

ECRI

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SECOND REPORT ON THE RUSSIAN FEDERATION

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Foreword

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. ECRI's first report on the Russian Federation is dated 19 June 1998 (published in January 1999). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.

An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.

The contact visit to the Russian Federation took place on 13-17 November 2000. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Russian national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the Russian national liaison officer whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.

Furthermore, ECRI would like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.

The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 16 March 2001 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

Executive summary

Against a background of continuing political, economic and social change, the Russian Federation has taken some positive steps over recent years which are relevant to combating racism and intolerance. These include the launch of an inter-agency programme aimed at the promotion of tolerance and the prevention of extremism in Russian society, a number of concrete measures and proposals to combat extremist parties and movements, the adoption of framework legislation to enhance the protection of small indigenous communities and the increasing activity of the Office of the Human Rights Commissioner. ECRI also notes that the Constitutional Court has continued to play a fundamental role in strengthening the ability of the federal authorities to ensure that human rights, and particularly protection against racism and discrimination, are observed in all the subjects of the Federation. Recent measures aimed at ensuring that federal policies and legislation are applied at all levels are also noted in the report along with the potentially positive impact that such measures could have on the implementation of policies and legislation in the field of human rights in general and, more particularly, in the areas covered by ECRI's remit.

Problems of racism, xenophobia and discrimination persist, however and concern notably -- although not exclusively -- Chechens and other persons from the North Caucasus, persons from Central Asia, refugees and members of the Jewish community. These problems are in part linked to the difficulties encountered in ensuring that federal legislation and policies are applied at the regional and local levels. An illustration of this is the discrimination originating from the system of registration of residence and temporary stay and its enforcement procedure, an issue of particular concern to ECRI. The behaviour -- of what seems to be a significant scale -- of law enforcement officials *vis-à-vis* members of certain minority groups is also cause for serious concern. Concern is also expressed at the unsatisfactory implementation of existing law provisions against racial violence and hate speech. These phenomena are in part connected to the presence of extremist groups and political parties and to the exploitation of social prejudice. Also noted with concern is the absence of comprehensive civil and administrative antidiscrimination statutory provisions covering discrimination in different fields of life including provision for a fully effective specialised body.

In the following report, ECRI recommends to the Russian authorities that further action be taken to combat racism, xenophobia, discrimination and intolerance in a number of areas. These recommendations cover, *inter alia*: the need to ensure that federal legislation and policies in the areas covered by ECRI's remit are applied at the regional and local levels; the need to review the system of registration of residence and temporary stay and its enforcement procedure in order to ensure that it is not discriminatory in practice; the need to counter illegal behaviour on the part of law enforcement officials, particularly against vulnerable groups; the need to improve and substantially strengthen the response of the authorities to racial violence and hate speech, including through a more effective implementation of existing legal provisions; the need to continue the process of countering extremist political parties and groups; and the need to adopt a body of comprehensive civil and administrative antidiscrimination provisions covering discrimination in different fields of life.

SECTION I: OVERVIEW OF THE SITUATION

A. International legal instruments

1. The Russian Federation has ratified many international legal instruments relevant in the field of combating racism and intolerance. ECRI welcomes the signature by the Russian Federation of the Additional Protocol N°12 to the European Convention on Human Rights, which widens in a general fashion the scope of application of Article 14 of the Convention and contains a non-exhaustive list of grounds of discrimination. ECRI encourages the Russian authorities to ratify this Protocol as soon as possible. In its first report, ECRI urged the Russian authorities to sign and ratify the European Charter for Regional or Minority Languages. ECRI notes that the Russian Federation has signed the Charter and reiterates its call for a prompt ratification of this instrument. In its first report, ECRI furthermore urged the Russian authorities to sign and ratify the European Social Charter. ECRI welcomes the signature of the Revised Social Charter by the Russian Federation in September 2000 and urges the Russian authorities to expedite the process of ratification. ECRI also urges the Russian authorities to ratify the European Convention on Nationality, which the Russian Federation signed in November 1997. It furthermore encourages the Russian authorities to sign and ratify the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level.

B. Constitutional provisions and other basic provisions

2. Under Article 19(1) of the 1993 Constitution of the Russian Federation, the State guarantees equal rights and liberties regardless of, *inter alia*, sex, race, nationality, language, residence, attitude to religion and moral convictions. Article 19(2) prohibits restrictions of the rights of citizens on social, racial, national, linguistic or religious grounds.
3. Article 13(5) prohibits the establishment of public associations whose aims and actions are directed, *inter alia*, at incitement to social, racial, national and religious strife. Article 29(2) Prohibits propaganda or campaigns inciting social, racial, national or religious hatred and strife.
4. In Russian language and law, nationality usually means ethnic, national or religious origin or affiliation. On this basis, Article 26(1) of the Constitution stipulates that everyone is entitled to determine and indicate his national affiliation and that no-one may be compelled to determine and indicate his national affiliation. ECRI notes that mention of nationality is still imposed in some official documents issued at the level of the regions. ECRI encourages the Russian authorities to ensure that all identification and other official documents issued at the level of the regions are in conformity with the guarantees enshrined in the Constitution.
5. According to Article 26(2), everyone has the right to use his or her native language and of the free choice of language of communication, upbringing, education and creative work. Language rights are also protected by Article 68, whereby the Russian Federation "guarantees to all its peoples the right to retain their native language and to create conditions necessary for its study and

development". Specific reference is made in Article 69 to the guarantee of the rights of "numerically small indigenous peoples". As will be mentioned below, primary legislation has been enacted to put this principle into practice¹. Art. 71 (v) puts "regulation and protection of the rights of national minorities" under the competence of the federation, and Art. 72 places joint responsibility on the federation and its subjects for the protection of national minorities (Art 72 (b)), and the defence of the traditional habitats and traditional way of life of small ethnic communities (Art 72 (m)).

6. Although there is at present no legislation on national minorities, the 1996 Law on National Cultural Autonomy provides for a system of associations, or national cultural autonomies, at federal, regional and local level as a form of national and cultural self-determination and self-organisation, for the preservation and development, for example, of lifestyles, traditions, language, education and self-awareness of ethnic groups. In addition, the Outline of Russian State Policy on Nationalities was also adopted in 1996. It reiterates constitutional provisions on the equality of rights of ethnic groups, and seeks to improve the conduct and coordination of policies towards ethnic groups or nationalities by combining the efforts of federal and constituent authorities with the ethnic communities. Both the State Policy and the Law on National Cultural Autonomy are currently being reviewed. ECRI notes with interest that the number of autonomies registered at all levels is increasing. It notes, however, that, although the authorities at federal, regional and local level may provide funds to these associations, these are in practice mostly self-supporting, which results in generally insufficient resources being available to them. ECRI urges the Russian authorities to address the problem of funding of the National Cultural Autonomies. More generally, it encourages the Russian authorities closely to co-operate with the Consultative Council on National Cultural Autonomies to address all difficulties arising from the implementation of the Law.

- **Granting of citizenship**

7. There are reports that some groups of citizens of the former USSR belonging to ethnic minority groups who involuntarily had to move to the territory of Russia before the collapse of the Soviet Union have been unable to secure citizenship of the Russian Federation despite legal provisions enabling them to do so². Article 13(1) of the 1991 Law "On Citizenship of the Russian Federation" stipulates that all citizens of the former USSR, *permanently residing* on the territory of the Russian Federation on the day the law took effect are recognised citizens of the Russian Federation unless within one year of this date they declare their unwillingness to become citizens of the Russian Federation. Despite the absence in the law of provisions in this sense, the practice of the public authorities has been to equate permanent residence to possession of

¹ *Vulnerable groups – Numerically small indigenous people*

² *These groups include: Meskhetian Turks who fled from Uzbekistan in 1989-90 to the Krasnodar Krai and the Kabardin-Balkarian Republic; some of the Kurds from Armenia and Azerbaijan who sought refuge in the Krasnodar Krai, the Republic of Adygeia, and the Nizhny Novgorod Oblast in 1988-90; some of the Armenians who fled Azerbaijan in 1988-90 and went to Moscow, the Moscow Oblast, Krasnodar and the Stavropol Krai and Rostov Oblast; and some of the Ossetian refugees who fled from Georgia in 1990-91 to the Republic of North Ossetia - Alania*

residence registration (*propiska*)³. However, the members of the groups referred to have been unable to obtain *propiska* from the regional authorities. The present situation of these persons is aggravated by the fact that lack of Russian citizenship is in some cases used as a reason to refuse granting registration of residence (which has replaced *propiska* since 1993), a prerequisite for the enjoyment of many political, social, cultural and economic rights⁴. ECRI expresses concern at this situation and urges the Russian authorities to investigate it further and to address it as a priority in order to ensure that the rights of the persons concerned are respected.

