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IMMIGRATION IN THE RUSSIAN FEDERATION:
*Migration Legislation and its Inconsistent Application with regard to
Different Migrant Groups*

Thesis written under the supervision of Dr. Frank Evers.

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Abstract

*"All governments have an obligation, whatever their economic or political situation, to ensure that the human rights of those who arrive from abroad are respected, that they are treated with dignity and fairness, and that they are protected from racial discrimination at all times"*¹.

The differences between the law and the practice in the Russian Federation affect particularly migrants, who have some of their fundamental human rights denied in the way migration law is applied in some regions. The aim of the Master's Thesis on the application of migration law in the Russian Federation is to discover Russian migration law, its flaws and to discuss the reasons why it might be applied in a discriminatory way in some regions and against some categories of migrants. The study of the application of migration law led to an analysis of the attitude of the population and the media towards migrants. The paper suggests that the inconsistency in the application of migration law is being shown in the differential treatment of migrants, depending on their ethnic origin, by the authorities. Xenophobia, though on the rise in the Russian Federation and expressed in the attitude of officials and of the population towards migrants, might not always be the only ground for discrimination.

Getting acquainted with Russian law was not an easy task and this paper does have more than a legal aspect; impressions and comments have been collected in Russia among policy makers, those to whom the policies are aimed and those who try to soften the policies and the application of the law.

¹ Amnesty International, *Foreigners, including migrants, asylum seekers and refugees, in Racism in the administration of justice*, Amnesty International Publications 2001, The Alden Press, Oxford, p. 120.



² "Do not forget to register according to your place of stay". This picture was taken in the Moscow metro on the 9th of May 2004. One can notice that there is no person with a dark or black skin.

Preface

During my studies at the Institut d'Etudes Politiques de Strasbourg, I had the opportunity to study one year abroad. I chose to study in Moscow, at the State Institute for International Relations in 2002/2003, and to have an experience of more than one year living in Russia. I also obtained an internship at the European Initiative for Democracy and Human Rights and was faced with a variety of cases of discrimination against migrants both in my work and in the street, when talking to friends coming from Korea, Uzbekistan, Ukraine and China who had been living in Moscow for some years. I tried to understand the situation and to keep my desire to seek justice and my will to take part in the awareness-raising on the issue. When I applied to the European Master in Human Rights and Democratisation, it was clear that I would go on studying Russian policies and discuss the human rights situation in the country. I was particularly glad to organize a day of discussion about Chechnya. Therefore, I applied for the second semester to IFSH/CORE in Hamburg which allowed me to work with Dr. Evers. This thesis reflects not only the result of research conducted in Hamburg, but also of a field trip in Moscow at spring 2004, which was supported by IFSH and has been the most interesting academic experience ever.

I went to Moscow from the 5th to the 19th May 2004 and had the chance to interview all kinds of persons working with migrants, from civil servants to migration policy makers, non-governmental organisations' activists and leaders, people working in international organisations and research groups, as well as a former member of the Duma. I also took some time to see the practices at the OVIR, the central registration office in Moscow.

This paper reflects, directly and implicitly, the results of 15 interviews with Sergueï Kovalev, former member of the Duma; Mark Getchell, Chief of Mission of the International Organisation for Migration; Tatiana Bokareva, from the European Commission (European Initiative for Democracy and Human Rights), Svetlana Gannushkina, Head of the Civic Assistance Committee, Moscow; Lidia Grafova, President of the Forum of Migrants' Organisations; Tatiana Lokshina, researcher working with Moscow Helsinki Group; Daniel Meszhyaryakov, Senior Manager and Programme Officer, Moscow Helsinki Group; Anna Nikolaevna Rubtsova, Programme Researcher at the International Organisation for Migration; Galina Vitkoskaya, Programme Researcher at the

International Organisation for Migration and “field” interviews at the Moscow central office for registration with Russian civil servants, migrants and Russian citizens willing to get invitations for foreign guests. Their contribution and my long-term sensitivity to the issue add a “human dimension” to this piece of work.

Last but not least, I would like to thank all the persons who have been helping and supporting me when working on the thesis, the persons I have interviewed for their warm welcoming in Moscow, my supervisor Dr. Frank Evers for his advices and guidance, Mrs. Earlene Combs, my parents, Eric, Macha, Nikolai, Estelle, Maike and Marco.

"If a member of even the smallest ethnic group does not feel as though he or she was at home in Russia, we will not be able to preserve our multinational state", Vladimir Putin, at the World Tatar Congress at the end of August 2002³.

A migrant from Kenya living in Moscow: *"If somebody now asked me my experience about Russia, I can't advise none of my relatives to come, because you might die here anytime"*.

"When our friends from the Caucasus come to Moscow for a visit, we prefer to be with them all the time, because we are afraid of someone beating them up", Svetlana Gannushkina, Head of the Civic Assistance Committee⁵.

³ International Organisation for Migration (IOM) Open Forum, *Russia's immigration policy: the ethnic context*, August 2002.

⁴ Caroline Wyatt, *Racism on the rise in Russia*, 16 July 2002, BBC, taken from <http://news.bbc.co.uk/1/hi/world/europe/2131214.stm>, on the 4th of April 2004.

⁵ Interview with Svetlana Gannushkina, Head of the Civic Assistance Committee, Moscow, on the 10th of May 2004.

Introduction: the face of migration in contemporary Russia

As in many other countries, the Russian Federation has to deal with xenophobia, racism and intolerance. These issues are not recognized yet as a priority by the Russian authorities, who still do talk with pride about the multi-ethnic character of the state. Controlling the flow of migrants⁶ is necessary in every State; still, it is among its most difficult tasks. Russia's situation is specific and of special interest, as it is a receiving country, a sending country and a country of transit for migrants.

Such a topic is difficult to begin with, and the introduction will be divided in 3 parts. First is an overview of the Russian Federation as a multi-ethnic country with the latest developments in the use of the notion of ethnicity. The second part will put in question the differences in the treatment of migrants and the third part will introduce the question of xenophobia as a ground for these differences, with first and foremost, a definition of racism and xenophobia.

1. The Russian Federation, a multi-ethnic country

President Putin called in 2003 for more labour migrants to come to the Russian Federation. Migration is a component of the Russian identity; it is a founding element of the Soviet and the Russian history. Russia has been built by migration; migrants helped to develop the territory. The Russian Federation is today a multi-ethnic country, the 3rd one after the United States and Germany to welcome migrants on its territory, but also one of the first countries of origin of migrants in Western Europe and in America. Between 1989 and 2002, 11 million people migrated to Russia with only five million leaving⁷. Russia ranks sixth in the list of countries whose citizens sought asylum abroad according to figures released by the United Nations High Commissioner for Refugees in 2003. It appears in a number of texts dealing with migrants that Russia shows a bigger willingness to accept all migrants, regardless of ethnicity, than other post-Soviet nations⁸. At the beginning of

⁶ Migrant has to be taken in the sense of "immigrant", a person entering the territory of the State with the intention of settling there for work or for safety reasons, for a short or an indefinite period of time.

⁷ United Nations High Commissariat for Refugees (UNHCR), *Russian immigration quotas to be increased in 2003*, Agence France Presse, 20 December 2002.

⁸ George G. Demko, Grigory Iofee, Zhanna Zayonchkovskaya, *Population Under Duress, The Geodemography of Post-Soviet Russia*, Boulder, USA, Westview Press, 1999, p. 123.



September 2001, at the Third World Conference against Racism held in Durban, South Africa, the Russian Delegation stated that different ethnic and cultural communities live and work in the Russian Federation in an atmosphere of mutual accord and peace⁹.

The Russian Federation is presented by officials as a welcoming country for migrants, coming mostly from the former Soviet Republics (90% of the total). In the early 1990s after the disintegration of the Soviet Union, the majority of migrants were ethnic Russians¹⁰ who were forced migrants, already provoking reactions from local authorities and the population. They were subject to discriminatory practices in the countries where they were residing and became “*second-class people*”¹¹. “*Ethnically different*” migrants arrived afterwards, and they were not welcomed in the country. In the second half of the 1990s, most migrants were labour migrants.

Considering the demographic situation of the Russian Federation, the authorities claim here and there that they were implementing welcoming policies for migrants to come and work in the Russian Federation. The last Russian census took place in October 2002, but the authorities still do not know precisely how many Russian citizens and how many migrants reside in the territory of the Russian Federation¹². The country needs workers but some workers seem to be more needed than others. Mr. Zorin, in charge of nationality matters, stated that “*Russia was interested in attracting more foreign workers, and was preparing measures to streamline procedures for acquiring Russian citizenship*”. Mr. Zorin announced that there would be 436,000 jobs¹³ for foreigners in 2004. He acknowledged that the face of migration had changed since the beginning of the 1990s, as refugees are being replaced by economic migrants. According to some statistics¹⁴, most of the migrants come from Ukraine (32%), China (13%), Vietnam (7%) and Moldova (5%); other statistics emphasize on migrants from Central Asia and Caucasus.

⁹T. Lokshina, S. Lukashevsky, “*Introduction*”, in T. Lokshina, *Nationalism, xenophobia and intolerance in contemporary Russia*, Moscow Helsinki Group, 2002, p. 17.

¹⁰ Mark Getchell, IOM Open Forum, *Russia's immigration policy: the ethnic context*, August 2002.

¹¹ Galina Vitkovskaya, *Potential Migration of Russian-Speaking Populations* in George G. Demko, Grigory Iofee, Zhanna Zayonchkovskaya, *Population Under Duress, The Geodemography of Post-Soviet Russia*, ibidem, p. 158.

¹² UNHCR, idem.

¹³ 30% of the jobs in the construction, 23% in trade and catering, 12% in industry, 7,4% in agriculture and 2,4% in transport.

¹⁴ These data were given during the interviews with Anna Nikolaevna Rubtsova and Galina Vitkovskaya at the IOM Research group in Moscow on the 6th of May 2004.

Migrants come to the Russian Federation either in order to be admitted to Russian citizenship and to stay in Russia or to earn money quickly and return in their country of origin. The situation of the labour market in the country of origin is a decisive factor when deciding to immigrate to the Russian Federation. Migrants stay on average 6 months in Russia, according to the Moscow agency of the International Organisation for Migration¹⁵.

Observers say that there are 3 million migrants in the Russian Federation including refugees, forced migrants and labour migrants¹⁶. The number of irregular migrants¹⁷ is said to be rather high. However, it is complicated to evaluate the precise number of migrants in the Russian Federation. It is difficult to refer to statistics, since statistics are varying and inconsistent in themselves¹⁸. Only 283,728 foreign workers were registered nationwide in 2003.

