



# **European Migration Network**

## **Ad-Hoc Query on Return policy concerning Chechen asylum applicants from Russia**

**Requested by Finnish EMN NCP on 27<sup>th</sup> January 2010**

**Compilation produced on []**

**Responses from [Austria](#), [Belgium](#), [Estonia](#), [Finland](#), [France](#), [Germany](#), [Netherlands](#), [Sweden](#), [United Kingdom](#) (9 in Total)**

*Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*





### **1. Background Information**

On the 18th of February Asylum Unit of the Finnish Immigration Service is holding a meeting on the asylum applications from North Caucasus. For that purpose, they would like to utilise the FI EMN NCP to request the following information. We kindly request to send your answer by the 17th of February.


### **2. Responses<sup>1</sup>**

	QUERY	Wider Dissemination? <sup>2</sup>	What is your return policy for Chechen and Ingushetian applicants from Russia, i.e. what kind of political asylum profiles warrant a decision to return the applicant and what grounds do you give for considering the return a safe option?
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	<b>Austria</b>	<b>Yes</b>	In 2009 34 persons with Russian nationality were deported from Austria, at the same time there were 919 voluntary returnees with Russian nationality. There are no statistics available concerning the ethnicity of these persons; however it is assumed that 90% of the voluntary returnees are ethnic Chechens.
	<b>Belgium</b>	<b>Yes</b>	Every application is assessed on an individual basis and Belgium still grants refugee status to Chechens, but less than in previous years (recognition rate in 2009: around 18%). We consider that the general security situation, although still precarious and complex, did improve: the hostilities have diminished in size and intensity. The daily administration in Chechnya is in the hands of Chechens and tens of thousands of Chechens who fled from Chechnya in previous years, have returned. A great part of the infrastructure is rebuilt. Nevertheless, there are still several problems in the field of human rights violations. These violations are of diverse nature (including illegal arrests and detention, kidnapping, torture, both in the context of (fabricated) accusations, and in the context of the enforcement of confessions, as in the context of purely criminal motives such as extortion) and have a focused character. In most cases Chechens are responsible. Therefore, the mere Chechen origin and those coming from Chechnya itself is not sufficient for the granting of refugee status in the sense of the Refugee Convention. <b>on Article 15(c) Qualification Directive:</b> the Commissariat-general for refugees and stateless persons CGRS considers that the risk for the civilian population as a result of combat operations has been greatly reduced. The fighting between rebels and both federal and Chechen security forces is mainly concentrated in the southern mountain regions and is increasingly less frequent. Most are small and targeted attacks by militants against security forces. The security forces of the Chechen fighters try to fight the rebels and often use excessive violence. The nature of these incidents and the frequency remains limited and the number of civilian casualties is also limited. We do not consider that a Chechen citizen as such is at risk of serious harm in the sense of article 15(c) of the qualification directive. <b>Conclusion: Each case is assessed individually and when it becomes clear that the applicant is not a refugee in the sense of the Geneva Convention, nor needs subsidiary protection, the CGRS believes that these persons can return to the Russian Federation/Chechnya.</b>
	<b>Estonia</b>	<b>Yes</b>	In recent years there have been no ethnic Chechen and Ingush applicants in Estonia, except for few Dublin cases. All asylum cases are judged on individual basis and the fact that an applicant is from Chechnya or Ingushetia does not automatically mean they are granted international protection.
	<b>Finland</b>	<b>Yes</b>	Up until August 2009 Finland granted international protection to ethnic Chechen and Ingush applicants, who are registered in those republics. Since August 2009 all asylum claims are judged on an individual basis, i.e. the fact that an applicant is registered in Chechnya or Ingushetia does not in itself mean that the applicant is in need of international protection. In practice there have not been any decisions to return Chechen or Ingush applicants from Finland to Russia.  Finland has not applied the internal flight option to ethnic Chechen or Ingush applicants, who are registered in the North Caucasus,