C. Criminal law provisions

8. Article 136 of the Criminal Code of the Russian Federation penalises any violation of the equality of citizens on the basis of, *inter alia*, gender, race, nationality, language, place of residence, attitude to religion, convictions, and membership in public associations, which inflicts damage on citizens' rights and lawful interests. Article 282 penalises any actions directed at instigating national, racial or religious hatred, belittling nation dignity, as well as the propagation of exclusiveness, superiority or deficiency of citizens because of their attitude to a religion, or their national or racial affiliation, if such behaviour is committed in public or using mass media. The Criminal Code also provides for the imposition of more severe penalties if, in certain instances, the motive of national, racial or religious hatred or enmity is present in committing an offence or, generally, such motive constitutes an aggravating circumstance (Article 63(1)).
9. ECRI is concerned that these provisions are very rarely applied. For example, very few cases have been brought under Article 136 and none of these has led to a court's sentence. ECRI believes that this could be connected to the unclear formulation of the criminal offence, which does not contain concrete elements describing the illegal behaviour. ECRI therefore considers that it would be beneficial to clarify the language of Article 136. It is not clear to ECRI to what extent the provisions contained in Article 63(1) are applied in practice.
10. Despite the widely reported presence of hate speech in public life generally and in the media in the Russian Federation⁵, Article 282 has also only been applied in a limited number of cases. ECRI is aware of initiatives on the part of the Office of the Procurator General to improve prosecution of hate speech, including the preparation of methodological instructions for prosecution of this type of cases in 1998 and of further guidelines in July 1999. ECRI strongly feels that the effectiveness of any such initiatives should be regularly and thoroughly monitored. More generally, given the seriousness of the problem, ECRI urges the Russian authorities to pursue a more active policy in this respect, *inter alia* through measures aimed at further raising with all those involved in the application of the criminal law, including law enforcement officials and judges, the awareness of the need to address seriously all instances of incitement to racial hatred.

³ See Section II below, *Discriminatory impact of the system of residence permits on certain categories of persons*

⁴ See Section II below, *Discriminatory impact of the system of residence permits on certain categories of persons and Vulnerable groups – Meskhetian Turks*

⁵ See below, *Vulnerable groups – Jewish community, Extremist parties and movements and Media*

D. Civil and administrative law provisions

11. Although some civil and administrative law provisions relevant in the field of ECRI's work exist in the Russian Federation⁶ there are no comprehensive civil or administrative law provisions against discrimination. As already mentioned in its first report, ECRI strongly encourages the Russian authorities to consider the adoption of a body of comprehensive civil and administrative antidiscrimination provisions covering discrimination in different fields of life such as employment, education, housing, access to public and social services and public places and contractual relations between individuals. Such legislation should provide for effective mechanisms of enforcement. As will be discussed below⁷, ECRI stresses the fundamental role that a specialised body responsible for combating racism and intolerance could play in supervising the implementation of such anti-discrimination legislation. ECRI furthermore believes that the debate around the adoption of such legislation would stimulate research covering the phenomena of direct and indirect discrimination and discrimination in the private sphere as well as the extent to which these may be present in the Russian Federation, as there appears to be a lack of awareness of these issues in society in general.

12. Article 4 of the Law on Mass Media prohibits the dissemination of information aimed at fomenting national or racial intolerance. In case of repeated breach of the law within one year followed by warnings by the competent state agencies, the latter can seize the courts for closure of the concerned media. Up until very recently, this procedure was rarely used. However, ECRI understands that, in 2000, three ultra-right newspapers – namely “*Sturmovik*”, “*Vitiaz*” and “*Slavianin*” – were closed under these powers. ECRI urges the Russian authorities to monitor the effectiveness of this legislation in close consultation with all interested parties and to take any necessary corrective action.

E. Relationships between the centre and the subjects of the Federation

13. As already noted by ECRI in its first report, the arrangements provided for by the Constitution of the Russian Federation in respect of distribution of powers and responsibilities between the centre and the subjects reserve certain powers to the centre and attribute responsibility for everything else to the subjects of the Federation -- with the exception of certain identified areas of joint, concurrent jurisdiction. As in its first report, ECRI expresses concern that the sometimes-unclear definition and allotment of responsibility between the centre and the subjects could hinder the formulation and implementation of policies in the areas covered by its remit.

14. Difficulties in the implementation of federal legislation and policies at the level of the subjects of the federation appear to ECRI to be at the origin of a considerable number of problems in the field of human rights, and notably in the field of combating racism, racial discrimination, xenophobia, antisemitism and intolerance. Although, as mentioned in different parts of this report, the

⁶ For example, Article 16 of the Labour Code (see below, Employment)

⁷ Specialised bodies and other institutions

authorities of many constituent units of the federation often violate the Constitution, federal laws and international obligations of the country in the area of human rights, in practice the federal authorities have limited opportunities of influencing the subjects of the Federation, and even these opportunities are generally not used systematically or effectively. Regional branches of the federal governmental agencies sometimes act in practice as if subordinate to the regional governments, while the action taken by the federal authorities to ensure that these branches observe the federal legislation and policy is not always effective. ECRI notes that the situation now seems to be changing.

15. ECRI notes a number of important recent reforms, which are bound to affect the relationships between the centre and the subjects. Such reforms include: i) the replacement of the individual envoys to the regions with seven presidential envoys, each responsible for one of the seven new administrative districts in which the subjects of the Federation have been grouped; ii) the new composition of the Federal Council, whose regional governors and presidents are gradually to be replaced by one representative for each subject, appointed by regional officials; iii) and the powers of the President to dismiss, in certain circumstances, governors and mayors and to dissolve, in certain circumstances, regional assemblies. ECRI considers that such reforms might positively contribute to a more effective implementation of federal legislation and policies at the level of the subject of the federation and hopes, in this respect, that high priority will be given to the implementation of legislation and policies in the field of human rights generally and, more particularly, in the areas covered by its remit.

F. Administration of justice

16. In its first report, ECRI stressed the important role of the Constitutional Court in particular to the ability of the federal authorities to ensure that human rights, including measures to combat discrimination and intolerance, are observed in all the subjects of the Federation and that conflicts of policy and jurisdiction are properly resolved. ECRI notes, however, that some of the subjects continue to be unwilling to conform with judgments of the Court, particularly on the question of residence permits⁸. ECRI reiterates its call for a stricter observance of the decisions of the Constitutional Court.
17. In its first report, ECRI also noted evidence that the decisions of the lower courts were sometimes biased by religious and racial prejudice. As will be mentioned below⁹, some recent decisions rendered by Moscow courts regarding charges pressed against Chechens – which a considerable number of reports allege are based on fabricated evidence – are a cause of concern to ECRI. In several cases, the Krasnodar Krai¹⁰ courts were reportedly biased in their decisions concerning claims by the Meskhetian Turks that the local police had refused to register them by place of residence.

⁸ See Section II below, *Discriminatory impact of the system of residence permits on certain categories of persons*

⁹ See Section II below, *Chechens and other persons from the North Caucasus*

¹⁰ There are 89 constituent units in the Russian Federation, which comprise republics, krais (provinces), oblasts (regions) and okrugs (districts) and the cities of Moscow and St. Petersburg

18. ECRI addresses the behaviour of law enforcement officials in another section of this report¹¹. However, it emphasises here the urgent need for training in anti-discrimination standards and for awareness raising initiatives in the field of racism and racial prejudice for all professional groups involved in the administration of justice.

