary process (GP 28- 1). For return to be voluntary, it must be an individual informed decision and there must be freedom of choice. To assess whether IDPs can take a free decision, one can use criteria developed by UNHCR, known as push and pull factors. It is estimated that pull factors are usually more indicative of voluntary return than push factors.
- 2) Return should take place in safety (GP 28- 1 and GP 15)

- According to UNHCR the core component of safety include
- Physical safety (life, health and liberty should not be at risk, de-mining is often central, implies that the causes of displacement have ceased, that meaningful steps have been taken towards establishing enforcement agencies and a functioning independent judiciary, safety should be monitored wherever returns takes place).
 - Legal safety (includes amnesties, access to registration and documentation, housing and property rights)
 - Material safety (returnees should have access to means of survival and basic services, such as potable water., food health services and education).
- 3) Return should take place in dignity (GP 28- 1)
They should be given enough time to prepare for the return, transportation should be provided if necessary, and families should not be separated.
 - 4) Efforts should be made to ensure the participation of IDPs in the planning and management of their return (GP 28-2)
 - 5) Returnees should not be discriminated against (GP 29)
 - 6) Returnees should recover their property and possessions, or get compensation or other kind of just reparation (GP – 29-2)
 - 7) There should be rapid and unimpeded access by international humanitarian organizations to the IDPs (GP 30)

Recommendations regarding the return process to Chechnya.

Christophe Beau's presentation was followed by working groups where the participants were asked to apply the standards to the Chechen context. The result of the working groups is not an exhaustive list of initiatives that should be taken, but addresses some key issues:

The right not to return must be stressed

Currently the security and human rights situation In Chechnya is not conducive to return. The causes of displacement have not ceased to exist. Returnees are generally not safe. There is an urgent need to emphasize that IDPs from Chechnya have the right not to return. Immediate focus should be on ensuring that no-one returns involuntarily. Return of IDPs should always take place on a voluntary basis, but particularly when the security and human rights situation is as grave as it is in Chechnya.

The principle of voluntariness must not be interpreted to mean only the absence of physically enforced return. Threats and intimidation are obviously unacceptable "push-factors", but so called "pull-factors" such as the payment of compensation for lost property being conditional on more or less immediate return is also creating unacceptable pressure on IDPs. For return to be voluntary IDPs must feel that they have a real and genuine choice. For Ingushetia to be considered a genuine alternative to return, at a minimum physical security and access to humanitarian assistance, including shelter, must be guaranteed.

Increased efforts should be made to facilitate temporary or permanent resettlement in the Russian Federation at large.

IDPs who do not feel safe in Ingushetia, should have other alternatives than to return to Chechnya. It is the responsibility of the government to establish conditions and provide the means for voluntary resettlement. Action by the Russian government should include

- grant all IDPs from Chechnya forced migrant status, and if necessary review existing legislation on forced migrant status
- implement efforts to ensure that IDPs from Chechnya are not discriminated against in the residence registration process
- ensure that Chechen IDPs are not evicted from temporary residence centers without being offered other assistance.

Physical safety of returnees must improve significantly before return can take place in satisfactory conditions.

- A political solution to the conflict must be sought
- The climate of lawlessness and impunity must end
- Enforcement agencies should be trained in human rights and conduct vis-à-vis the civilian population
- De-mining and mine-awareness programs must be implemented on a large scale
- Conditions must be created so that the return process can be monitored by international actors. Russian authorities should cooperate fully with international organizations on this, including granting access to an OSCE with a human rights monitoring mandate.
- NGOs should be involved in conflict resolution training

Efforts to improve material safety of returnees must be more efficient and transparent
Social reconstruction programmes should be monitored in according to well-known criteria. Importance of income generating activities and self-reliance projects should be highlighted.

A new mechanism for compensation for damaged property should be established

Currently compensation for lost property is only paid to persons who have chosen to return to Chechnya, and whose entire house has been demolished. The process of paying compensations is too slow and families have to pay large bribes in order to get the compensation. Currently, compensation can only be paid out to one type of account in one bank. Furthermore, the government is using a narrower definition of compensation than defined in article 53 of the Constitution (about the duty of the state to reimburse damage to property). Today, there are two different regulations for compensation. The government should write a decree creating one single system of compensation that ensures:

- a just level of compensation
- compensation also to people who decide not to return to Chechnya
- compensation also for partly destroyed property
- transparency, to prevent bribes
- that the receiver can decide how he or she wants to receive the compensation (what bank, type of account)

Access to savings from Soviet times should be ensured

All those from Chechnya should get compensation for lost savings at the same level as other citizens of the Russian Federation. If the bank no longer has the necessary documents, old saving books should be accepted as necessary documentation.

Legal safety is a nation-wide challenge, but Chechnya should be a priority

Chechnya is far from having an independent judiciary and well-functioning enforcement agencies. This is a question of political will in the Federation at large, but more can be done in regard to training judges and other legal personnel. International organizations should prioritize personnel from Chechnya in legal training programmes.