Different types of migrants are defined in the Russian laws. Russian authorities make a difference between migrants and forced migrants. "Forced migrant" is the legal status of a citizen of Russia who left the place of permanent residence in connection with the same circumstances as a refugee¹⁹. The status is given for 5 years. 70% of forced migrants are ethnic Russians, 10% are Tatars. The Russian Federation has today a lot of forced migrants because of the Union of the Soviet Socialist Republics (USSR) collapse and the break-out of armed conflicts in the Republics²⁰. 491,898 forced resettlers were counted in 2003. In comparison, the refugee status was granted to 13,790 persons in 2003²¹ with only 411

¹⁵ IOM Report on the Conference on Irregular migrants in Russia; situation, trends and policy, 24 April 2003. This report states that there are 150,000 Afghans live in Russia, 400,000 Chinese, 50,000 Koreans, 100,000 Vietnamese people living in the Russian Federation.

¹⁶ Svetlana Gannushkina, Migration Rights Network, 2003 Booklet.

"Internally displaced persons (IDPs) are persons who are forced to leave the place of abode as a result of an armed conflict, continuous violations of human rights, calamities caused by the activity of man, and who do not cross state borders. This notion does not exist in Russian legislation.

¹⁷ Russian definition of irregular migrants: *An irregular migrant is a migrant crossing the border illegally, and/or who does not register at the place of arrival or residence, and/or who violates regular terms of stay, whose purpose of entry is different from what had been declared.* IOM Open Forum, *Irregular migration in Russia: opening the debate*, Moscow Migration Research Programme, July-August 2001. A difference has to be made between an irregular migrant and an asylum seeker who made an illegal entry into the Russian Federation. The definition of refugee will be seen in the 1st part.

¹⁸ Many different figures are given in statistics, official speeches and articles going from 1,5 million migrants to 8 million. Illegal migrants could represent from 1,5 million people (according to the ex-Federal Migration Service) to 4 million (according to the Russian Academy of Sciences), some statistics mentioned 400,000 Chinese and 150,000 Afghan illegal migrants in IOM Open Forum, *Management of migration in the CIS countries, Legislation and Cross-border cooperation*, Moscow Migration Research Programme, January 2002.

¹⁹ Svetlana Gannushkina, Migration Rights Network, idem.

²⁰ Svetlana Gannushkina, Civic Assistance Committee, Brochure, p.7.

²¹ In 1996, they were 290,000. Since 1992, the UNHCR has registered 40,000 asylum-seekers coming from Africa, Asia and the Middle-East.

persons coming from outside USSR. Immigration at such a level is a new phenomenon for Russia.

The multi-ethnic²² character of the country is obvious, but even with the flow of migrants that came in the last years, Russia is today more "Russian" than in the past. The proportion of Russians in the Russian population has increased since 1989, with the return of 3 million ethnic Russians out of 25 million from the former Soviet Republics and from Central and Eastern Europe²³. The population of the Russian Federation is composed of 84% of ethnic Russians²⁴ and around 100 different ethnic groups are represented in the 16% left. The ethnic character of migrants is emphasized and the question of the use of ethnicity can be raised when dealing with migration in the Russian Federation.

"*Rossianie*" and "*Russkie*" are both used to talk about people living in Russian, the "*Rossianie*" being all of those living legally in the Russian Federation (A Tatar is a "*Rossian*") and "*Russkie*" being ethnic Russians living in Russia. The expression "*ethnic Russian*" has reappeared, not only in some articles, but as well in official speeches and in the words of those who are in charge of implementing the law. According to V. Makhadov, "*Russian officials always know which card to draw from their rhetorical pack. Depending on the situation, they either talk about the multinational character of the country, about the need to reinforce the friendship between peoples and foster 'dialogue between cultures', about the 'national question' (...) growing more serious, or about 'inter-ethnic relations', or finally about the dangerous consequences of the 'conflict of cultures'. Many acts of discrimination are then simply a reaction to a 'tilted ethnic balance'". The multi-ethnic character of Russia, which is still a defining component of its identity, is underlined when needed, and put aside when the urge to go back to pure Russian values, traditions, culture is felt. The promotion of Russian values ("*za ruskykh*" meaning "*For the Russians*", "*Russians first*") is linked for some analysts to the rise of nationalism.*

²² Vladimir Malakhov, *Racism and migrants*, I Care, 14 March 2003, taken from www.icare.to/archivemay2003.html on the 30th of March 2004.

²³ Gérard-François Dumont, *La Russie face à sa dépopulation, Stratégie russe pour le XXI^{ème} siècle*, in AGIR, Revue Générale de Stratégie, n°11/12, Été-Automne 2002, p. 24.

²⁴ Amnesty International, Chapter 2: Ethnicity and nationality in the Russian Federation, p.9. in *Dokumenty! Discrimination on grounds of race in the Russian Federation*, 19 March 2003, taken from www.amnesty.org/russia/racism-report.html on the 5th of November 2003.

Russia is a country willing and claiming to be multi-ethnic but its migration policies and the implementation of migration law can be seen as being in some contradiction with this will. A difference is now made between ethnically similar and ethnically different migrants, thus making one raise the question of a differential treatment of migrants.

2. A differential treatment of migrants?

The Russian Federation does present legal guarantees for the protection of the migrants, no matter where they come from. However, differences in the treatment of migrants can be noted and discriminatory practices are said to be common. The Federal Migration Service created on the 1st of July 1992 was apparently not powerful enough or not willing to ensure an equal treatment of migrants in the Russian Federation. According to Lidia Grafova²⁵, President of the Forum of migrants' organisations, one should not talk about differences in the way migrants are treated, as "*no migrants are welcomed in practice on the territory of the Russian Federation*", the population and even public authorities do reject ethnic Russians who are coming back. The situation is even worse for other kinds of migrants.

Dealing with such a huge number of migrants is not easy and migration policy makers have to be very cautious. The attitude towards migrants and the application of the law depends on the will of the law enforcement agents, and depending upon the region, the city, or the area, these migration laws have been applied differently in welcoming some groups of migrants more than others. The implementation of migration law provisions in the Russian Federation can lead to many abuses, and some policies of control of migrants can turn into discriminatory practices. Therefore, the differential treatment of migrants depending on their ethnic origin causes one to qualify the application of the migration law as xenophobic.

Law enforcement agents can even be those perpetrating the law violations, by adhering to ethnic profiling and xenophobic attitudes when carrying out their duties. By

²⁵ Interview with Lidia Grafova, President of the Forum of migrants' organizations, Member of the State Commission on Migration Policy, in Moscow on the 12th of May 2004.

denying the protection and the rights of the migrants and letting representatives of the State perpetrate discriminations, the authorities demonstrate indifference to the problem. The problem of racism and intolerance in Russia cannot be solved until the authorities address racist behaviours within law-enforcement agencies. However, one has to be careful when dealing with migration policies and racism in the study of any country. Can a policy of selection of migrants be called racist?

The dilemma between selection of migrants and non-discrimination of migrants²⁶ is particularly problematic in the Russian Federation. As other States, the Russian Federation is entitled to select the persons who may enter the territory and stay there on a temporary or permanent basis. The selection has to be made according to definite criteria and knowing the nature of the criteria can help determine if the selection corresponds to racial discrimination or even racism or if it is a selection made lawfully and in the interest of the State. Preferring Slavic migrants who would have fewer problems to integrate in the Russian society seems reasonable. Does the Russian Federation have *clear* and *transparent* criteria for the selection of migrants? Or can we say that a raced-based immigration policy is an expression of xenophobia?

3. Xenophobia in Russia

The grounds of these differences and preferences for some migrants' groups cannot be easily found. Charging the authorities with the qualification of racist is going far beyond the limits. The fear of the other and some extreme attitudes have to be noted for sure, but an analysis of the situation has to be balanced. We have to address the following question: are racism and xenophobia a particular issue in the Russian Federation? Can we say that there is a racist application of migration law; is it more a racial application of this law or a xenophobic application? We will first try to define racism and xenophobia, and then see if the latest developments in the Russian Federation show a rise of xenophobia in the country. The notion of racism is delicate to deal with, especially in the Russian Federation; no simplified generalized statement can be made on the attitude of the authorities and the

²⁶ Isabelle Chopin, *Racism in migration :Where do we draw the line ?*, Workshop II Combating racism in the context of migration in Europe, European Commission against Racism and Intolerance (ECRI), 18 March 2004, taken from www.coe.int/t/E/human_rights/ecri/1-ECRI/4-Relations_with_civil_society/1-Programme_of_..., on the 21st of April 2004.

population. Still, there are practices and terms that are becoming common and that is worrisome, and not only for human rights activists, but for all.

In December 1999, the United Nations General Assembly recognized that racism and racial discrimination against migrant workers continued to increase throughout the world. The United Nations Convention on the Elimination of All Forms of Racial Discrimination was adopted in 1965 and ratified by 157 countries (the USSR ratified it in 1969). In its Article 1, it defines racism as *"Any distinction, exclusion, restriction, or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life"*. Racism can also be defined as *"negative attitudes towards or beliefs about a group because they are of a different race"* or *"discrimination against people because of their race"*²⁷. According to Tania Lokshina, working for the Moscow Helsinki Group, the word racism in Russian defines enmity on the basis of race, and not ethnicity²⁸. In a Russian encyclopaedia, racism would be defined as the sum of theories showing that there are physical and mental differences between the races and that these differences play a major role in the history and in the culture of a society. Racism and xenophobia are two different phenomena. Xenophobia is defined as *"hatred or fear of foreigners or strangers or of their politics or culture"*²⁹. It can be expressed in many ways, in the use of a vocabulary of suspicion when talking about migrants, with a glance, with ethnic preferences given when renting a flat, with laws that would restrict the employment of foreigners or making the obtaining of citizenship particularly difficult.

The Russian Federation has been charged with racism by many reports released by international organisations. Racism denies all human rights; it goes against the very basic principle of human rights that says that human rights should be applied to all equally. A selection of migrants according to their country of origin cannot automatically be qualified as racist. The possible integration of the migrant in the Russian society also has to be taken into

²⁷ Josef Szarc, *Faces of racism*, Amnesty International UK, London, August 2001, p. 8.

Xenophobia comes from the Greek "xenos" meaning strange and "phobia" meaning fear.

²⁸ V. Verkovsky, *Russian legislation aimed at countering nationalism, extremism and xenophobia, The development of the legislative basis for countering radical nationalism and other forms of racial, ethnic and religious intolerance*, in T. Lokshina, *Nationalism, xenophobia and intolerance in contemporary Russia*, Moscow Helsinki Group, 2002, p. 65.

²⁹ idem, p. 110.

account. A Slavic migrant might have better chances to be integrated into the Russian ethnic society than any non-Slavic migrant.