G. Specialised bodies and other institutions

19. In its General Policy Recommendation N°2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, ECRI supports the establishment of bodies which can effectively and independently monitor the situation as regards human rights generally or specifically in relation to racism and racial discrimination, and formulates recommendations on the form that these bodies might take.
20. In its first report, ECRI welcomed the establishment of the Office of Human Rights Commissioner and expressed its hope that the Commissioner would act firmly in combating racism and intolerance. ECRI welcomes the fact that the Commissioner has taken action in some cases relating to the fields covered by ECRI's remit. For instance, ECRI notes the amendments proposed by the Human Rights Commissioner to the 1997 Federal Law on Freedom of Conscience and Religious Associations and the forthcoming publication of a report on freedom of movement and residence registration. At the same time, ECRI hopes that all aspects of the work of the Human Rights Commissioner -- including those aspects not related to individual cases -- will stimulate an active response and a fruitful dialogue with the other federal or regional institutions involved. At the regional level, ECRI notes that, since the preparation of its first report, a number of laws on the establishment of independent regional parliamentary Ombudspersons have been adopted or are being drafted. However, only in a limited number of cases has an Ombudsperson actually been appointed. ECRI strongly supports the establishment of independent and adequately funded regional Ombudspersons in all regions of the Russian Federation and hopes that the appointment of such persons will follow as rapidly as possible.
21. ECRI also notes the work carried out by the Presidential Human Rights Commission which carries out consultative functions for the President on issues related to human rights.
22. In respect specifically of issues of racism, racial discrimination and related intolerance, however, ECRI doubts that these issues can be addressed adequately in the absence of legislation setting out a comprehensive framework within which it is possible for individuals to pursue legitimate complaints against illegal acts of discrimination. In the context of the possible adoption of a comprehensive framework of anti-discrimination legislation, as suggested above¹², ECRI feels that consideration should be given to the establishment of a specialised body with specific responsibility, *inter alia*, for supervising the implementation of such legislation and for providing an effective means of redress for individual grievances at national and local level.

¹¹ See below, *Law enforcement officials*

¹² *Civil and administrative law provisions*

H. Education and training/awareness raising

23. ECRI welcomes the programme on Tolerance and Prevention of Extremism in Russian Society (POTPEX), an inter-agency programme initiated as part of a wider national strategy for the development of civil society and aimed at promotion of norms, values and practices based on the principles of tolerance and non-violence in a democratic, multi-ethnic and multi-religious Russian society. Although initiatives under the umbrella of POTPEX concern the fields of activity of several ministerial departments, special emphasis has been put on educational initiatives, as reflected in the role of the Ministry of Education as one of the main implementing agencies of the programme.
24. ECRI encourages all implementing agencies, and particularly the Ministry of Education, actively to involve civil society organisations in the practical implementation of POTPEX, not only as concerns the carrying out of practical initiatives and projects, but also in the identification of priority areas in which such initiatives and projects are most needed.
25. ECRI believes that one such priority area should be the development of the human rights dimension in school curricula for primary and secondary education, as well as in higher education, with particular emphasis on the principles of equality and non-discrimination and the notion of tolerance. ECRI considers that the aim should be to make teaching of these subjects compulsory at the primary and secondary level and to ensure that initial and, possibly, on-going specialist training is provided to teachers of these subjects. ECRI welcomes the recent decision of the Inter-agency Commission of the Russian Federation for Co-operation with the Council of Europe to recommend to the Ministry of Education to introduce the subject of human rights in the curricula of State education, including post-graduate specialist training. The development of the human rights dimension also requires regular review of school curricula and textbooks across all subjects – with a particular emphasis on history teaching -- to ensure that these do not perpetuate prejudice and stereotypes and do not favour the development of extreme nationalist, racist or otherwise intolerant attitudes in school children. Given the persistent presence of antisemitism in Russian society, ECRI encourages the Russian authorities to pay particular attention to this phenomenon in the course of such review and to make full use of the rights given to the federal authorities in the elaboration of school curricula and text books used in the educational systems of the subjects.

I. Reception and status of non-citizens

- *Refugees and asylum seekers*

26. In February 1993, the Russian Federation adopted its first refugee law. As noted by ECRI in its first report, this law was prepared under the assumption that it would serve to regulate the legal status of former citizens of the Soviet Union, who had to move to the Russian Federation from the newly-independent states which previously constituted the Soviet Union, for reasons stated in the 1951 Convention relating to the Status of Refugees or as a result of armed conflicts in the former USSR. Partly as a result of the generous provisions provided by the law for persons recognised as refugees, the 1993 law --

applicable to all refugees -- was not implemented with regard to persons originating from outside the former Soviet Union. In fact, there were difficulties in according even recognised refugees the benefits due to them under this law. In this context, new legislation -- On Amendments and Additions to the Law of the Russian Federation "On Refugees" -- was adopted and came into force in mid-1997. In October 2000, almost all registered refugees, who had been given status under the 1993 provisions, therefore came from the Commonwealth of Independent States (CIS) and Baltic States. Today, however, the vast majority of asylum applications are filed by persons coming from other countries, particularly Afghanistan.

27. According to the 1997 law, the refugee determination procedure is divided into two steps: firstly, the registration of a person as an asylum seeker and, secondly, the assessment of the merits of his/her claim. ECRI is concerned that access to the asylum determination procedure is too difficult. This is due in part to the provisions concerning asylum applications in cases of illegal entry into the country and in case of previous transit through a "safe third-country". However, in some regions, potential asylum seekers meet additional difficulties in accessing the procedure, which relate to problems in registering their asylum applications and their residence. In theory, asylum seekers should be able to register their asylum applications and to obtain, on this basis, residence registration¹³. However, there are reports that the competent authorities often refuse registration of the asylum claims on the basis of unlawful requirements. It should be noted in this respect, that, in violation of federal law, presidential decrees and the Constitution, some regional normative acts made, in the past, the granting of refugee status conditional on unlawful requirements such as possession of registration of temporary stay, presence of kin ties in the region or other additional circumstances. Although these acts are no longer in force, in practice, asylum seekers are still reported to face problems in registering their asylum applications and, as a result, in obtaining residence registration. Without residence registration asylum seekers are perceived as illegal immigrants and not as persons seeking international protection. As mentioned in Section II of this report, this exposes them to the risk of refoulement, but also to harassment, violence and requests for bribes on the part of the police. Asylum seekers are widely reported to be regularly checked for proof of lawful residence (during checks UNHCR cards are in some cases ripped up by police officers on the ground that they do not constitute a valid title for residence), arrested, and subjected to extortion of money. Another consequence of the lack of residence registration is that asylum seekers are not eligible for social services, medical care, the right to work and to free education for their children. ECRI is aware that in some cases the authorities have taken steps to address this situation. For instance, in Moscow, where a considerable number of asylum seekers tend to concentrate, waiting lists for registration of asylum claims have been created and asylum seekers cards conferring certain rights are to be issued. However, ECRI strongly feels that in general asylum seekers' access to the asylum procedure should be further simplified and that the authorities should ensure that the basic needs of these persons are met while the examination of their claims is pending. More generally, ECRI reiterates here, with regard to asylum

¹³ According to Article 4.7 of the 1997 refugee law, the certificate of registration of an application serves as a basis for legalising the residence of the asylum seeker in the Russian Federation

seekers, its observations concerning the discriminatory impact of the system of residence permits¹⁴.

28. Article 12 of the 1997 refugee law contains a provision introducing the concept of humanitarian status for persons who do not qualify for refugee status under the definition of the Convention. ECRI notes that, in 2001, the Russian Federation adopted a resolution "On Granting Temporary Shelter in the Territory of the Russian Federation" that defines the conditions for granting temporary shelter to foreign citizens in accordance with Article 12 of the Federal Law on Refugees.
29. ECRI notes the re-organisation of the government department responsible for the implementation of legislation and policy in the field of asylum and refugees. It encourages the authorities to ensure that such re-organisation will contribute to better address the concerns highlighted by ECRI in this field and to monitor the situation.

J. Access to public services

- Access to social services such as healthcare, welfare and housing and access to public places

30. Access to some social services is often conditional on registration by place of residence. As a result, the discrimination experienced by members of certain minority groups in obtaining registration of residence impact on these people's ability to enjoy these rights¹⁵. Thus, for example, although (according to the 'Basis of Legislation of the Russian Federation on Health Protection' of 22 July 1993 and to the federal law 'On Medical Insurance of Citizens in the Russian Federation' of 28 June 1991) medical aid must be provided to everyone free of charge, in practice, there are reports of aid being refused to sick persons not locally registered.
31. In certain regions, discriminatory advertising in private housing market is widespread. There are also reports that, since September 1999, Chechens have also been refused admission to certain places open to the public, such as hotels, in Moscow and Moscow Oblast.
32. ECRI urges the Russian authorities to ensure equal access for all to social services such as healthcare, welfare and housing and access to public places, without discrimination, including on the basis of possession of registration of residence.