Access to registration and documentation must be improved

Chechen (and all) citizens should be able to register at a place of residence wherever they choose in the Russian Federation. Short-term visits of IDPs to Chechnya should not exclude people from registration lists (for aid) in Ingushetia. Passport and other documents should be issued without unreasonable delays at a person's factual place of residence. Existing orders on this must be enforced. Oral instructions that restrict possibilities for Chechens to appeal decisions on registration must be cancelled, and orders about this should be distributed to the relevant government structures. Checks on documents should be separated from the registration process to avoid unnecessary suffering during registration.

More should be done to ensure rapid and unimpeded access to international humanitarian organizations

Russian authorities should facilitate the procedure for permission to enter Chechnya for international humanitarian organizations, and give humanitarian organizations permission to use VHF radios in Chechnya.

Chechen asylum seekers

Chechen asylum seekers in Europe

Anne Marit Austbø, Coordinator of ECRE Advocacy Project on IDPs and Refugees from Chechnya , Norwegian Refugee Council

Anne Marit Austbø presented UNHCR statistics and data from an ECRE survey on Chechen asylum seekers. Ms Austbo stated that there was a dramatic increase in asylum seekers from Russia to Europe last year. According to UNHCR, about 30 000 asylum seekers from Russia arrived to 29 industrialized countries, the majority of which are considered to be from Chechnya. Russian asylum seekers topped the list of major countries of origin of asylum seekers arriving to industrialized countries in 2003. The protracted conflict, the pressure on IDPs to return to Chechnya and bad unsatisfactory conditions for Chechen refugees in countries neighbouring Russia were mentioned as plausible reasons for this increase.

The countries that received most asylum seekers from Russia last year was: Austria (6, 709) Poland (5, 581), the Czech Republic (4, 853), France (3, 347), Germany (3,

383)Slovakia(2, 653), and Norway (1, 923).

Ms Austbo said that is nearly impossible to get exact information about number of Chechen asylum seekers and recognition rates regarding this group, because governments do not provide statistics according to ethnicity. According to UNHCR, the recognition rates of people from the Russia who had their cases processed in 2003, were 21, % for refugee status. If one includes, those who received other kinds of status (residence permit on humanitarian grounds, tolerated stay etc), the recognition rate was 27.1

Ms Austbo went through some statistics from different countries, and argued that European governments do not seem to have a very coordinated policy toward Chechen asylum seekers. Recognition rates vary widely from country to country. Most European governments seem to acknowledge that gross and systematic human rights violations are taking place in Chechnya, but more and more seems to be rejecting asylum seekers from Chechnya with reference to the so-called internal protection alternative. Asylum seekers from Chechnya are also rejected because they are not considered victims of individual persecution, or because they are not persecuted on ethnic grounds. Many governments. In some countries, residence permits on humanitarian grounds or temporary protection is given.

There is concern that many Chechens do not have access to asylum procedures due to strict visa requirements, rejection at borders and returns to “safe third countries”.

Ms Austbo also emphasized that there are major Chechen refugee populations living in very difficult conditions in Azerbaijan, Kazakhstan and Georgia. Only in Georgia are Chechens recognized as refugees by the government. There have been reports about extraditions of Chechens from these countries to Russia.

According to Ms Austbo European governments should:

- ensure that all asylum seekers from Chechnya are given the opportunity to seek asylum
- refrain from using the argument of “ an internal flight/internal protection alternative” as a general reason for rejecting asylum seekers from Chechnya
- ensure that asylum seekers from Chechnya who fear persecution, but who fall outside an inclusive interpretation of the 1951 Refugee Convention, are given a complementary form of protection
- ensure that complementary forms of protection afford them their human rights and a dignified standards of living in the host country
- be aware that not only persons of Chechen ethnicity, but also other ethnicity – for example Ingush – who have been living in Chechnya may be in need of international protection
- engage in resettlement programs of refugees from Chechnya from Azerbaijan, Kazakhstan and Georgia.

In the discussion it was noted that it is extremely difficult for Chechens to get visas to European countries from Embassies in Moscow. Even if they have letters of invitation from respected organizations. It was explained that Norway will generally not give visas to Chechens due to a suspicion that they will apply for asylum, and that this will be stated in the letter of rejection.

Chechen asylum seekers in the new EU countries

Jaroslav Vetrovsky, Organization for Aid to Refugees (The Czech Republic)

Vetrovsky emphasized that when speaking about the situation for Chechen asylum seekers in these countries, one must distinguish between before and After May 2004, when the countries became member of the EU and the Dublin cooperation. The Czech Republic and Poland have generally been transit countries for Chechens who want to apply for asylum in Western Europe. Now, asylum seekers who arrive here cannot apply for asylum in other EU countries.