However, “*ethnically different*” migrants are more visible in the street and are easily the targets of criticisms, not only by officials but also by the population which often is hostile to newcomers. The culture of the “*others*”, who are not “*nashi*” (ours), is said to be dangerous for the Russian nation. “*Contemporary racism rarely speaks about blood and genotype, but it does always speak about culture. “They” act as they do because this type of behaviour is determined by their culture. And there is nothing one can do about this. Some people must clean boots, others must sell drugs, and others still must be racketeers*”³⁰. The culture of prejudice is growing in the Russian Federation together with the “*migrantophobia*”. This phenomenon increased with the rise of immigration and to an extreme extent it can lead to racist behaviours. However, it is legitimate to ask what does make the “*nashi*” (ours) in the Russian Federation. Would the situation of migrants be fine if they all had blue eyes as Mr. Getchell, Chief of Mission of the International Organisation for Migration, stated?

The first part of the thesis will be dedicated to the analysis of the migration law in a transitional society and how international legal standards can be applied if there is no guarantee of the application of the law. The second part will be devoted to the study of the application of migration law in Russia and of the preferences and the differences in the treatment of migrants, both in migration policies and in the attitude of law enforcement officials. The third and last part will demonstrate that the unequal application of the law serves discriminatory practices and presentment among the population, and that the inconsistent application of migration law is linked to prejudices and xenophobic feelings of the Russian population towards migrants, as well as to specific socio-economic conditions.

³⁰ Vladimir Malakhov, *Racism and migrants*, Racism and migrants”, *ibidem*.

FIRST PART: MIGRATION LAW IN THE RUSSIAN FEDERATION

The first part of the thesis is dedicated to the analysis of national and international legal instruments concerning migrants, their entry to the territory, their stay, the way they are treated, their rights and their access to the fundamental rights, to which the Russian Federation has committed itself, together with comments on the compliance of the Russian legislation to these instruments. The international instruments will be dealt with in the first chapter, and then the second chapter will provide a study of the national laws, their evolution in the last years and an evaluation of these laws in the light of international and national events and the improvements that could be suggested in the context of Russia still being a transitional society. Indeed, there is an enormous contrast between legal provisions and legal reality showing that there is an inconsistent application of migration law in the Russian Federation.

1.1. The international legal commitments of Russia

International legal instruments concerning migrants and the compliance to these instruments will be studied here.

1.1.1. International legal instruments

National and international law promise equality of all human beings and protection from any kind of discrimination. The Russian Federation has agreed to protect, to promote *de facto* racial equality, to enable the various ethnic, racial, or national groups to enjoy all human rights on an equal basis³¹ in its international commitments. The universal legal instruments on the protection of human beings obviously concern the protection of

³¹ Amnesty International, *Introduction, Racism in the administration of justice*, Amnesty International Publications 2001, The Alden Press, Oxford, 126 p.

migrants as well. The definition of migrants in international legal instruments lies within the definition of migrant workers, refugees and resettlers. Other migrants are considered to be members of the family of the migrant worker or of the refugee. The concept of migrant refers to persons who travel from place to place, irrespective of their motives, duration or distance of migration.

The Russian Federation is a member of the United Nations³², the Organisation for Security and Cooperation in Europe and the Council of Europe and has signed and ratified most major international legal instruments of relevance for migrants. These international norms are part of the Russian legal system³³. A key role is played by the following international instruments in the protection of migrants: the Universal Declaration on Human Rights, the United Nations International Convention on the Elimination of All Forms of Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the United Nations Convention on Refugees, the United Nations Convention on Migrant Workers, the European Convention on Fundamental Rights and Freedoms, the Revised European Social Charter, the European Convention on Nationality, the European Convention for the Prevention of Torture and Inhumane and Degrading Treatment or Punishment, the European Convention on the Legal Status of Migrant Workers, the European Framework Convention on National Minorities and the European Convention on Citizenship.

1.1.1.1. Universal Declaration on Human Rights

The 1948 Universal Declaration on Human Rights stipulates in its Article 2 that human rights should be applied "*with no distinction based on race, colour, sex, language, religion, political opinion or other opinion, on national or social origin...*". It also states in its Article 7 that "*All are equal before the law and are entitled without any discrimination to equal protection of the law*". It provides protection to all human beings, migrants and nationals, without distinction and is the first fundamental instrument when studying the protection of migrants. According to the Universal Declaration, all migrants, as all human beings, are entitled to the protection under the United Nations Covenants, the United Nations International Convention for the Elimination of Racism and of all Forms of Racial

³² The Union of Soviet Socialist Republics was admitted on the 14th of October 1945 to the United Nations, and the USSR's membership was assumed by the Russian Federation on the 24th of December 1991.

³³ The primacy of international law on Russian law is stated in the 1993 Constitution, Article 15.

Discrimination, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

1.1.1.2. United Nations International Convention for the Elimination of Racism and all Forms of Racial Discrimination

The United Nations International Convention for the Elimination of Racism and all Forms of Discrimination is one of the specific instruments concerning discriminatory practices and the protection of migrants' rights. It provides a legal framework for the protection from all forms of discrimination and it confers the obligation to the States to fight against discrimination in the purpose of its elimination. The States have to protect people from and prohibit racial discrimination and violence by individuals or groups. The Soviet Union signed it on the 7th of March 1966 and ratified it on the 4th of February 1969³⁴. The Convention entered into force on the 4th of January 1969³⁵. The Russian Federation should, as all the parties to the Convention, repeal discriminatory legislation that facilitates abuses and denies equal access to justice, and provide effective protection against abuses. The monitoring body is the Committee on the Elimination of Racial Discrimination (CERD); it is in charge of monitoring and reviewing actions taken by the states³⁶.

1.1.1.3. International Covenant on Civil and Political Rights, International Covenant in Economic, Social and Cultural Rights

The International Covenant on Civil and Political Rights of 1966 has in its Article 2 the principle of non-discrimination, as well as the 1966 International Covenant on Economic, Social and Cultural Rights. The Russian Federation ratified both the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights in 1973. The compliance of the Russian Federation with Article 12 of the International Covenant on Civil and Political Rights, stating that a person who is lawfully on the territory of a State has "*the right to liberty of movement and freedom to choose his residence*" can be discussed. Article 12-2 guarantees the freedom to leave any country, including ones own country.

³⁴ A reservation was made concerning Article 17(1), declaration under Article 14.

³⁵ It is interesting to note that France ratified this Convention only in 1971, 2 year after the USSR.

³⁶ Régis de Gouttes provides an interesting analysis of the role of the CERD in Emmanuel DECAUX (dir.), *Le droit face au racisme* (Law and Racism), Paris, Editions A. Pedone, 1999, 172 p.

1.1.1.4. United Nations Convention on Refugees

In 1993, Russia acceded to the 1951 United Nations Convention on Refugees. It passed at the same time laws *“On Refugees”*, and *“On forced migrants”*. It accepted the United Nations definition of refugee as *“a person who due to fully substantiated fears of becoming a victim of persecution because of race, religion, citizenship, membership in a certain social group or political beliefs are located outside of the country of their citizenship and cannot use protection of this country”*. Russian law has the same definition. Once migrants are recognized as refugees, they should be entitled to permanent residence permits and have almost the same rights as nationals of the State but the practice is very different. The United Nations High Commissariat for Refugees has established a Refugee Reception Centre in Moscow to take care of them and help the newcomers in the registration procedures.

1.1.1.5. United Nations Convention on Migrant workers

Another major instrument is the United Nations Convention on Migrant Workers, which was established in July 2003³⁷ and guarantees fundamental rights to all migrant workers, regular and irregular migrant workers in the countries parties to the Convention³⁸. The rights protected by the Convention are the right to equality with nationals of the State concerned before the Courts and Tribunals and the right not to be treated less favourably than nationals in respect of remuneration and conditions of work. It defines migrant workers as *“a person who is engaged or who has been engaged in a remuneration activity in a State of which he or she is not a national”*. The migrant worker and his family are protected and have the freedom of movement in the territory of the State. The children of migrant workers have specific rights such as the right to a name, the right to registration of birth and nationality and the right to education. The Russian Federation has not ratified this Convention and is encouraged to do so by the International Organisation for Migration³⁹. According to the International Labour Organisation, not having ratified this Convention is *“the evidence of the unreadiness of Russia to widen a legitimate space for labour migration”*⁴⁰.

³⁷ The Convention has so far only been ratified by 2 European States: Azerbaijan and Bosnia and Herzegovina.

³⁸ OSCE, Office for Democratic Institutions and Human Rights, Warsaw, Antonella Attardo, *Fundamental rights of migrants*, taken from www.legislationonline.org/index.php?topic139 on the 1st of March 2004.

³⁹ Interview with Galina Vitkovskaya, IOM, ibidem.

⁴⁰ ILO, International Labour Organisation, Elena Turukova (Expert), Dmitry Poletaev (Regional coordinator for Moscow and Stavropol) and Stanislas Shamkkov (Regional coordinator for Omsk), *ILO Study on Forced*

At the European level, the Russian Federation is also part of major legal instruments. It is a participating State of the Organisation for Security and Cooperation in Europe and a member State of the Council of Europe. The OSCE participating States do recognize the necessity of protecting migrants' social, economic and cultural rights.

1.1.1.6. European Convention on Fundamental Rights and Freedoms

The Russian Federation ratified the European Convention on Fundamental Rights and Freedoms (ECHR) on the 5th of May 1998. The European Convention on Human Rights is today one of the "most effective regional instruments in the human rights field"⁴¹. It protects the right to a fair trial (Article 6), the right not to be arbitrarily detained (Article 7), the right to liberty and security (Article 5) and many other rights such as the right not to be subjected to torture or inhuman or degrading treatment (Article 3). The members are under the jurisdiction of the European Court of Human Rights in Strasbourg that judges the compliance of the signatories with the norms of the Convention. The Russian Federation also signed Additional Protocol n°12 to the ECHR widening the scope of application of Article 14⁴² dealing with discrimination. This Protocol imposes a general ban on all forms of discrimination.

1.1.1.7. Revised European Social Charter⁴³

The revised version of the European Social Charter provides guarantees to all nationals and foreigners legally residing and/or working that the rights will be applied equally. It protects economic, social and cultural rights⁴⁴ of citizens in the signatory States. The Russian Federation ratified it in September 2000.

Labour Outcomes of Human Trafficking and Irregular Migration in Russia, Special Action Programme on Combating Forced Labour, June 2004.

⁴¹ European Commission against Racism and Intolerance (ECRI): Presentation of the activities, *Relevant European legal standards*, taken from www.coe.int/T/E/human_rights/Ecri/1-ECRI/1-Presentation_of_ECRI/5-CoE_activities_conce on the 21st of April 2004.