¹⁴ See Section II below, *Discriminatory impact of the system of residence permits on certain categories of persons*

¹⁵ See Section II below, *Discriminatory impact of the system of residence permits on certain categories of persons*

- **Access to education**

33. The right of children to go to school is also often connected with the parents' registration of residence. Thus, the right of the members of those groups who have difficulties obtaining residence registration to send their children to school is not always guaranteed. In this respect, ECRI expresses particular concern at the situation of asylum seekers' children¹⁶.
34. ECRI is aware of current efforts undertaken by the Ministry of Education to guarantee good quality education in all regions of the Russian Federation and considers that such efforts go in the direction of ensuring equal access to education to all people living in the Russian Federation. It considers, however, that further efforts should be made to ensure that the fundamental right of access to education is respected independently of possession of registration of residence.

K. Employment

35. Article 16 of the Labour Code stipulates that in offering employment and in defining the rights and duties arising from employment, employees shall not be discriminated against on account of, *inter alia*, gender, race, nationality, language, place of residence and religious convictions. However, ECRI has not been made aware of any cases actually brought before a court on the basis of this provision. ECRI notes moreover that certain ethnic minority groups in practice experience discrimination in access to employment, notably as a result of discrimination faced in obtaining registration of residence¹⁷. Currently, in several Federation subjects the regional registration regulations expressly prohibit hiring persons who do not have registration of residence in the region and place administrative responsibility on employers who violate such provisions. In other regions, although there is no provision in the law in this sense, persons without local residence registration are prevented from employment as a result of practice. ECRI urges the authorities to ensure that regional regulations conform with federal legislation against discrimination in employment and that the existing federal anti-discrimination provisions are implemented in practice. ECRI stresses that employment should be one of the areas covered by the body of comprehensive civil and administrative antidiscrimination provisions suggested above¹⁸.

¹⁶ See above, *Reception and status of non citizens – Refugees and asylum seekers*

¹⁷ See Section II below, *Discriminatory impact of the system of residence permits on certain categories of persons*

¹⁸ *Civil and administrative law provisions*

L. Vulnerable groups

This section covers certain minority groups, which may be particularly vulnerable to problems of racism, discrimination and intolerance in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination.

36. ECRI is deeply concerned at the widespread sentiments of hostility and high levels of prejudice *vis-à-vis* members of certain ethnic groups, often resulting in acts of discrimination and violence on the part of private individuals and law enforcement officials against members of such groups. ECRI believes that this situation is a result of actions and attitudes held both by public bodies at federal and regional level, and by the media and social actors often supporting them. Particularly since 1999, immigrants from the Caucasian region in Moscow, and Chechens in various regions of the Russian Federation including the city of Moscow, Moscow Oblast, Stavropol Krai, the Republic of North Ossetia/Alania, Daghestan, Kabardin-Balkarian Republic have been regular targets of such actions and attitudes. The same can be said of Meskhetian Turks residing in the Krasnodar Krai.
37. The consequences of this situation as concerns the treatment of members of minority groups by the police will be addressed in another section of this report¹⁹. Here, ECRI expresses its concern at reports that, in the Southern regions of the Russian Federation (e.g. the Krasnodar and Stavropol Krai, Rostov and Volgograd Oblasts), many of the acts of violence and harassment against persons belonging to ethnic minorities, are committed by members of organisations referring to themselves as Cossacks, whose members actively participate in law enforcement, both together with and separately from local police forces. These acts are in some cases carried out without hindrance on the part of the authorities. The law enforcement bodies have either refrained from prosecuting the persons responsible, or brought to account only separate individuals. ECRI notes that the presidential Human Rights Commission has stressed the dangers of the legalisation of the activity of extremists on the part of certain local authorities and law-enforcement agencies under the pretext of providing assistance in restoring law and order. ECRI strongly urges the Russian authorities to ensure that law enforcement functions are carried out exclusively by persons officially qualified for carrying out these tasks and that all acts of harassment and violence committed by members of the Cossack movement are properly investigated and prosecuted as necessary.

- ***Chechens and other persons from the North Caucasus***

38. ECRI deals with the situation of Chechens and other persons from the North Caucasus in Section II of the present report.

¹⁹ See below, *Law enforcement officials*

- **Meskhetian Turks**

39. Meskhetian Turks are a Turkish-language speaking Muslim ethnic group whose members were deported in 1944 from Southern Georgia to the republics of Central Asia. In 1989-1990, following ethnic clashes, many Meskhetian Turks were forced to leave Uzbekistan and sought refuge in different parts of Russia (at that time, one of the republics of the USSR). Several thousands of them fled to the Krasnodar Krai.
40. The situation of the Meskhetian Turks in the Krasnodar Krai is a cause of deep concern to ECRI. As mentioned above²⁰, Meskhetian Turks did not secure citizenship of the Russian Federation and lack of citizenship is used by the regional authorities as a reason to refuse granting registration of residence. As noted by ECRI in its first report, lacking registration of residence, virtually all other basic rights of Meskhetian Turks are seriously affected, including the right to have their marriages or children recognised, access to social security and public health services, to be employed on a permanent basis, to own property, or to obtain personal documents like passports or driving licences. Since mid-1997 Meskhetian Turks are being required by the Krasnodar authorities to re-register as persons coming from a CIS country for a temporary stay only (45 days), despite having been at their present abode for several years -- temporary residence allowing Meskhetian Turks certain social rights. In order to register, a person is required to pay a fee on each occasion. In addition, Meskhetian Turks are regularly checked and fined by police and even by the traffic police for the lack of registration. Checks of the registration status including searches of dwellings also take place regularly.
41. As mentioned in its first report, ECRI considers that urgent action is needed to end discriminatory treatment of Meskhetian Turks on the part of the authorities of the Krasnodar Krai as concerns registration of residence, and enjoyment of civil, political and socio-economic rights. Their right to citizenship should also be respected where it has been denied. At the same time, ECRI urges the Russian authorities to investigate any allegations against the conduct of law enforcement officials and paramilitary groups in respect of reported human rights violations and to take any appropriate proceedings. ECRI understands that, on the basis of the work carried out by the Interdepartmental Commission on Solving Problems of Meskhetian Turks living in the Territory of the Russian Federation, the government of the Russian Federation plans, *inter alia*, to consider extra financing of municipal bodies in regions where Meskhetian Turks who are not Russian nationals live compactly and to appoint within the structures of the Ministry of Federation Affairs of Russia and the administration of the Krasnodar Krai special commissioners in the regions of compact residence of Meskhetian Turks. ECRI strongly encourages the Russian authorities to monitor the implementation and effectiveness of these measures. ECRI hopes also that the Russian authorities will actively pursue international discussions with a view to regularising the position of the Meskhetian Turks in general.

²⁰ Constitutional and other basic provisions – Granting of citizenship

- **Ingush refugees**

42. Since the armed clashes between Ingush and Ossetians which took place in October-November 1992 and resulted in the eviction of thousands of Ingush from Prigorodnyi raion in North Ossetia, there have been few advances in dealing with the issue of Ingush forced migrants. The Federal authorities have stated that of the 42,000 persons registered as forced migrants, around 17,000 have received financial aid to return to Northern Ossetia/Alania and that efforts continue at the federal level and at the regional level to help the return of the rest of the displaced population. However, the authorities of the Republic of North Ossetia/Alania have not provided the necessary conditions for a viable and safe return of the displaced Ingush population to their old homes. In the few towns in which Ingush have stayed or to which they later returned, they are reportedly faced with joblessness and a situation of blockade, and often subject to threats and violence. As a result, many Ingush families are forced to leave the territory of Prigorodnyi raion for a second time.
43. ECRI stresses the need for measures to enable a safe and dignified return of all Ingush families to their homes, including to protect them against violence and discrimination.