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			<p>because it has been considered that they can not effectively be registered with the local authorities in other parts of the Russian federation.</p>
	<p><b>France</b></p>	<p><b>Yes</b></p>	<p>The OFPRA (French Office for the Protection of Refugees and Stateless People) does not make any statistical distinction between asylum applications by ethnic origin and only has statistics by nationality. Thus, it is not possible to give precise statistical information on the Chechens and Ingushetians. The statistics for 2009 concern all Russian nationals, knowing that the <b>Chechens</b> and, to a lesser extent, people from other Caucasian republics (Dagestan, Ingushetia and North Ossetia, mostly) <b>represent 80% of Russian demand.</b></p> <ul style="list-style-type: none"> <li>• Number of first asylum applications: 1 961</li> <li>• Number of reassessed asylum applications: 390</li> <li>• Total number of applications (excluding accompanying children): 2 351</li> <li>• Number of accompanying minors: 1 431 (or 37, 8% of the total number of people involved; it is a fairly high rate that shows that Russian nationals who apply for asylum often come to France with their families).</li> </ul> <p>Russian asylum applications are in decrease of 7% compared to 2008. The agreement rate of the OFPRA in 2009 was 15, 3% and the global agreement rate of the OFPRA and CNDA was 58, 2%. The CNDA is the National Court of Asylum to which the asylum seeker must appeal against a negative decision from the OFPRA.</p> <p>As for all asylum applications, the OFPRA and the CNDA recognize protection on the basis of individual examination of the applicant's situation to determine if he meets the criteria defined by the Geneva Convention or those provided for <b>subsidiary protection</b> by articles L.712-1 and L.712-2 of the CESEDA (Code on entry and stay of foreigners and right of asylum).</p> <p>It may however be noted that, in the case of the Chechens and Caucasians in general, the OFPRA does not make use of the provisions of the article L.712-1, c (that states that '<i>subsidiary protection can be granted to a civilian who is under a serious, direct and individual threat against his life or himself because of widespread violence resulting from a situation of intern or international armed conflict</i>') because it considers that the situation in the country of origin does not correspond to that definition. The Office does not make use either of the concept of internal asylum for Russian nationals, because of racism that is often experienced by Caucasians who live in other Russian republics.</p> <p>Regarding dismissed asylum seekers, it should be noted that beyond the examinations conducted by the OFPRA and the CNDA, an expulsion order taken by the prefect can not be implemented toward the country of origin if the foreign national '<i>establishes that his life or freedom are threatened in his country of origin or that he is exposed to treatments that are contrary to the provisions of Article 3 of the European Convention on Human Rights and Fundamental Freedoms of November 4, 1950</i>', in conformity with the provisions of Article L.513-2, last paragraph, of the CESEDA.</p> <p>The foreign national may thus assert before the prefect any evidence to show that his return in his country of origin represents a risk to his life or safety as the prefect is not linked in his assessment by the previous decisions of the OFPRA or CNDA.</p> <p>If the foreign national does not allege risks in case of his return or if these risks are not established, a decision of return to the country of</p>


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			<p>origin may be taken. This decision may be challenged before the administrative judge, under a suspensive appeal and the judge shall verify the compliance of the expulsion order toward the country designated under article 3 of the European Court of Human Rights.</p>
	<p>Germany</p>	<p>Yes</p>	<p><b>1) Decision-making at the Federal Office for Migration and Refugees</b></p> <p>Generally speaking, applications for asylum filed by Chechen and Ingush nationals need to be very carefully examined in each individual case. Chechen nationals and asylum seekers from Ingushetia are not subject to nationwide group persecution or indeed persecution that is restricted to certain regions or local groups. However, it is possible that Chechens who are heavily involved in the Chechen issue or who are wrongly suspected of being involved in it may face nationwide persecution. Together with members of the political leaders and moderate clerics, members of the judiciary and law enforcement authorities in Ingushetia are particularly prone to persecution by Islamists. State repression is directed primarily at Islamists with a propensity for violence. Internal protection can only be considered in exceptional cases for asylum seekers from Chechnya and Ingushetia who are facing persecution. It needs to be examined carefully in each individual case particularly in relation to asylum seekers from the Caucasus who have come to the attention of law enforcement authorities to what extent suspected persecution is limited to a specific region or is serious enough to prompt a nationwide search. Referring asylum seekers to internal protection needs to be examined when predicting the likelihood of the asylum seeker returning to his or her country of origin. It needs to be clarified, for instance, whether the region potentially offering internal protection to asylum seekers is accessible to them and whether it is reasonable to expect them to return. Asylum seekers can only be referred to internal protection if the place of refuge offers them reasonable prospects of a livelihood.</p> <p><b>Reasonableness:</b></p> <p>In principle, it is not reasonable to refer the following persons to internal protection:</p> <ul style="list-style-type: none"> <li>- Particularly vulnerable persons who are reliant on the assistance of others owing, for instance, to illness, advanced age or health problems or who are reliant on drawing social welfare immediately;</li> <li>- Single women or mothers from the North Caucasus owing to the traditional role models in Muslim society;</li> <li>- Persons who have little or no chance of overcoming the difficulties they are likely to face in securing a livelihood.</li> </ul> <p><b>By contrast, the following may indicate, by way of exception, that it is reasonable to refer asylum seekers to</b></p>