⁴² European Convention on Human Rights, Article 14: "*The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status*".

⁴³ An interesting and comprehensive presentation of the European Social Charter is made by David Harris in *The Council of Europe: the European Social Charter*, in Raija Hanski and Markku Suksi, *An introduction to the International Protection of Human Rights, A textbook*, Second, revised edition, Turku, Institute for Human Rights, Abo Akademi University, 1999, p.314.

⁴⁴ The 1961 European Social Charter was revised in 1996 and entered into force in 1999.

1.1.1.8. European Convention on Nationality

The European Convention on Nationality that entered into force in March 2000 presents principles and rules concerning acquiring nationality, as the basic principle “*Everyone has the right to nationality*” and the guarantee for the procedure to be just and fair. Russia ratified it in November 1997.

1.1.1.9. European Convention for the Prevention of Torture and Inhumane and Degrading Treatment or Punishment

The Russian Federation is also a party to the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment⁴⁵ since its ratification of the European Convention on Fundamental Rights and Freedoms.

1.1.1.10. European Convention on the Legal Status of Migrant workers

Specifically concerning our topic, the Russian Federation did not sign the European Convention on the Legal Status of Migrant Workers that was opened for signature in 1977, came into force in 1983 and focuses on migration management and migrants’ rights. It is based on the principle of equal treatment of migrant and national workers in medical assistance and in the conditions of work. The Russian Federation seems to be more focusing more on a “technical management” of migrant flows rather than on their equal treatment with nationals⁴⁶. This Convention is of particular interest, as it gives to migrant workers and their families the right to protection and assistance (Article 19).

1.1.1.11. European Framework Convention on National Minorities

Likewise, the Russian Federation is not a signatory of the Council of Europe’s Framework Convention on National Minorities that became law in 1998. It is the first legally binding instrument on the protection of minorities at an international level. It ensures equal access to education at all levels along with access to political, cultural and economic life (Articles 9, 10, 15). But the Russian Federation and the other States did not reach an agreement on the definition of minority. However, the Russian Federation has been the

⁴⁵ The European Convention for the Prevention of Torture and Inhumane and Degrading Treatment or Punishment entered into force on the 1st of February 1989.

⁴⁶ Dr. Irina Ivakhniouk, Council of Europe workshop-final report, *Economic migration in Russia-legal protection of migrant workers*, Moscow, 19 December 2003, taken from www.coe.int/T/ES/Social_Cohesion/Migration/Activities/Final%20Report.pdf on the 4th of April 2004.

subject of reports by the European Commission against Racism and Intolerance⁴⁷ (ECRI) established in 1994 and dealing with the treatment of minorities on its territory.

1.1.2. Compliance of the Russian legislation with the international and regional instruments concerning migrants

Article 15 of the 1993 Russian Constitution stipulates that “*The commonly recognized principles and norms of international law and the international treaties of the Russian Federation should be a component part of the legal system of the Russian Federation. If an international treaty of the Russian Federation stipulates differently that those stipulated by the law, the rules of the international treaty shall apply*”. The commitments taken under international conventions, as the International Convention on the Elimination of All Forms of Discrimination, are then superior to the Russian federal law. The superiority of international law, if recognized, is still not applied. The Russian Federation has incorporated the international commitments only partially in its legislation⁴⁸.

At an international level, the compliance of the Russian Federation with its commitments is not guaranteed. Several times the CERD⁴⁹ has asked the Russian Federation to respect the decisions of the Constitutional Court to abolish definitely the registration system. It also called for domestic legislation to be fully implemented. These calls have been repeated every year and did not make the Russian authorities react. Inner contradictions in Russian migration law and its practice have led to gross violations of the international commitments. The “*propiska system*” (registration system), which will be studied in the second chapter, helps demonstrate that compliance with international legal instruments in that field cannot be a priority even if national legal instruments are not applied. A practice that has been abolished by the law several times is still in use in some regions and its absence is a pretext for the restriction of civil, economic and social rights to some categories

⁴⁷ The role of ECRI is to assess the measures taken by member States of the Council of Europe to combat xenophobia, racism and intolerance, to review their legislation, policies against racism, anti-Semitism and intolerance, make suggestions and recommendations.

⁴⁸ V. Verkovsky, *Russian legislation aimed at countering nationalism, extremism and xenophobia*, ibidem.

⁴⁹ Human Rights Watch World Report 2001, *Racial Discrimination and Related Intolerance*, taken from www.hrw.org/wr2K1/ on the 29th of March 2004.

of migrants⁵⁰. According to Daniel Meszhyaryakov working for the Moscow Helsinki Group⁵¹, *“No one speaks about the international conventions ratified by the Russian Federation concerning the protection of migrants, but practices go clearly against them”*.

1.2. The national legal commitments of Russia

The Russian Federation is bound by international legal instruments and by national legal instruments. However, the supremacy of the law is not yet guaranteed. Lately the Russian Federation has been very active in developing migration legislation at the federal level and has joined the international conventions. However, migrants have to be recognized as legal migrants by the Federal Migration Service in order to have access to the rights protected by the international conventions. *“Status less”* migrants are left without protection.

1.2.1. The Soviet system and legacies of the past

The Soviet system and ethnic policies are complex and do have an important influence on the Russian migration policies. The first years of the Soviet nationality policy supported the claim for cultural autonomy of minorities. The Soviet period promoted cultural exchanges and it was prestigious for Russia to welcome on its territory *“brothers”* from the republics. This is obviously a positive Soviet legacy; Russia is still welcoming many foreign students coming from countries that had special links with the USSR. According to Amnesty International, “An estimated 1,000 African students are currently following courses at the Russian University of People’s Friendship in Moscow. Staff and students represent

⁵⁰ Memorial Human Rights Centre, *Compliance of the RF with the Convention on the Elimination of All forms of racial discrimination*, October 2000, taken from www.memo.ru/eng/hr/discrimi0212elindex.htm on the 2nd of April 2004.

⁵¹ Interview with Daniel Meszheryakov, Senior Manager, Programme Officer, Moscow Helsinki Group on the 11th of May 2004 in Moscow.

450 ethnicities and more than 100 countries”⁵². In a 1989 census, 113 ethnic communities were registered⁵³.

However, the promotion of the multi-ethnicity in the Soviet times went together with the creation of a model of an ethnically Russian dominated “*Homo Sovieticus*”. The Soviet legacies can be seen in the view of nationalities of the authorities, which Tania Lokshina summarized in “*Russians first*”⁵⁴. Indeed, Stalin did initiate russification policies in the Soviet Union, and “*placed the Russian nation, the most important of the Soviet nations, in a privileged position and subordinated the others to it*”⁵⁵. These policies led to the forcible removal of those who could be enemies, as the Meskhetian Turks. Everybody had a Soviet passport indicating the nationality, and the Soviet citizenship was the same for all. The Soviet passports will no longer be valid on the 1st of July 2004, and this measure left thousands of stateless people.

Soviet legacy is undoubtedly linked with shortcomings in the Russian legal system. The Russian legal culture is not established yet. The Soviet mentality is still very present. Lidia Grafova presented the Soviet mentality as the “*search for an enemy*”⁵⁶ and migrants could represent an easy target.

Some legacies of the past make the Russian Federation violate national and international law. We can think of some legal procedures that were created in the Soviet times, abolished by Russian law but that are still in practice. The “*propiska*” system (registration system) is a good example⁵⁷. The Soviet residence permit is now illegal but it is still in use with another name, “*registratsia*” (also translated by registration). In October 1991, the “*propiska*” system became illegal when it was abolished by the USSR Committee of Constitutional Supervision, and since 1995 it has been declared illegal 8 times. It was replaced in 1993 by “*registratsia na mesto zhitelstvo*” (registration at a place of permanent living) with no practical changes. It is not applied everywhere in Russia but is required in the

⁵² Amnesty International, Chapter 2: *Ethnicity and nationality in the Russian Federation* in *Dokumenty! Discrimination on grounds of race in the Russian Federation*, ibidem.

⁵³ An ethnic community has more than 1,000 members.

⁵⁴ Interview with Tania Lokshina, Moscow Helsinki Group, on the 17th of May 2004 in Moscow.

⁵⁵ Hélène Carrère d'Encausse, *Determinants and parameters of Soviet Nationality Policy*, in Jeremy R. Azrael, *Soviet nationality policies and practices*, New York, Praeger publishers, 1978, 393 p. 48.

⁵⁶ Interview with Lidia Grafova in Moscow, ibidem.

⁵⁷ The “*propiska*” system appeared already in the XIXth century, left aside in 1917 and re-established by Stalin in 1932.

regions that seem to be the less welcoming to migrants, as Moscow or southern regions like Krasnodar. In some regions, citizenship can only be granted to those who had a permanent registration at their place of residence in 1992; still, Meskhetian Turks living in Krasnodar have been denied this right. The use of “*propiska*” is linked with the attitude of the local authorities. The mayor of Moscow, Luzhkov, talking in a press conference about the “*propiska*”, said that the “*Russian Constitution does not apply in Moscow*”⁵⁸. The Soviet legal system made the local laws prevail⁵⁹, and that has stayed in the Russian system. Indeed, local authorities are rather free in the implementation of the federal law. The system of registration is not fundamentally different from the Soviet “*propiska system*” and can be seen as a prerequisite for discriminatory practices. It is now obligatory but should only have a notifying character. It is in contradiction with Article 27 of the Russian Constitution, stating that “*Everyone, who stays legally in the Russian Federation, has the right to move freely and choose the place of residence and stay*” and with international legal obligations.

The registration can be of two types: by place of residence and by place of sojourn. It is in some regions a precondition for the exercise of the basic rights and freedoms⁶⁰. The right to citizenship, employment, marriage, medical care, education, pension, and identity papers depend on the registration in 40 regions of the Russian Federation. The absence of registration should not be more than an administrative infringement, but it is a precondition for the enjoyment of many rights. One has to demonstrate that one has housing, and to be registered for housing, one has to have the local registration. We could refer here to one of Bulgakov’s favourite themes, the existence of persons depending on the existence of documents; if there are no documents, there are no persons either. “*Throughout the 1990’s, Moscow and St Petersburg demanded a “propiska” from applicants in order to give them the status as “forced migrants or refugee and thus the permission to live there. The prerequisite for a residence permit was thus- a residence permit.*”⁶¹ The Soviet “*propiska*” gave the right to residence, but the Russian registration does not provide any kind of right. The procedures seemed much clearer in the Soviet times; the rules were known⁶². The

⁵⁸ Amnesty International, *The Russian Federation: denial of justice*, 29 October 2002, taken from www.amnesty.org/russia/pdfs/russia_report.pdf on the 15th of January 2004.