- **Jewish community**

44. Following large-scale emigration over the last two decades, between 600,000 and 700,000 Jews remain in the country, mostly living in Moscow or St. Petersburg. As noted by ECRI in its first report, there has been a welcome revival of Jewish communal and religious life in the last decade and members of the Jewish community are not generally inhibited in the free practice of their religion. ECRI remains concerned, however, at the persistent presence of prejudice *vis-à-vis* the members of the Jewish community as well as widespread manifestations of antisemitism, including episodes of violence targeting Jews, in Russian society.
45. Derogatory racial slurs and exploitation of antisemitic feelings continue to be resorted to routinely by exponents of political parties at the federal and regional level and by the leadership of some regional authorities. ECRI welcomes the fact that the federal authorities have in some cases denounced and spoken against antisemitic and extremist attitudes displayed by political parties and distanced themselves from antisemitic remarks expressed at regional level. ECRI urges the Russian authorities to strengthen their efforts to counter these phenomena, including through measures aimed at sanctioning political parties which resort to hate speech, as suggested below²¹, as well as through a more effective implementation of the existing legislation against incitement to racial hatred.
46. As mentioned below, the activities of extremist movements in Russia, very often of antisemitic nature, are cause for serious concern to ECRI²². These include episodes of violence -- including bombings of synagogues in different regions of Russia and racial violent attacks against individuals or groups of individuals

²¹ *Extremist parties and movements*

²² *Extremist parties and movements*

belonging to the Jewish community – but also circulation of antisemitic leaflets and other material.

47. There have also been reports that city-owned but also state-owned television have broadcasted antisemitic material. Newspapers have also published this type of material. ECRI notes that, in some cases, the federal authorities have taken action on the basis of the provisions contained in the Law on Mass Media prohibiting the dissemination of information aimed at fomenting national or racial intolerance²³. Local offices of the Prosecutor have also in some cases taken action on the basis of Article 282²⁴. ECRI welcomes these developments but nevertheless urges the Federal authorities to pursue an even more active policy in this respect, including through monitoring of the functioning of the relevant legal provisions, as suggested above²⁵.

- **Roma/Gypsies**

48. According to the official data, based on the 1989 census, the Roma Gypsy population of the Russian Federation numbers around 150,000 persons. Some Roma/Gypsy organisations, however, estimate figures over ten times higher. The Roma/Gypsy population – which includes persons from other CIS countries like Belorussia, Ukraine, Moldova and the Republics of Central Asia - is scattered throughout the territory of the Russian Federation, both in big cities and in rural areas. Due to the precarious living conditions, however, there appear to be migratory movements of Roma/Gypsies towards big cities like Moscow and abroad. Lack of data on the Roma/Gypsy population can in part be connected to the fact that many Roma do not have passports or other official documents and that, in some cases, they are not registered.
49. In general, the Roma/Gypsy population is faced with poor living conditions and lack of access to basic services. This is due to a combination of reasons, including a lack of awareness on the part of the Roma population of their rights, indifference or discriminatory behaviour on the part of the local authorities and, in some cases, lack of registration. School enrolment rates of Roma/Gypsy children currently also appear to be decreasing. This results in a social marginalisation which encourages a situation in which part of the Roma/Gypsy population is more likely to become involved in illegal activities and which in turn makes them more vulnerable to prejudice on the part of the society in general, but also on the part of law enforcement officials, especially as Roma/Gypsies are often lumped together with other visible minorities. This situation is reflected in the negative stereotyping of Roma/Gypsies in the media and in the occurrence of episodes of ethnic violence directed against Roma. ECRI notes that some initiatives have been taken at the local level aimed at improving certain aspects of the situation of the Roma/Gypsy communities. However, ECRI draws once more the attention of the Russian authorities to its General Policy Recommendation N°3 on combating racism against Roma Gypsies, which proposes a range of legislative and policy measures governments can take. ECRI urges the Russian authorities to distribute this

²³ *Civil and administrative law provisions*

²⁴ *Criminal law provisions*

²⁵ *See Civil and administrative law provisions and Criminal law provisions*

widely among local administrations in areas where Roma/Gypsies live and to promote its implementation, both at federal and at regional level.

50. In accordance with the federal Law "On the national cultural autonomy" Roma autonomies have been created at local, regional and federal level. However, ECRI reiterates here its concerns expressed above as regards the resources available to National Cultural Autonomies²⁶.

- **Numerically small indigenous people**

51. As mentioned above²⁷, on the basis of Article 69 of the Constitution, a federal law "On the Guarantees of the Rights of Numerically Small Indigenous Peoples" was adopted on 30 April 1999. The law establishes some privileges in the field of employment, land possession, exploitation of natural resources, taxation and local self-government for the persons who belong to indigenous ethnic communities and carry out traditional economic activities; it also stipulates the right of the federal subjects to adopt additional protective measures in favour of these persons. In some subjects of the Russian Federation (Buryatia, Yakutia-Sakha, the Tyumen Oblast, Khabarovsk Krai for instance), local normative acts have been prepared which admit special rights for the indigenous ethnic communities to use and dispose of land and natural resources. ECRI welcomes these developments and encourages the regional and federal authorities to closely monitor its implementation. In particular, it encourages the authorities closely to involve the interested communities in the assessment of the working of the legislation in order to address any problems which may arise and to take further measures enhancing the protection and the socio-economic development of these communities.

- **Religious groups**

52. As noted by ECRI in its first report, the October 1997 Federal Law on Freedom of Conscience and Religious Associations distinguishes between "religious organisations" according to whether or not they existed before 1982 and, a third category, "religious groups". Religious organisations which are less than fifteen years old and religious groups are subject to a number of important legal and fiscal disadvantages and to limitations on their activities. In particular, religious groups do not enjoy the status of a legal person (and cannot thus, for example, hold a bank account or own property), and neither religious groups, nor religious organisations deemed less than 15 years old, may publish literature; only individual members of such groups retain these rights. The law also contains provisions regulating the activities of foreign churches and missionaries.
53. As already noted by ECRI in its first report, it has been argued that the law is not in conformity, in spirit and perhaps in the letter, with the constitutional safeguards establishing the principle and practice of religious freedom and that it unfairly disadvantages foreign religious associations. While the 1997 law ostensibly targets so-called "totalitarian sects" or dangerous religious cults,

²⁶ *Constitutional provisions and other basic provisions*

²⁷ *Constitutional provisions and other basic provisions*

ECRI reiterates its concern that the law is potentially discriminatory and disproportionate to whatever problems it seeks to address. ECRI notes that in March 1999 the Human Rights Commissioner proposed changes to the law in order to bring it into accordance with the Constitution and international norms for religious freedom. No changes have, however, been adopted as a result. ECRI also notes with concern that a number of Federation subjects have passed local normative acts, which seem to restrict the work of religious associations. ECRI hopes that the Constitutional Court will be given the opportunity to consider the conformity of all such acts with the Constitution and that any act found in contravention of the Constitution will be reviewed accordingly.

54. The 1997 law establishes 31 December 1999 as the deadline for registration of religious organisations, after which such organisations may be closed (i.e. struck from the public registers of legal persons) following a court decision to this effect. It must be noted that the registration process -- which involves simultaneous registration at both the federal and local levels -- has proven for a number of confessions to be onerous and to require considerable time, effort, and legal expense. ECRI notes that in November 1999, the Constitutional Court upheld the provision of the 1997 religion law that requires religious organisations to prove 15 years of existence in the country in order to be registered. However, the Court also ruled that religious organisations that were already registered before the passage of the 1997 law and religious groups that are part of a centralised organisation²⁸ are not required to prove 15 years' existence in the country in order to be registered. ECRI also understands that, in March 2000, the deadline for registration was extended by Presidential Decree to 31 December 2000. By that date, according to the preliminary statistics, the number of religious organisations that have re-registered or registered themselves at the federal level is 570 (170 more than in 1997). ECRI notes, however, reports that certain "non-traditional" religious communities have been denied registration and that local departments of the Ministry of Justice have in some cases initiated proceedings to close unregistered religious groups in 2000 in spite of Ministerial recommendations that they refrain from doing so.
55. More generally, as already noted in its first report, ECRI is concerned that the 1997 law has been regarded by some local authorities as a reason for obstructing the activities of certain religious groups. An example of this is the practice of certain local authorities in refusing to allocate premises for religious services and meetings for these groups or to extend the lease of premises.