According to government sources, 90 % of Chechens have not stayed in the Czech Republic for more than 35 days. Vetrovsky acknowledged that most Chechens wanted to move on to other countries, but said that it was a problem that the 90 days deadline for processing asylum claims can be postponed indefinitely, and that the government seemed to deliberately delay the processing of asylum cases.

In 2003, 4 578 applications were submitted by Russian nationals. More than half of these applications were not considered on its merit, because the applicant had moved on to another country. Only 828 cases were considered on its merit, and 39 persons were granted refugee status.

Vetrovsky said that it was a problem that the government generally does not recognize that Chechens are persecuted because of their nationality or ethnicity, and that you have to be very clearly individually targeted in order to get protection. Vetrovsky also noted that the authorities actually often refer to UNHCR Guidelines and statements in their rejections. According to Vetrovsky, the attitude in Poland is very similar. Most Chechens arrive in the Czech republic via Poland. These people will now be returned to Poland, which will be considered the first country of asylum.

UNHCR's Position on the Internal Flight Alternative (IFA)¹

Gang Li, senior Protection Officer , UNHCR Moscow

UNHCR has developed Guidelines on the use of IFA. Gang Li underlined that international law put no obligation on asylum seekers to exhaust local remedies before applying for asylum. IFA is not by itself a stand-alone refugee principle, and should be regarded only as a tool in the asylum procedure process. Gang Li stressed that no-one should have their claim rejected because an IFA exists, without a substantive analysis of the individual case. Such an analysis must include considerations of whether an IFA is safe, legally accessible and reasonable. Basically, one must ask if the person can live a normal life at this place, including viable economic means to support herself. This analysis is much broader and much more inclusive than the refugee status determination procedure. Furthermore, it is the duty of the government to prove that an IFA exist in every case. It is not sufficient to refer to general descriptions of the situation.

¹ Referred to as the "Internal Protection Alternative by ECRE

Concerning the use of IFA on Chechens, Gang said that it is the position of UNHCR that people from Chechnya are still in need of international protection. UNHCR will not state that there is NO place in a country as big as Russia where Chechens can live a normal life in safety. He stressed that every case must be looked into individually, and that it is the duty of European countries to present proof if an IFA is to be used.

In the discussion it was pointed out by one of the participants that there seems to be a big gap between the standards set forth by UNHCR and the standards applied by governments. While the former refers to the possibility of living a “normal life”, a situation without “risk to life or inhuman treatment” has been applied by governments. It was argued that if governments had been following the criteria set forth by UNHCR, no Chechens would have been rejected on the basis of an IFA. On a question about the relationship between the UN Guiding Principles and IFA, Gang Li pointed out that countries of asylum cannot say that because there is an IDP population, an IFA exists.

International advocacy

By Alexandr Petrov, Moscow Office, Human Rights Watch

Mr. Petrov argued that the displacement crisis cannot be solved without addressing the regional reasons for the conflict. It is pivotal to demand that Russian authorities stop the human rights abuses, and that all those responsible for violations are held accountable. For this to happen, it is necessary to document human rights violations committed during the conflict. If national mechanisms are not working, the international community should establish necessary instruments. However, the reactions by the international community has been very disappointing, especially over the last two years. The UN Commission on Human Rights has not adopted resolutions on the situation in Chechnya for the past three years, state leaders have not by and large raised the Chechen issue in bilateral talks with Russia, and only two of the UN’s special rapporteurs have been invited by Russia to visit the region. Mr. Petrov argued that interest from other states in a human rights crisis can play a very noticeable role if the states act in a timely manner. He used the peacekeeping forces and the international tribunal in former Yugoslavia as an example. In fact, the proceedings there would not have been possible without all the data that was collected during, and in the aftermath of the Balkan conflicts. The work that NGOs are doing is crucial, but inter-governmental organizations should also be documenting the atrocities taking place in Chechnya. Mr. Petrov went on to describe the result of advocacy efforts in multilateral fora over the past few years as rather disappointing and recommended that future advocacy efforts be geared towards regional organizations. The OSCE and the Council of Europe can play important roles. He emphasized the importance of working directly with European governments on these questions, and pushing them to put Chechnya on the agenda both of regional meetings, and bilateral contact. Mr. Petrov called for NGOs to work with their own national governments.

One of the participants pointed out that future decisions by the Human Rights Court in Strasbourg on Chechen cases will be very important, and that NGOs should make

sure that the Committee of Minister, whose responsibility it is to follow up the decisions of the Court, is actually doing that.

The importance of good cooperation and coordinated efforts by NGOs was emphasized. For organizations working in the field it can be problematic to undertake advocacy because it may be ill-perceived by the host government. But these organizations possess very important information that needs to be shared with NGOs working with advocacy on an international level.

All participants were encouraged to sign on to a mailing list. The purpose of the mailing list is to keep each other up-dated about important developments in different areas of work, as well as about advocacy efforts on a national or international level. ECRE/NRC will consult participants in further policy development and advocacy efforts.

Rapporteur: Anne Marit Austbø