⁵⁹ Interview with Daniel Meszhyaryakov, *ibidem*.

⁶⁰ Memorial Human Rights Centre, *Compliance of the Russian Federation with the Convention on the Elimination of All Forms of Racial Discrimination*, *ibidem*.

⁶¹ Tova Höjdestrand, *The Soviet-Russian production of Homelessness: Propiska, housing, privatization*, University of Stockholm, 2003, p. 6, www.anthrobase.com/Tx/H/Hoejdestranc_T_01.htm, consulted on the 2nd of April 2004.

⁶² Interview with Svetlana Gannushkina, *ibidem*, “*There were clear rules, but no liberties*”.

“propiska” was meant to regulate population movements, the registration can now be used as a restriction of movements. The Russian Constitutional Court, in its decision of the 25th of April 1995, stated that the exercise of constitutional rights and liberties could not depend on the absence or presence of *“propiska”*. In 1998, it declared that registration had a purely informative character and that it cannot be limited by other grounds than those mentioned in the Constitution (emergency, national disaster).

The existence of Soviet procedures is seen in the primacy of the regional level and on the federal level for the application of laws, the general sentiment against migrants and the illogic, suppressed but still necessary possession of some documents. The corruptibility of officials is also seen as a major Soviet legacy; circumventions were always possible. It has been acknowledged by the OSCE⁶³: *“the propiska system was one of the sources of corruption in the law enforcement agencies”*. This phenomenon goes on, and as long as those Soviet legacies will remain, there will be *“The damned of the propiska”*⁶⁴.



1.2.2. Federal migration laws reflecting national migration policies

The Russian Federation has one of the most democratic constitutions in the world; still, its application is not guaranteed. It has committed itself on the national and international scales to the protection of migrants. The Russian Constitution of 1993 provides general protection for the individuals. The 1993 Constitution, the 1997 Refugees Law, the 2002 Law on Citizenship and the 2002 Law on the Status of Foreigners are key Russian legal documents of interests for migrants.

1.2.2.1. Constitutional provisions

The 1993 Russian Constitution contains provisions concerning migrants directly or indirectly. First, as already stated, it recognizes the supremacy of international law in Article 15 and guarantees the freedom of movement in Article 27, if it is not in contradiction with

⁶³ OSCE/ODIHR, *Freedom of Movement: The Issue of Internal Registration (Propiska)*, The CIS Migration Conference, OSCE Human Dimensions Implementation Meeting, October 1998, Background paper 2, Warsaw.

⁶⁴ Marie Jégo, *Les damnés de la propiska* (The Damned of propiska), in « Le Monde », 1^{er} décembre 2001.

an international treaty. And there are neither federal laws nor international treaties restricting freedom of movement of aliens legally on the territory of the Russian Federation⁶⁵. In spite of this, administrative acts issued both at the federal and the regional levels in Moscow limit the right to freedom of movement”.

Then, the equality of all before the law and in the courts is stipulated in article 19. All shall enjoy the equal rights and liberties. It does not depend on sex, race, nationality, language, origin or religion. The equality of all citizens is mentioned in Article 34⁶⁶.

The most important article concerning migrants is Article 62-3 stating that “*foreign citizens without citizenship in the Russian Federation and stateless persons shall enjoy rights and bear duties on equal basis with Russian Federation citizens with the exception of cases stipulated by the federal law or an international treat of the Russian Federation*”. All are entitled to health care, to medical assistance and to education⁶⁷ although there are some restrictions for the right to free travel and the right to free choice of place of residence and employment.

The 1993 Constitution recognizes again the supremacy of international law in Article 63-1 stating that political asylum is granted in the Russian Federation in conformity with the recognized norms of international law. There shall be no extradition unless the person is considered to be a criminal by the law of the Russian Federation.

⁶⁵ ECRI, Second report on the Russian Federation, 26 June 2003, p. 27, taken from www.coe.int/T/E/human_rights/Ecri/5-Archives/1-ECRI's_work/1-Country-by-country/Russian_FederationCBCI on the 20th of March 2004.

⁶⁶ The equality is also protected in the Russian Criminal Code. The new Criminal Procedure Code is into force since 1 July 2002. It took over guarantees of the 1997 Criminal Code (Article 136 penalises any violation of the equality of citizens on the basis of gender, race, nationality, language, place of residence, attitude to religion, convictions and membership in public associations. Article 282 penalises any actions directed at instigating national, racial or religious hatred, belittling nation dignity). The Russian Labour Code protects as well the equality of all workers: Article 16 deals with the ban on discrimination on the basis of gender, race, nationality, language, place of residence or religious convictions on behalf of the employer.

⁶⁷ Anisa Niaz, *Migration: Russian Federation* for Russia: data taken from www.legislationonline.org/go.phpvp?country=34 on the 18th of February 2004. *Fundamental Rights of Migrants in the Russian Federation*, www.legislationonline.org/index.php?topic=139&country=34 on the 18th of February 2004.

1.2.2.2 Refugees law and law on forced migrants

The Russian law on refugees was adopted in 1997 and amended in November 2000, in respect to the international commitments undertaken by the Russian Federation in the 1951 UN Refugee Convention⁶⁸. The Refugees law is applied to non-citizens of the Russian Federation, whereas the law on forced migrants applies to the citizens of the Russian Federation or citizens of the former Soviet Union, forced to leave their home because of violence, persecution or fear of being persecuted.

Since 1993 (year of the ratification of the UN Convention on Refugees), only 424 citizens of non former Soviet republics were granted refugee status, and all but 18 were Afghan. They are all entitled to health care and medical assistance (Article 41) and have the right to education, free of charge (Article 43). These rights depend on the recognition of the refugee status which can take more than two years. According to Jean-Paul Cavalieri, head of the legal unit at the UNHCR's office in Moscow, *"The national legislation on refugees is good, but bureaucratic red tape often keeps asylum seekers from getting valid paperwork, making them vulnerable to abuses and unable to earn a living"*. The implementation of the provisions of the refugees' law is not easy. Refugee cards given by the UNHCR are often not recognized by the Russian authorities. Asylum claims are also frequently not made in time, as little information is given. There is a gap between the law and the practice.

In 2002 two major laws were established concerning migrants: the Law on Citizenship and the Law on the Status of Foreign Citizens in the Russian Federation with the official aims of enabling migrants who were already living in the Russian Federation to legalize their status and of promoting the immigration of ethnic Russians living in the former Soviet republics⁶⁹.

⁶⁸ The definition of a refugee in the article 1-1 is very similar to the one of the UN Convention: ART 1-1 of the 1997 Refugees law: *"A refugee is a non-citizen of the RF who, owing to a well-founded fear of being persecuted for reasons of race, religion, citizenship or nationality (ethnic origin), membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or, possessing no definite nationality and who, not having a nationality and being outside the country of his formal habitual residence as a result of such events, is unable or, owing to such fear, unwilling to return to it"*.

⁶⁹ International Helsinki Federation for Human Rights
Human rights in the OSCE region, Europe, Central Asia and North America, Report 2003, Vienna, Russia, pp. 315-329.

1.2.2.3. Law on Citizenship

The Law on Citizenship was adopted on the 31st of May 2002⁷⁰. It follows the 1991 Law on Citizenship, which stated in its Article 13-1 that all citizens of the former USSR permanently residing in the territory of the Russian Federation on the day the law took effect (the 1st of January 1992) are recognized citizens of the Russian Federation unless within one year of this date, they declare no willingness to become Russian citizens. From 1993 to 2002, 4,1 million persons have become Russian citizens⁷¹.

According to the 2002 Law on Citizenship, *"those whose parents are Russian citizens are automatically granted citizenship"*⁷² (Article 14). Still, there are some requirements regarding residence, a legitimate source of income, the obligation to observe the Constitution and the Russian laws and a repudiation of other citizenship⁷³. It is also no longer possible to apply for and obtain citizenship in a country other than Russia. Basically, this law allows foreign nationals to apply for citizenship, providing they have permanently resided in the Russian Federation for more than five years⁷⁴ and they have a permanent residence permit. Persons, who have resided illegally on the territory of the Russian Federation, even for much more than 5 years, cannot be granted citizenship⁷⁵. Those who have been denied permanent residence registration for discriminatory reasons by local authorities cannot apply for citizenship.

Proving permanent residence can be extremely difficult. Registration documents are the proof of residence but often, not having the citizenship does not allow obtaining registration. Local authorities can choose to recognize only registration as a proof, and the requirements for registration can be impossible to meet in some regions. The IOM Research Team on Migration⁷⁶ mentioned the requirements for registration as a minimum number of square meters per person (18 square meters, this norm is applied in big cities)

⁷⁰ It has been amended on the 11th of November 2003.

⁷¹ Sergei Yagodin, Chief Secretary of the Russian Federation Human Rights Commissioner, IOM Open Forum, *Management of migration in the CIS countries, Legislation and Cross-border cooperation*, Moscow Migration Research Programme, January 2002.

⁷² *Idem*, p. 323.

⁷³ There might be special agreements allowing dual citizenship, as with Kazakhstan. A treaty has been signed on the 26th of February 1999 between Russia, Kyrgyzstan, Kazakhstan and Byelorussia on the right of the citizens of one of these countries to acquire citizenship in another easily. Until today, this treaty has not proved its efficiency.

⁷⁴ Refugees can ask for citizenship after a shorter period of time.

⁷⁵ Anisa Niaz, OSCE, *Immigration law and policy in the Russian Federation*, taken from www.legislationonline.org/index.php?topic=138&country=34 on the 18th of February 2004.

⁷⁶ IOM Research team, Moscow, *ibidem*.

and the strict period of 3 days after arrival, not depending of working hours or working days. It all depends on the will of the person empowered to give the registration. Many requirements seem to be found or forgotten. It is often almost impossible for a newcomer to have upon arrival both an accommodation and registration. Most migrants have to reside illegally and do not get any legal protection when renting a flat. In Moscow and in the southern regions, it seems easier to obtain a working permit than registration.

Obtaining citizenship without registration is almost impossible and for many migrants, registration is unreachable. The means to circumvent the requirement are known, and their use is widely spread on the territory of the Russian Federation, apparently welcomed by the local authorities. A special Commission has even been created in Moscow in order to check registrations, as many abuses had been reported

1.2.2.4. Law on the Status of Foreign Citizens

The Law on the Legal Status of Foreign Citizens was adopted on the 25th of July 2002. It sets the requirement of migration cards. Foreign citizens must obtain a migration card in the first three days when arriving in the territory of the Russian Federation (Article 37). The migration card⁷⁷ entitles one to stay on the Russian territory for 3 months. The law makes a distinction between 3 types of legal status for foreign citizens and stateless persons in the territory of the Russian Federation: temporary stay (3 months), temporary residence (3 years) and permanent residence (5 years, renewable).