M. Extremist parties and movements

56. As already mentioned in its first report, ECRI is concerned at the widespread use of extreme nationalist, racist and xenophobic propaganda made by some political parties in the Russian Federation and at the presence of extremist movements which not only resort to such propaganda, but also engage in violent actions against members of minority groups. The most frequent targets of these parties and movements are Jewish people and people from the Caucasus and Central Asia.

²⁸ The 1997 law not only distinguishes between religious "groups" and "organizations"; it also creates two categories of organizations: "regional" and "centralized".

57. In its first report, ECRI emphasised the need for effective well-enforced legislation to protect minority groups from the effects of incitement to racial hatred and to symbolise society's disapproval of these practices. However, as mentioned above, ECRI is concerned that the existing relevant legal provisions have not been implemented sufficiently systematically to counter these phenomena effectively and reiterates its call for a vigorous and consistent campaign of enforcement. Efforts to ensure adequate enforcement of existing legislation should also be made to effectively prosecute and bring to justice those responsible of racist and xenophobic acts of violence against members of minority groups. ECRI is seriously concerned that in some cases such acts, allegedly committed by extremist groups, have remained unpunished.
58. ECRI also urges the Russian authorities to consider the adoption of provisions allowing for the partial or total suppression of public financing for those political parties whose members are responsible for racist or discriminatory acts.
59. ECRI furthermore notes that Article 16 of the Public Associations Law of 1995 prohibits the registration of public associations, the goals, activities or statutes of which involve racial or national intolerance. ECRI is aware that the Ministry of Justice refused registration to the Russian National Unity (RNU) on this basis. However, many extremist organisations are officially registered, while others operate *de facto* without registration.
60. Federal and regional authorities have occasionally taken measures against extremist organisations, including refusal to register such organisations as public associations; however, it is ECRI's opinion that these measures have been in most cases sporadic and not always consistent. ECRI noted, in its first report, the 1995 Presidential decree no. 310 "On Measures to Coordinate Activities of the State Authorities in Order to Counter Manifestations of Fascism and Other Forms of Political Extremism in the Russian Federation", which was followed by certain measures taken by law enforcement units leading to closure of local groups of the Russian National Unity (RNU). ECRI also noted the establishment, under the President of the Russian Federation, of a special "Commission on Combating Political Extremism in the Russian Federation", coordinated by the Ministry of Justice and the creation of an expert body in the framework of this Commission, composed of representatives of various public associations. However, ECRI is not aware of any concrete results of the work of such Commission. The guidelines on investigation of hate crimes issued by the General Procurator's Office referred to above²⁹ should also be mentioned here. ECRI notes with interest the 25 November 1999 decision of the Central Electoral Committee of the Russian Federation to refuse registration to the list of candidates of the electoral block 'Spas' (formed on the basis of the RNU), which was to participate in the elections to the State Duma, because of incompatibility of the declared and actual activities of the organisation – a decision later confirmed by the Supreme Court.
61. ECRI understands that draft legislation is pending before the Duma on combating political extremism and prohibiting Nazi symbols and literature. However, there appears to be uncertainty as to the scope of the term "political extremism" in the draft legislation. In ECRI's opinion, any such legislation should clearly aim at countering those political parties which resort to extreme nationalist, racist and xenophobic propaganda which could incite or lead to acts

²⁹ See *Criminal law provisions*, para. 10

of violence and discrimination as well as extremist movements directly engaging in violent actions against members of minority groups.

N. Conduct of law enforcement officials

62. There are consistent reports suggesting that illegal behaviour on the part of law enforcement officials particularly targeting ethnic minority groups has become disturbingly frequent in many subjects of the Federation and especially in big cities (Moscow, St. Petersburg) and in some southern regions. Reports include arbitrary and disproportionately frequent checks and searches of premises of members of minority groups, seizure of their goods and personal property, extortion of money, disproportionate use of detention of members of these groups and use of violence against them, especially while in detention. Such groups include mainly, but not exclusively, persons from the Caucasus region and Central Asia. Chechens, Ingush, Azerbaijanis, Tajiks appear to be particularly susceptible to such treatment on the part of law enforcement officials in Moscow. Elsewhere, Armenians, Georgians, Meskhetian Turks, Kurds, Dargins, Nogais and others are particularly subject to discriminatory behaviour. As mentioned below, these practices are strictly linked to the enforcement of the system of registration of residence and temporary stay³⁰. Furthermore, as already mentioned in other parts of this report, the police has also in many cases not reacted or not reacted effectively to episodes of violence directed against members of ethnic minorities³¹.
63. ECRI addresses the question of the enforcement of the system of registration of residence and temporary stay and the need for a more effective implementation of the existing legislation against racist crimes in other parts of this report³². Here, ECRI addresses the issue of the processing of complaints of illegal behaviour on the part of law enforcement officials. As already noted in its first report, it does not seem to ECRI that an appropriate system is in place to process complaints, notably by members of ethnic minorities, against alleged abuse of law enforcement powers. Although it is one of the duties of the Procuracy to investigate complaints, no independent system exists in which the public would place confidence; and even in the context of the existing system, little information seems to be available on the numbers of complaints received by the various authorities, the ethnic origin of the complainant and the outcome of the procedures. ECRI strongly encourages the federal authorities to consider the establishment of a system which would guarantee that complaints of illegal behaviour committed by members of the police are dealt with transparently and independently and ensure punishment of those found responsible. Adequate redress for the victims should also be available.

³⁰ See Section II below, *Discriminatory impact of the system of residence permits on certain categories of persons*

³¹ See above, *Extremist parties and movements*

³² See Section II below, *Discriminatory impact of the system of residence permits on certain categories of persons*

64. In addition, ECRI stresses the need for further initial and on-going training of law enforcement officials to promote awareness of all aspects related to discrimination. ECRI also believes that adequate representation of members of minority groups in the police force could contribute to improving the situation, and strongly urges the Russian authorities to take action to this end.

O. Media

65. ECRI is seriously concerned at the wide – and reportedly increasing – presence in the Russian Federation of extreme nationalist, racist and intolerant material in the press and in the broadcast media. Antisemitic material and material targeting Chechens and Muslims generally are particularly common and can be found in extremist media but also feature in mainstream media³³.
66. ECRI has already underlined in other parts of this report the urgent need for a more active policy in respect of the use of the existing legal tools in the field of countering hate speech in the media³⁴. Currently, due to a lack of priority on the part of the competent authorities and to difficulties in the use of the relevant procedures, the existing provisions in this field are rarely resorted to.
67. ECRI is aware, however, that – although it constitutes a powerful tool -- legislation by itself is not sufficient effectively to counter the presence of hate speech in the media. Responsibility also lies on those organisations and authorities with a controlling or substantial political or financial interest in specific media outlets. Furthermore, ECRI believes that there is an urgent need to raise the media profession's awareness of the dangers posed by extreme nationalism, racism and intolerance. In this respect, it notes that the Programme on Tolerance and Prevention of Extremism in Russian Society³⁵ will also involve the media profession and strongly encourages an assessment of the impact of activities undertaken under this programme in the field of media. As part of this programme, the Russian authorities will, *inter alia*, introduce a compulsory course "Media and Ethnic Tolerance" in all media departments of Russian higher educational establishment. ECRI also invites the authorities to support initiatives undertaken by members of the civil society and the media profession itself in the field of interest to ECRI.

³³ See above *Vulnerable groups and Vulnerable groups – Jewish community*

³⁴ See above, *Criminal law provisions and Civil and administrative law provisions.*

³⁵ See above, *Education and training/awareness raising*

SECTION II: ISSUES OF PARTICULAR CONCERN

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues, which in its opinion merit particular and urgent attention in the country in question. In the case of the Russian Federation, ECRI would like to draw attention to and to focus on the situation of Chechens and other persons from the North Caucasus as well as on the discriminatory impact of the system of residence permits on certain categories of persons.