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			<p><b>internal protection:</b></p> <ul style="list-style-type: none"> <li>- The possibility of using their own working capacity to generate an income, for instance, taking the person's age, vocational training, command of the Russian language into account and</li> <li>- The availability of sufficient financial resources or</li> <li>- The prospect of support owing to the fact that asylum seekers have friends or family at the alternate location.</li> </ul> <p>As the situation is becoming increasingly unstable in Chechnya's neighbouring republics, the entire North Caucasus including Ingushetia are not deemed areas that can offer internal protection to internally displaced Chechen nationals and returnees at present. There are large sections of the Chechen population (settlement areas), inter alia, in Moscow, St. Petersburg and to the south of Moscow in the area of Rostov, in the region of Stavropol, Krasnodar, in the administrative district of Astrachan and in the Volga region. These areas may be suitable alternatives if due caution is taken although it must be taken into account that there are generally applicable restrictions in place, inter alia, preventing people from moving to Moscow and St. Petersburg.</p> <p><b>2) Repatriation to the Russian Federation</b></p> <p>There is no moratorium on deportation or provisions governing the right to stay in place for ethnic Chechens or asylum seekers from Ingushetia. Chechen and Ingush asylum seekers whose applications for asylum have been rejected are threatened with deportation to Russia in their asylum notification. Their numbers are not recorded separately; they are included as Russians both in the Central Register of Foreigners and in the statistics on returnees. Russian nationals being returned to the Russian Federation from Germany are taken by air to Moscow (and not specifically to Chechnya). As a rule, they rarely include Chechen or Ingush nationals. They may be permitted to move to Moscow if they have enough money or if they have a social network there. There is quite a large Chechen Diaspora in Moscow whose population also includes persons belonging to ethnic minorities from the Caucasus.</p>	
	<p>Sweden</p>	<p>Yes</p>	<p>Prior to 2008-03-19 Sweden granted international protection to ethnic Chechen applicants, who were registered in those republic. Since then all asylum claims are assessed on an individual basis. AS for the Ingushetian applicants we always had applied individual</p>	<p>Prior to 2008 then all asylu</p>

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			<p>assessments in each asylum case.</p> <p>Returns to Russian federation (often to Moscow) do take place. The available statistics do not however record returns by ethnicity or to a certain area in the Russian federation.</p> <p>Sweden apply, at least in theory, an internal flight alternative for ethnic Chechen or Ingush applicants, who are registered in the North Caucasus. However, in the individual cases it very often has been considered that they could face threats/serious discrimination at the different local authorities in other parts of the Russian federation and therefore often we don't apply IFA as a real alternative.</p>	<p>assessments</p> <p>Returns to R</p> <p>certain area i</p> <p>Sweden appl</p> <p>Caucasus. H</p> <p>different loca</p>
	<b>United Kingdom</b>	<b>Yes</b>	<p>The Russian authorities have committed serious human rights abuses including torture, rape, kidnappings and extra judiciary executions in Chechnya. Chechen rebels have also been involved in serious human rights violations including major acts of terrorism outside Chechnya and summary executions of civilians. Those who are involved or who are suspected of being involved with Chechen rebels face a serious risk of persecution from the Federal authorities. Where an individual is able to demonstrate that they are at serious risk of facing such persecution on account of their activities a grant of asylum will be appropriate.</p> <p>However, as found in a UK Asylum and Immigration Tribunal country guidance case <b>RM (Young Chechen male – Risk IFA) Russia CG UKAIT 00050</b>, Chechens from Chechnya who simply fear the general situation can internally relocate to another area of the Russian Federation and will therefore not qualify for a grant of asylum or Humanitarian Protection and are likely to be clearly unfounded.</p> <p>The position for Ingush asylum seekers is similar to Chechen claims. Returnees who do not fear or are not wanted by the Federal authorities are likely to be able to relocate internally if necessary. All aspects of a claim, including the feasibility of internal flight, would be considered on individual merit.</p> <p>Our asylum policy for Chechens is set out at 3.6 of the current Operational Guidance Note for Russia available at:  <a href="http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns/russianfedogn?view=Binary">http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns/russianfedogn?view=Binary</a></p>	

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