This law introduces quotas for labour migration, and as a consequence, for the number of temporary residence permits that is delivered per year. A temporary residence permit is valid 3 years and allows living in the region where the registration has been made. It is delivered in respect of regional quotas for migrants. Temporary residence permits are not granted to HIV positive persons, drug addicts, persons with infectious diseases, those with a criminal record or those who have already been expelled from the Russian Federation. This goes clearly against the commitments on equality taken by the Russian Federation, at the international and national level. Furthermore, in order to obtain a

⁷⁷ Since January 2003, 9 million migration cards have been issued in Russia.

residence permit⁷⁸, one has to prove that one is able to maintain the family with state assistance.

Some provisions of the Law on the Legal Status of Foreign Citizens are clearly unconstitutional, as the restriction of the freedom of movement (in Article 27 of the 1993 Constitution) for foreigners who have the temporary residence status. The flaws of 2002 have been largely commented upon and acknowledged by Russian officials and criticized by human rights activists⁷⁹. “When the law went into effect, all rules that made the rights of CIS and Baltic States citizens the same as the rights of Russian citizens were annulled”⁸⁰



1.2.3. Imperfect migration laws

Migration law is still a work in progress in the Russian Federation. First, there is no migration law in the Russian Federation defining “immigration” and “migration”. Then, Russian laws on migrants, rather than ensuring the protection of migrants, do reflect a will of reducing migration flows. Furthermore, the 2002 laws give huge possibilities for discrimination, as former Soviet citizens who had been denied for years residence permits because of discriminatory practices in their region do not have the right anymore to apply for citizenship⁸¹.

In his address to the Federal Assembly on the 16th of May 2003, President Putin acknowledged the shortcomings of the 2002 Laws on Citizenship and on the Legal Status of Foreign Citizens and recognized that they might create new obstacles in acquiring citizenship for millions of migrants. According to Amnesty International⁸², “these laws have exacerbated the problems faced by hundreds of thousands of former Soviet citizens in obtaining an official status”.

⁷⁸ According to Article 37 of the law, if there is no document to prove that the person is legally and permanently residing in Russia, the person will be considered a person temporarily staying in the country and receive a migration card.

⁷⁹ See the Open letter from a coalition of non-governmental organisations to Vladimir Vladimirovich Putin, President of the Russian Federation in annex.

⁸⁰ Svetlana Gannushkina, *The institution of the propiska and its evolution*, Migration and Law network, Memorial, August 2003, p. 4.

⁸¹ See the Open letter of NGOs to President Putin, in annex.

⁸² See Amnesty International, Chapter 7: *Racist application of citizenship laws in Dokumenty! Discrimination on grounds of race in the Russian Federation*, ibidem.

Tania Lokshina is more severe in her judgement of the 2002 laws, when stating that “there are so many stupidities in these laws that they can never be fulfilled”⁸³. The most logical policy would be to facilitate the integration of migrants who are so much needed by the Russian Federation, but “unfortunately the laws of logic do not rule when dealing with migration law”⁸⁴. These laws clearly do not support the regularization of migrants. In short, with the 2002 Law on Citizenship and Law on the Legal Status of Foreign Citizens, approximately 2 million migrants have been declared illegal, with no possibilities for them to be legalized⁸⁵.

Access to citizenship has become more difficult and ethnic Russians and former Soviet citizens who did not regularize their status before July 2002 are now faced with serious difficulties. Some had been living permanently in the Russian Federation for more than 10 years and were denied permanent residence registration. Even now they are unable to get temporary residence permits. These laws are commonly said to be cruel towards migrants.

Last but not least, the 2002 Law on the Legal Status of Foreigners is a bad law according to a number of lawyers. Lidia Grafova⁸⁶ stated that one article out of two could be brought to the Constitutional Court and be declared unconstitutional. The situation of migrants in the Russian Federation depends upon imperfect, sometimes even unconstitutional laws that are not primarily aimed at their protection but more at limiting their number on the Russian territory. These imperfect laws are not applied the same way throughout the country.

⁸³ Interview with Tania Lokshina, *ibidem*.

⁸⁴ *Idem*.

⁸⁵ Interview with Daniel Meszhyryakov, *ibidem*.

⁸⁶ Interview with Lidia Grafova, *ibidem*.

1.2.4. Regional migration laws and the daily application of migration laws, differences between federal laws and normative acts

The daily application of Russian migration law takes place in the regions, through normative acts taken by the governor and local authorities. It is very difficult to ensure that federal legislation and policies are applied at the local level the same way they are everywhere in the Russian Federation. There can even be major differences between legislative and normative acts. The regions feel free to interpret migration laws as they wish and there seems to be a lack of coordination in migration policies at the federal level.

Some regions are known to be particularly difficult for migrants: Moscow, Krasnodar, St Petersburg, Krasnoyarsk, Stavropol and the Caucasus regions. There are in these regions specific conditions for registration: the size of the residential space per person, the availability of kindred ties in the given region⁸⁷, the citizenship, and the profession or social level. The Russian Federation Constitutional Court has confirmed that additional requirements to the registration, which are not established by the federal law, are not conforming to the Constitution⁸⁸. However, it is often the case that acts implementing the federal laws are in contradiction with the laws themselves⁸⁹. But in the Russian Federation, the local norms have the primacy on federal and international law⁹⁰, and there is hardly ever a control on the actions of the local authorities in that field. The cases of Moscow and Krasnodar are particularly interesting.

The case of Moscow

Most of the migrants to the Russian Federation go to Moscow, which, however, is far from being extremely welcoming for migrants. Moscow's unconstitutional rules of registration are known and even claimed by the Mayor Luzhkov. Moscow has its own regulations concerning migrants, e.g. its own program for migration control that is not depending of federal instructions and special procedures against unwanted minorities.

⁸⁷ 1995 Law n° 9-KZ "On the procedure of Registration of Stay and Residence on the Territory of Krasnodar Krai" does not allow for the registration of persons who have no close relatives living in the region for at least 10 years.

⁸⁸ Memorial Human Rights Centre, *Compliance of the Russian Federation with the Convention on the Elimination of All Forms of Racial Discrimination*, ibidem.

⁸⁹ Interview with Svetlana Gannushkina, ibidem.

⁹⁰ Interview with Daniel Meszyaryakov, ibidem.

Moscow authorities do support arbitrary behaviours of law enforcement agents. Moscow and some southern regions have established their own registration rules.

The case of Krasnodar

The region of Krasnodar is ruled by governor Tkachev, who is known for his cruel policies towards Meskhetian Turks. Meskhetian Turks are a Muslim group who was forcibly deported to Uzbekistan in 1944 by Stalin⁹¹. With the economic and social changes, ethnic tensions grew and led to conflict. Again in 1989, after the “Fergana slaughter”, Meskhetian Turks were forced to flee to Russia, Azerbaijan, Kazakhstan and Kirghizstan.

Their right to the Russian citizenship has been denied in the region of Krasnodar, whereas other Meskhetian Turks in different regions did receive citizenship, as they had been residing permanently in the Russian Federation before 1992. The UNHCR has described Meskhetian Turks living in the Krasnodar territory as *de jure* citizens, *de facto* stateless⁹². 16,000 Meskhetian Turks are left today without any income, as they have been denied the right to citizenship. They do not get their residence registered, and without registration, they cannot be employed, send the children to school or have access to health care.

The Governor Tkachev has created local Commissions on Migration Control having the power to decide who can remain on the territory. These Commissions “have unlimited power to grant or deny people the right to live permanently in the territory”⁹³. Neither the 1993 Constitution nor the federal legislation granted such a power to local authorities. With permanent identity checks and harassment, Meskhetian Turks are being persecuted in Krasnodar. They have to pay fines for not having registration, even if they are not allowed to register. “*They should not abuse of the hospitality of Russian people*” threatened Governor Tkachev. The Governor has put his ideas into practice and the situation obviously worsened the last two years⁹⁴. He took “measures on the reinforcement of the control of migrants, not residing legally on the territory of Krasnodar” on the 27th of March 2002 and an act on “the increase of control of the migration processes and defence of the interests of the citizens of the Russian Federation living on Krasnodar’s territory” on the 16th

⁹¹ 115,000 Meskhetian Turks were then deported.

⁹² Amnesty International, *Discrimination on the grounds of race in the Russian Federation*, ibid, p.51.

⁹³ Cf. Articles 13 and 14 of the Law of the Krasnodar territory, 11 April 2002.

⁹⁴ Interview with Mark Getchell, IOM, ibidem.

of July 2002. The United States offered in April 2004 asylum to Meskhetian Turks living in Krasnodar, as the situation seems to be a dead end.

Transition to part two

The Russian Federation has committed itself in a number of international treaties and in its domestic law to fight against racial discrimination which does present some guarantees for the protection against all forms of discrimination on its territory. Though laws do exist and present provisions for migrants, they have imperfections and important provisions are missing. They are also not applied the same way everywhere on the Russian territory and to the different groups of migrants⁹⁵.

The 1993 Constitution recognises the principle of equality between subjects but the laws that are the effective legislation in the Russian Federation do not guarantee that equality.

We will see in the second part that the application of the imperfect migration law has been proved to be unequal, i.e. not the same for all the migrants coming to the Russian Federation, demonstrating not only a general hostility towards migrants but also clear preferences in migration policies for Slavic migrants, said to integrate much easier into the Russian ethnic society.

⁹⁵ Idem. Mr. Meszheryakov talked about “unofficial instructions” given to police officers and law enforcement agents to treat in a preferential way some categories of migrants.

SECOND PART: A DIFFERENTIATED APPLICATION OF MIGRATION LAW IN THE RUSSIAN FEDERATION

The second part of the thesis will first propose a study of the Russian migration policies that might be an explanation for the inconsistent application of migration law in the Russian Federation. Then, we will see that the implementation of the principles of migration policies depends on the attitude of law enforcement agents towards migrants. The requirements, with which migrants have to comply, if local authorities or police officers decide so, can be different according to their ethnic origin and their region of stay in the Russian Federation. The differentiated application of migration law in the Russian Federation demonstrates the inconsistency of its application, as everyone is obviously not equal in front of the law.

2.1. Russian migration policies

We will first see the foundations of Russian migration policies and then make an evaluation of the policies regarding the legal instruments and the Russian reality.