P. Situation of Chechens and other persons from the North Caucasus

68. The 1996 agreements on political settlement of the Chechen conflict did not lead to a peaceful conclusion of the crisis in Chechnya. In September 1999, armed conflict in Chechnya was resumed. Widespread and grave human rights violations and abuses and breaches of international humanitarian law are reported to have been committed within Chechnya. ECRI expresses the strong hope that the Russian authorities will investigate and take proper action against allegations of such violations and abuses and make all possible efforts to restore normal living conditions in the region as rapidly as possible in close co-operation with international organisations. In this connection, ECRI welcomes the resolutions 1227 (2000), 1221 (2000) and 1201 (1999) and recommendations 1456 (2000) and 1444 (2000) of the Parliamentary Assembly of the Council of Europe, which it endorses. ECRI also attaches importance to the report by the Commissioner for Human Rights on his visit to the Russian Federation and Chechnya.
69. The military operations in Chechnya were accompanied, notably during 1999, by reports of human rights violations and discriminatory actions against Chechens (and partly against Ingush) living outside Chechnya (and Ingushetia), including: arbitrary passport and identity checks, searches of premises, detention and ill-treatment; violation of the right to freedom of movement and choice of place of residence; and refusal to issue personal documents. There have also been reports of deportation of Chechen families from the Stavropol Krai to Chechnya.
70. Of particular concern to ECRI are hundreds of allegations of fabrication of criminal cases against Chechens (and partly against Ingush), brought on the basis of article 222 (illegal acquisition, transfer, marketing, storage, transportation or carrying of arms and explosives) and 228 (illegal manufacturing, acquisition, storage, transportation and marketing of drugs) of the Criminal Code of the Russian Federation. ECRI urges the Russian authorities thoroughly to investigate all complaints of fabrication of evidence and to bring to justice any members of the law enforcement staff found responsible for such acts.
71. Alongside Chechens, other people from the Caucasus region, including Dagestanis and people from Azerbaijan, Armenia and Georgia and people from Central Asia, are reported to be subject to discriminatory practices on the part of the Russian authorities. Especially following the period of warfare in Dagestan in August 1999 and the bombings in Moscow in September 1999, immigrants from the Caucasus region in Moscow were disproportionately subject to passport and identity checks, searches of private homes and detention in police stations. Furthermore, all newcomers (i.e. those who had not

registered their permanent residence in Moscow) were required to re-register; there are reports suggesting that most of those refused registration were Chechens, Azeris, Armenians and Georgians and that thousands of those so refused were served with orders to leave the city.

72. ECRI expresses its deep concern at this situation. To the extent that these discriminatory practices are connected with the registration system and its enforcement in Moscow and elsewhere, ECRI calls for an urgent and thorough review of this system in order to bring it in line with the Constitution and to ensure that it does not impact disproportionately or lead to any form of discrimination against particular minority groups³⁶. More generally, ECRI strongly urges the Russian authorities to take urgent awareness raising measures to address the widespread sentiments of hostility and high levels of prejudice *vis-à-vis* Chechens and members of other ethnic minority groups.

Q. Discriminatory impact of the system of residence permits on certain categories of persons

73. In 1993, the Law “On the Right of Russian Citizens to Liberty of Movement and Choice of Temporary or Permanent Residence within the Russian Federation” came into force, replacing the previous system of residence registration (*propiska*). The formal difference between the current system and that of the Soviet *propiska* is that permission from the authorities to register one's place of residence is no longer required. As a result, under the new system, everyone who is entitled to stay legally on the territory of the Russian Federation theoretically has the right freely to choose their place of residence, provided they notify it to the authorities. The new system establishes two types of residence registration: registration of residence, supposed to be the place of permanent residence, and registration of temporary stay³⁷.
74. As noted by ECRI in its first report, additional requirements and restrictions for registration not provided for by the Law “On the Right of Russian Citizens to Freedom of Movement and Choice of Temporary or Permanent Residence within the Russian Federation” have been imposed at the level of the subjects of the Federation. These relate to such circumstances as, for example, the presence of kin ties in the given region, possession of residence registration in the same region or possession of citizenship. In practice, in several subjects of the Federation a system very similar to the *propiska* system -- whereby permission for residence must be obtained by the authorities -- has been re-established through regional legislative acts. The Constitutional Court of the Russian Federation has on several occasions declared the unconstitutional nature of additional requirements for registration not established by the federal law. However, the implementation of these rulings has so far not been effective. As a result, such requirements are consistently applied in practice.

³⁶ See below, *Discriminatory impact of the system of residence permits on certain categories of persons*

³⁷ *Registration of temporary stay implies that citizens visiting or staying in a place for longer than a limited period of time (under the federal law the limit is ten days, but for Moscow and Moscow region the limit is three days), are obliged to inform the local authorities, including the police, of their whereabouts.*

75. ECRI is seriously concerned that the residence registration system currently in place in the Russian Federation and its enforcement in practice affect members of some minority groups in a discriminatory way. Such groups include, notably, “visible minorities” such as people coming from the Caucasus and Central Asia, asylum seekers and refugees.
76. In some cases, discrimination is directly based on local legal provisions regulating the residence registration of persons of a certain ethnic origin. This is the case for Meskhetian Turks in the Krasnodar Krai³⁸. More often, however, discrimination results from the practice of systematically refusing to register members of specific ethnic minorities in certain regions, both for permanent residence and for temporary stay³⁹.
77. In its first report, ECRI noted that -- given the lack of a free property market and the housing shortage -- local authorities might feel the need to regulate the freedom of choice of domicile for newcomers to ensure a satisfactory distribution of available living space and other social benefits. However, it stresses once more that the Russian authorities should ensure that any such regulation is devised and applied in a way that does not impact disproportionately or lead to any form of discrimination against particular minority groups. In this context, ECRI believes that the system of registration for temporary stay and its enforcement has lent itself to a particularly discriminatory application in practice and should therefore be reviewed as a top priority.
78. Although, by law, registration should not constitute a precondition for the enjoyment of fundamental rights and freedoms⁴⁰, in practice, registration is nonetheless necessary for the enjoyment of many political, social and economic rights, including: participation in elections; medical care; secondary school and higher school education; pensions and allowances; right to work; marriage registration; acquisition of citizenship; obtaining passports, driving licences etc. Members of minority groups, who suffer discrimination in securing registration, are therefore effectively excluded from the enjoyment of these rights.
79. ECRI is furthermore seriously concerned that members of minority groups are also disproportionately affected by the way the police (militia) enforce the system of registration of residence and temporary stay. In order to ensure that the registration regime is respected, the police can stop people and check their personal documents, search their homes, detain them and impose sanctions, which are reported to be often arbitrary and to result in request for bribes and extortion of money. Members of “visible minorities”, particularly in big cities and in some southern regions, appear to be disproportionately subject to such checks as well as to arbitrary arrest and detention. Instances of ill-treatment and torture of these persons while in detention have also been reported.

³⁸ See above, *Vulnerable groups - Meskhetian Turks*

³⁹ See above, *Situation of Chechens and other persons from the North Caucasus*

⁴⁰ Article 3 of the Law of the Russian Federation “on the Right of Russian Citizens to Freedom of Movement and Choice of Temporary or Permanent Residence within the Russian Federation stipulates that registration or absence thereof cannot serve as a reason for restraining or a condition for enjoying the rights and freedoms of citizen provided for by the Constitution of the Russian Federation, the laws of the Russian Federation and constitutions and laws of the republics forming part of the Russian Federation.