2.1.1. Foundation of migration policies

2.1.1.1. The absence of a concrete and rational migration policy

“There was no migration’s conception for a very long time, migration was not controlled, anyone could come; the State was not dealing with this problem... Today, no-one can say how many migrants are living in Russia”, stated Mr. Ivanov⁹⁶, Representative of

⁹⁶ Intervention of Mr. Ivanov, *Vserossiskii tchrezichaini, sezd v zachity migrantov*, Migrants’ Forum, Moscow 20-21 June 2002, p. 201.

the Head of the Presidential Administration of the Russian Federation. Migration policies have been a recent interest of the Russian authorities, which were at first not dealing with migration issues at all.

The Federal Migration Service was established by decree in 1992, within the Ministry of Interior, then abolished by the Decree of the Russian Federation President number 867 "On the structure of Federal Executive Bodies" of May 17, 2000. Its functions were passed to the Russian Ministry of Federation, Nationalities and Migration Policy with 5 Departments out of 10 in charge of migration issues: the Department for Forced Settlers, the Department for Immigration Control and Asylum Granting, the Department of Migration Policy, the Department for Labour Migration and the Department for the Coordination of Regional Offices⁹⁷. It is not clear who is really dealing with migration in the Russian Federation, as the service is permanently being reorganized. It was incorporated as a department into the Ministry of Interior of Federation in October 2001, and since the last change of government in March 2004, its status is unknown. Economist Mr. Vladimir Zorin, Minister of Nationalities, recently claimed the interest of the government for migrants⁹⁸. The Federal Migration Service is working together with the territorial departments on migration affairs. However, one fundamental factor hinders the development of migration policies; there is a lack of funds provided to the migration services, and migrants are clearly not a priority. The laws do exist, but there aren't sufficient funds in order to implement the provisions.

There is as well a lack of migration experts working with and for the authorities. Indeed, there are no migration experts in the state organs. The authorities express their lack of interest in migrants in the insufficient funding and the hiring of non-experts. Migration policies, if they are ever built, most often are not very logical. According to Joseph Gorke⁹⁹, head of UNHCR Moscow, "*the problem of migration is so serious and so important for Russia that it has to be dealt with in an autonomous department, in a strong, independent and non-corrupted structure with experts*". So far, according to a number of migration specialists and NGOs' activists, the Russian migration services have never proved their

⁹⁷ V. Tulyakov, Deputy Head of the Legal Office, Russian Federation Ministry of Federation, National and Migration Policy, *Migration policy at the federal and local levels, State of administrative and judicial practice*, taken from www.memo.ru/hr/refugees/sem9_eng/Chapter2.htm on the 4th of March 2004.

⁹⁸ Dzhozef Gorke, interviewed by Lidia Grafova, Migrants' Forum, *Vestnik Foruma* (Bulletin), December 2003, Dzhozef Gorke, Migration politics.

⁹⁹ Dzhozef Gorke idem.

efficiency; it seems rather difficult to rely on them, as they change the statistics according to their needs and preferences¹⁰⁰. Even if unskilled, friends of the Presidential Administration are the policy makers. Some hardly even know the Russian law¹⁰¹.

In short, Russia may have some migration policies, but does not have a migration strategy, apart from stopping migration. Migration policy is “*reduced to fire-fighting operations, and going into an impasse*”¹⁰².

2.1.1.2. A general restriction to migration

Migration policy reflects many contradictions of the Russian Federation, as illustrated by the huge differences between the law and the practice as well as the discourses to attract migrants in contrast to the extremely strict policies. The Russian Federation is attracting a great number of migrants; it is said to be a magnet¹⁰³ for labour migrants and undocumented migrants. However, the addition of requirements, e.g. registration, migration cards, temporary residence permits, makes it almost impossible for migrants to reside legally¹⁰⁴, as those who are giving those documents follow a strict policy of restricting migration.

Restrictive migration policy is based on a biased view of migrants consistent with seeing the majority of them as irregular migrants. According to Mrs. Gannushkina¹⁰⁵, “*fighting illegal migration has been the foundation of the Russian migration policy in the last three years*”. Migration policies are clearly focused more on the control of the number of migrants than on welcoming them into the territory. A way to control the number of migrants is the migration quotas set every year by the regional authorities, but their criteria are still not clear

¹⁰⁰ Interview with Svetlana Gannushkina, *ibidem*.

¹⁰¹ This was referred to in the interview with Lidia Grafova (*ibidem*), and in the protocol of a forum on migrants, Mr. Ivanov made mistakes when talking about some laws, in *Vserossiiskii Chrezvychainyi, C'ezd v zashchitu migrantov* (All-Russian summit on the defence of migrants, Moscow 20-21 June 2002).

¹⁰² Pr. Anatoly Vishnevsky, *The demographic situation and migration policy in Russia*, 26 September 2001, IOM Seminar, International Organisation for Migration Open Forum, *Russia's migration policy: two views, two contexts*, September-October 2001.

¹⁰³ Timothy Heleniak, *Migration dilemmas haunt Post-Soviet Russia*, *Migration information*, October 2002, taken from www.migrationinformation.org/Profiles/display.cfm?ID=62 on the 20th of February 2004.

¹⁰⁴ Furthermore, getting citizenship is becoming more difficult, as we already mentioned, one has to demonstrate a 5 year long period of residence, to prove fluency in Russian and have evidence of a legal job.

¹⁰⁵ Interview with Svetlana Gannushkina, *ibidem*.

and the regions can set them arbitrarily. Refugee status is also denied to almost all the claimants; the rejection rate at the airport Sheremetevo is close to 100%¹⁰⁶.

When talking about migrants, authorities often talk about a threat, an uncontrollable phenomenon. Undoubtedly, fear is the underlying factor in these speeches. Restrictive measures are the answer to the feeling of threat. The Chinese and the Caucasian threats are said to be the most dangerous. According to Viktor Voronkov¹⁰⁷, director of the St. Petersburg Centre for Independent Social Research, "*the main obstacle to rational immigration guidelines is a deep fear of being overwhelmed by outsiders*". Russian migration policy reflects the xenophobia of the State. However, the authorities justify their restriction policy by identifying the flow of migrants to the increase of the crime rate¹⁰⁸ and by using common stereotypes about the different kinds of migrants, stating that some migrants might integrate more easily than some others and that some might cause more troubles than others. There are special rules for some groups considered as dangerous¹⁰⁹ and officious preferences for some groups of migrants.

2.1.2. Preferential migration policies

A migration policy depends on the economic, social and cultural situation in the country. It has to take into account both the interest of the host population and the protection of migrants. Russian migration policy is first and foremost made in order to protect Russian citizens¹¹⁰, not even all ethnic Russians; that does already allow us to qualify it as preferential. No migrant is clearly welcomed¹¹¹ in the Russian Federation, but there seem to be a preference for Slavic migrants¹¹² who share the same language and culture as the Russian citizens. Slavic migrants are less visible and therefore have fewer problems, even

¹⁰⁶ According to the 1951 UN Convention on Refugees, "*the detention of asylum-seekers is allowed only if it is necessary, if it is lawful and if it is to verify documents, to determine the elements on which the claim on asylum is based, to deal with cases where asylum-seekers have destroyed their identity documents, to protect national security or public order*" (Conclusion n° 44-b of the Executive Committee of the UNHCR).

¹⁰⁷ V. Voronkov is quoted by Liz Fekete, for the International race and refugee news network, in *Xenophobia hinders introduction of immigration policy*, 1 August 2002, taken from www.irtt.org.uk/cgi-bin/news/open.pl?id=4408, on the 5th of April 2004

¹⁰⁸ Vladimir Malakhov, *Racism and migrants*, ibidem.

¹⁰⁹ After the 1999 terrorist acts, all non-Muscovites were asked to re-register, 20,000 people were arrested, 1,000 expelled. No Chechen can be registered in Moscow and in St Petersburg.

¹¹⁰ Migrant's Forum, *Vestnik Foruma* (Bulletin of the Forum), December 2003, ibidem.

¹¹¹ Mr. Getchell, at the IOM, mentioned the *anti-migrationist* movement.

¹¹² Interview with Daniel Meszyaryakov, ibidem.

if getting registration is as difficult for them as it is for all the others¹¹³. However, the solidarity among the migrant's group can play a key role in the integration of the migrant in the Russian society; a high level of solidarity¹¹⁴ exists among Caucasian groups, much more than among the Slaves. This solidarity might very often help the migrants to cope with the situation in Russia.

Cultural differences can explain some preferential treatment, but most of the migrants do share the Soviet culture¹¹⁵ and fluency in Russian with most of the Russian population. They have had the same school programmes, the same education but do not have the same life style. Authorities are openly much more willing to let in people from Ukraine and Belarus. President Putin said Russia should attempt to attract migrants to Russia from former Soviet Republics whose population often had the "*same mentality, the same cultural and often the same religious roots*"¹¹⁶, designating migrants of Slavic origin. The mayor of Moscow, Mr. Luzhkov, also claimed that the Moscow authorities do not welcome people of Caucasian nationality¹¹⁷.

Russia's lack of experience¹¹⁸ in international migration flows may explain some of the contradictions. Visa-free regimes with some countries do not ensure that all migrants coming from these countries will be welcomed in the Russian territory. Since September 2000, no more visas are needed for migrants from Belarus, Kirghizstan and Tajikistan but at the same time, their control remains very strict and many Tajik people are being expelled from Russia¹¹⁹. There are some preferences for Slavic migrants, some preferential agreements with countries that may not be Slavic, and in practice there is a restriction of the number of migrants in the territory. Some observers have been calling it a "policy with its hands tied"¹²⁰.

¹¹³ Interview with Svetlana Gannushkina, *ibidem*.

¹¹⁴ Interview with Anna Nikolaevna Rubtsova, *ibidem*.

¹¹⁵ Vladimir Malakhov, *Racism and migrants*, *ibidem*.

¹¹⁶ UNHCR, *Russian immigration quotas to be increased in 2003*, Agence France Presse, 20 December 2002.

¹¹⁷ Mr. Luzhkov is quoted by Francesca Mereu, for "Johnson's Russia list", *Russia: Moscow markets present troubled tableau of life of city's immigrants*, 15 November 2001, www.cdi.org/russia/johnson/5547-12.cfm, retrieved on the 4th of April 2004.

¹¹⁸ Dr. Irina Ivakhniouk, Council of Europe workshop-final report, *Economic migration in Russia-legal protection of migrant workers*, Moscow, 19 December 2003, taken from www.coe.int/T/ES/Social_Cohesion/Migration/Activities/Final%20Report.pdf, on the 4th of April 2004.

¹¹⁹ Amnesty International, *Fédération de Russie: une justice en devenir*, Paris, septembre 2003, p. 63.

¹²⁰ Edwin McCain, IOM Open Forum, *ibidem*.