80. ECRI reiterates its concern, already expressed in its first report, that the central role assigned to the police in the registration procedure is not in conformity with the principles of a democratic society and has led to an abuse of authority exercised in a discriminatory manner. As mentioned above, ECRI urges the Russian authorities to ensure that all complaints of illegal and discriminatory behaviour of the police, particularly in the framework of the enforcement of the registration regime, are investigated thoroughly, transparently and independently and that all those found responsible are sanctioned according to the law⁴¹.
81. Although strictly enforced registration regimes not in conformity with the Constitution are in place in several subjects of the Russian Federation, the city of Moscow is generally reported to have one of the harshest regimes in this respect. As already noted by ECRI in its first report, the Moscow city authorities ascribe responsibility for a rise in crime to the arrival of newcomers there and justify registration with the police as a measure to combat this. Increased police brutality against Caucasians, Central Asians and third-world refugees in the framework of the enforcement of the registration system was widely reported prior to Moscow's 850th anniversary in September 1997. As mentioned above⁴², especially since September 1999, people from the Caucasus region have particularly been subject to these practices. ECRI insists on the need for local provisions regulating residence registration to conform with constitutional requirements and the rulings of the Constitutional Court. It hopes that the newly appointed presidential envoys to the different Districts, including the Central federal district, will play an instrumental role in ensuring such conformity.
82. Discriminatory treatment similar to that recorded in Moscow with regard to the residence registration system and action by law enforcement personnel has been documented in the Stavropol Krai, where people from other countries of the CIS fled several years ago, in Krasnodar Krai, but also in Volgograd, Nizhny Novgorod, Tomsk Oblast and elsewhere.
83. Technically, the 1993 Law "on the Right of Russian Citizens to Liberty and Movement and Choice of Temporary or Permanent Residence within the Russian Federation" applies to Russian citizens. However, Article 62 (3) of the Constitution of the Russian Federation confers foreigners and stateless persons the same rights and obligations as Russian nationals, unless otherwise stipulated by federal law or international treaty. There are no federal laws nor international treaties restricting freedom of movement of aliens legally on the territory of the Russian Federation. In spite of this, administrative acts issued both at the federal level and at the level of the regions in Moscow and elsewhere restrict or invalidate the rights connected with freedom of movement. A group particularly affected by this situation are the citizens of CIS member States who do not require a visa to enter the Russian Federation and who, under Government Resolution No. 290 of March 1997, enjoy the same status as Russian citizens as regards registration requirements. ECRI urges the Russian authorities to ensure that the rights connected with freedom of movement of aliens legally on the territory of the Russian Federation are thoroughly respected in practice.

⁴¹ See above, *Law enforcement officials*

⁴² *Situation of Chechens and other persons from the North Caucasus*

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The following appendix does not form part of ECRI's analysis and proposals concerning the situation in the Russian Federation.

APPENDIX

ECRI wishes to point out that the analysis contained in its second report on the Russian Federation, is dated 16 March 2001, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, a national liaison officer was nominated by the authorities of the Russian Federation to engage in a process of confidential dialogue with ECRI on its draft text on the Russian Federation and a number of her comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Russian governmental authorities expressly requested that the following observations on the part of the authorities of the Russian Federation be reproduced as an appendix to ECRI's report.

OBSERVATIONS PROVIDED BY THE AUTHORITIES OF THE RUSSIAN FEDERATION CONCERNING ECRI'S REPORT ON THE RUSSIAN FEDERATION

Unofficial translation

"Re Para.7

The Russian legislation in force does not restrain the rights of citizens on national, religious and similar grounds. The Law on Citizenship of the Russian Federation mentioned in the draft report applies to all the citizens of the Russian Federation and proclaims that in the Russian Federation every person has the right to citizenship.

Re para.26

We believe that the view that the 1993 Law of the Russian Federation on Refugees applies only to migrants from the republics of the ex-USSR is an erroneous one. Both the 1993 Law of the Russian Federation on Refugees and the now in force 1997 Federal Law on Refugees do not distinguish on the basis of countries of origin, citizenship or other grounds.

Moreover, the Russian legislation on refugees in no way relates the acceptance and consideration of the refugee application and granting of the refugee status with the registration of the applicant.

Re para.30-35

Let us draw your attention to the fact that Article 3 of the Law of the Russian Federation on the Right of Russian Citizens to the Freedom of Movement and Choice of Temporary or Permanent Residence within the Russian Federation stipulates that registration or absence thereof cannot serve as a reason for restraining or a condition for enjoying the rights and freedoms of citizen provided for by the Constitution of the Russian Federation, the laws of the Russian Federation and constitutions and laws of the republics forming part of the Russian Federation.

Besides, as regards enjoyment of social benefits, including health care services (Article 41), the right to education (Article 43), the right to participation in cultural life (Article 44), the Constitution of the Russian Federation establishes an equal access to the above-mentioned social benefits irrespective of the status of the subject of law. Also to be taken into consideration here is that Part 3 of Article 62 of the Constitution of the Russian Federation proclaims that foreign citizens and stateless persons have in our State the same rights and responsibilities as its own citizens, except when it is stipulated otherwise by federal laws or international treaties of the Russian Federation.

Re para 40-41

A Working Group of the Interdepartmental Commission on Solving Problems of Meskhetian Turks living in the territory of the Russian Federation was established by Decree No. 1280-r of September 14, 2000 issued by the Government of the Russian Federation. The Working Group has repeatedly visited the Krasnodar Krai, Rostov Oblast and the North Caucasus.

The situation of Meskhetian Turks residing in the Rostov Oblast (approximately 17,000) as well as in other 12 oblasts of the Russian Federation remains quite satisfactory. They have either acquired the citizenship of the Russian Federation or have been registered in their places of residence and enjoy all the social rights without any discrimination.

Nevertheless, Meskhetian Turks are facing serious difficulties due to some barriers (which the Russian Federation is not to blame for) impeding their return to their historical motherland. As it is known, Georgia assumed while joining the Council of Europe obligations to repatriate Meskhetian Turks to its territory. First of all, it applies to the Meskhetian Turks residing in the Krasnodar Krai. Apart from that, more and more citizens from among Meskhetian Turks arrive in the Krasnodar Krai from the Tambov Oblast, Rostov Oblast of the Russian Federation and some CIS countries (Uzbekistan, Azerbaijan, etc.).

Yet, study visits to Krymski, Abinski, Belorechenski, Apsheronki raions and Varennikovskaya, Pshekhskaya, Kubanskaya stanitsas (Cossack villages) in the Krasnodar Krai where more than 15,000 Meskhetian Turks live compactly have

confirmed that most Meskhetian Turks' children attend schools and as of now they constitute a majority in some of the schools. Meskhetian Turks also have an access to health care services and enjoy other social rights.

It should be noted that efforts which were taken earlier by the Ministry of Federation Affairs to resettle 22 families to Turkey (by buying out houses owned by Turks) didn't bring about any positive results. Actually, all Meskhetian Turks who had left for Turkey came back to the Krasnodar Krai.

Re para.54-55

Under Article 27 of the Federal Law on Freedom of Conscience and on Religious Associations, as amended in 2000, closure of a religious organization not reregistered in due time means its exclusion (under a court decision) from the public register of legal persons rather than an actual outlawing of the unregistered religious organization's activities. Moreover, even the organization that was refused registration may conduct divine services, perform other rites and ceremonies, as well as religious instruction and training of its followers, and undertake other activities that do not require legal person capacity.

We believe that the absolute majority of religious organizations wishing to retain legal person status have had enough time to reregister themselves during the three years that have elapsed since the adoption of the Federal Law on Freedom of Conscience and on Religious Associations (1997).

It should be noted that the Administration of the President of the Russian Federation and the Ministry of Justice of Russia have not received any proposals from religious organizations as regards extending the reregistration deadline. Moreover, religious organizations have not filed any known complaints concerning any problems that could be linked with missing the reregistration deadline established by law.

During the last year and a half, the Government and the Ministry of Justice of Russia spared no effort to intensify the reregistration process, to help those experiencing difficulties in the preparation of necessary documents. Russian authorities intend to do their utmost to prevent restriction of individual rights and freedoms even due to some misunderstanding in this field that, certainly, may take place.

Re para.73, 78

As regards cases of violation of the legislation by the authorities responsible for granting citizenship and registration, we would like to note that actions or inaction of public or other authorities, enterprises, institutions, organizations, officials effecting the right of the citizens of the Russian Federation to the freedom of movement and the choice of place of residence within the Russian Federation can be appealed by the citizens to a higher

authority in the order of subordination, to a higher official in the order of subordination or directly to court.

According to Article 46 of the Constitution of the Russian Federation any person can address the interstate bodies on the protection of human rights and freedoms in conformity with international treaties of the Russian Federation, if all the national legal recourse is exhausted.

As far as the recommendation to the Russian authorities to revise the system of registration is concerned, we would like to note that according to the resolution of the Government of the Russian Federation on establishing the rules of registration and striking off the register at the place of residence of the citizens of the Russian Federation within the Russian Federation and a list of officials responsible for the registration the purpose of the registration is providing for necessary conditions for the citizens to be able to exercise their rights and freedoms, as well as to fulfill their obligations towards other citizens, the State and society. The system of registration that exists now applies to all persons legally staying in the territory of the Russian Federation and is not discriminatory in character.”