It has been said that the authorities had been encouraging irregular migration by not solving these contradictions. Official migration policies are intrinsically linked with the benefits that migrants represent for Russia, for Russian officials, and for employers. If the benefits brought by migrants are higher when those are illegal, then, it seems logical that regularization will be made as difficult as possible. Keeping migrants illegal is profitable. Employers are used to and will keep the habit of hiring irregular migrants because they know that they will work over time. If they don't hire them officially, they won't have to pay taxes for them or even social security¹²¹.

2.1.3. Evaluation of Russian migration policy

*"Russia's migration policy has not yet adjusted to the new realities"*¹²². It has to adapt to the number of migrants coming and the needs of Russia. The practice of migration control in the Russian Federation does not at all reflect the commitments taken by the Russian Federation at the international and at the national level. The question of the readiness of the Russian Federation when it acceded to the international conventions can be raised.

The Russian officials' attitude towards migrants is between contempt and ignorance. They do not feel a responsibility towards migrants. The protection and the interests of the Russian people are clearly the priority. Taking care of migrants has never been considered as a domestic problem. However, the return of ethnic Russians is not easy either; even if they are Russians, they are considered as migrants and treated as such.

A balance has to be found between attracting migrants and protecting Russian citizens in a long-term migration policy. The inconsistency in the application of Russian migration law lies in the inconsistency of Russian migration policy. Laws can be interpreted in different ways, and their application in Russia clearly reflects the will of the authorities to limit migration.

¹²¹ IOM, Conference on Irregular migrants in Russia; situation, trends and policy, 24 April 2003.

¹²² Zhanna Zayonchkovskaya, *Recent Migration Trends in Russia*, in George G. Demko, Grigory Iofee, Zhanna Zayonchkovskaya, *Population Under Duress, The Geodemography of Post-Soviet Russia*, ibidem, p. 134.

The Russian Federation needs to define a clear and coherent migration policy, answering to the needs of the population and of the country¹²³ and taking into account the protection of migrants. According to Emil Pain, general director of the Centre for ethno-political and regional studies¹²⁴, “*Official figures have lost their way*”. The attitude towards ethnic Russians is also not clear; they are not being welcomed, like the other migrants. However, their rights are ensured and protected by the Russian authorities in their country of residence.

Russian migration laws are not applied in a unified and equal way, and their application depends on the will of the authorities and on the origin of migrants (Slavic or non-Slavic). The attitude of local authorities may feed a general presentiment against migrants.

2.2. Questionable attitude of law enforcement agents

The second chapter of the second part of the paper is based mostly on interviews, on personal experience in the streets of Moscow in 2002/2003 and in May 2004, and on NGOs reports and will introduce the issue of the questionable attitude of law enforcement agents in the Russian Federation.

The role of law enforcement agents, police officers and the general staff working in administrations is absolutely primary in the application of migration law, as they are the ones in direct contact with migrants. They represent the State, the State policies, the law and the order. They are implementing the migration policies, and they are the ones the people should ask for protection. However, they apply migration law in a discriminatory or even a xenophobic way which shows the failure of the Russian State to ensure the protection of migrants and the respect of its commitments.

¹²³ Sergei Yagodin, Chief Secretary of the Russian Federation Human Rights Commissioner, IOM Open Forum, *Management of migration in the CIS countries, Legislation and Cross-border cooperation*, Moscow Migration Research Programme, January 2002.

¹²⁴ IOM Open Forum, *Russia's immigration policy: the ethnic context*, August 2002.

2.2.1. Ethnic profiling in the Russian Federation

Control of identity documents is part of the application of migration law and is the way of controlling if the stay in the country is regular or not. It is very common everywhere in Russia to see police officers checking the documents of people with a darker skin¹²⁵ than ethnic Russians, “*ethnically different people*”. The police are looking for all foreigners¹²⁶, but there is a higher proportion of non-Slavic migrants in the checks and the arrests. Non-Slavic migrants obviously look foreign, and looking foreign is already a suspicious appearance¹²⁷. Police officers use their intuition¹²⁸ when arresting people and take a suspicious appearance as a ground for an identity check. This is called prejudiced policing; migrants are seen as potential criminals. When police arrest someone on no official grounds but on a prejudice based on a different colour of skin or on the assumption that the person is foreign¹²⁹, the police officers clearly violate Article 11 of the 1991 Law on the Police¹³⁰ concerning the responsibilities of the police when checking documents and stipulating that the police “*will check personal identity documents where there are sufficient grounds to suspect that the subjects has committed a crime or administrative misdemeanour, and where there are sufficient data to prove that they may be carrying arms, weapons, explosives, narcotics or psychotropic drugs, can then conduct a search of the person, their possessions, hand baggage or luggage*”. When choosing to control the identity papers of a person, the police officers designate arbitrarily who might be irregular. These practices are common in many States and according to a study by ECRI¹³¹, “*persons of a physically recognisable differing race, ethnic origin or religion are more likely to be asked to identify themselves than others, even if there is no objective justification*”. However, Russian police officers never do have to justify any arrest or identity control nor have to show motive for any decision in practice.

¹²⁵ People of Caucasus with a darker skin are commonly called “*chiornye*”, this refers to their role of the black markets at the end of the 1980s and the beginning of the 1990s.

¹²⁶ Interview with Tania Lokshina, *ibidem*.

¹²⁷ In Moscow, not looking Muscovite can already be considered as a suspicious appearance, according to Daniel Meszhyaryakov (interview, *ibidem*).

¹²⁸ Nathalie Ferre, *Les contrôles d'identité : législation, pratique et jurisprudence*, in Emmanuel DECAUX (dir.), *Le droit face au racisme*, Paris, Editions A. Pedone, 1999, 172 p.

¹²⁹ Idem, this assumption is called in French “*présomption d'extranéité*”. The Russian NGO Memorial mentioned that “*as a rule, passports of those people, who are anthropologically different from the majority, are checked up in the streets more frequently than of the others*” (Report written by Olga Cherepova on *Ethnic discrimination and discrimination on the basis of place of residence in the Moscow region*, 3 September 1999, taken from www.memo.ru/eng/hr/ethn-e.l.htm on the 3rd of March 2004).

¹³⁰ Amnesty International, Chapter 4: *Registration-a gateway to abuse*, p.29. in *Dokumenty! Discrimination on grounds of race in the Russian Federation*, *ibidem*.

¹³¹ Isabelle Chopin, *Racism in migration :Where do we draw the line ?*, *ibidem*.

Identity checks are the best way to find irregular migrants; more than 50% of the coming migrants don't register properly, not being aware of the rules and of the delays. The police are free to act according to their intuition. It seems according to a number of reports on the behaviour of police officers in the Russian Federation that, though not openly advocating any nationalistic ideology, they often adhere to ethnic profiling and xenophobic attitudes when carrying out their duties¹³². The rights of the migrants are clearly violated in order to protect the rights of the welcoming community.

Xenophobia and the fight against irregular migration may, in fact, explain ethnic profiling. However, the general racial profiling in the Russian Federation is even more linked with corruption¹³³ and the potential for income that the bribes paid by irregular migrants will supply.



2.2.2. Law enforcement agents initiating violations of the law

Law enforcement agents are rather often the ones initiating violations of the law in the Russian Federation. They are therefore the most feared in the Russian Federation. Surveys report that 70% of the people fear the police more than the bandits¹³⁴, and that foreigners living in Russia consider the police as the greatest threat to their security. This fear leads them neither to report illegal behaviours nor to claim their rights when being subject to discrimination by the police. Migrants fear those in charge of applying migration law.

This fear does also allow corruption to continue and to develop. Identity checks are often accompanied with threats and requests for bribes. Complaints against the police are not heard and corruption of police officers is now common practice. Bribe-hungry police

¹³² A. Sokolov, *Nationalism, xenophobia and the State, Racism, nationalism and xenophobia among police officials*, in T. Lokshina, *Nationalism, xenophobia and intolerance in contemporary Russia*, Moscow Helsinki Group, 2002, p. 172.

¹³³ Interview with Tania Lokshina, *ibidem*.

¹³⁴ CSCE Report, *Intolerance in contemporary Russia*, 107th Congress, Washington, 15 October 2003, taken from www.csce.gov/pdf/101502CS2CSEbriefing.pdf on the 2nd of April 2004.

officers¹³⁵ will purposely check the documents of those who do not seem to be in a regular situation and then let them go if they pay a bribe. When they are fined, the police officers are not obliged to give a document stating that they paid the fine; those who have been fined have to ask for it. The persons often do not dare to ask for this document and can therefore be fined several times a day.

Corruption is endemic among the Russian police officers and in administrations, especially when it concerns the registration procedure. Some studies report that 80% of all migrants bribe a district official to register them¹³⁶. Giving a bribe is the easiest solution in order to avoid the requirements of migration laws and the hostility of officials towards migrants. Mrs. Lokshina explained all the procedures during our interview. She herself bought a fake registration in a specialized agency where many migrants do come. All migrants and Russian citizens (except Chechens) need registration in Moscow and can go to one of these agencies where a registration will be given for about 800 roubles¹³⁷. A conniving police station will provide the stamp in exchange for part of the sum. The address¹³⁸ of the registration would then be at a flat of an old lady, whom the police might know and she would also get some money. Migrants are an easy source of income for police officers and for passport agencies. Providing registration to migrants is definitely a profitable business¹³⁹, which is doomed to develop if the wages of civil servants and police officers do not increase together with their awareness of their duty to protect all the people.

Visible minorities¹⁴⁰ are special targets for document checks and bribery. Such groups are especially vulnerable to arbitrary arrest, detention and torture or ill-treatment by the police¹⁴¹. The police believe they can abuse members of ethnic minorities¹⁴² and set up arbitrary sanctions when the migrant has no registration or no valid identity document. A

¹³⁵ Liz Fekete, for the International race and refugee news network, *Moscow survey: police greatest threat to foreigners*, 29 April 2003, taken from www.irt.org.uk/ on the 5th of April 2004.

¹³⁶ IOM Open Forum, *Russia's immigration policy: the ethnic context*, August 2002.

¹³⁷ 800 roubles is appreciatively €25.

¹³⁸ A famous case demonstrating the abuses in the registration procedures was mentioned during all the interviews: 400 persons have been registered in the same flat in Moscow.

¹³⁹ Svetlana Gannushkina, *The institution of the "propiska" and its evolution*, Migration and Law network, Memorial, August 2003.

¹⁴⁰ Visible minorities refer to migrants who are distinguished by skin colour.

¹⁴¹ European Commission against Racism and Intolerance, Country by country approach, *Report on the Russian Federation*, Adopted on 16 March 2001, taken from www.coe.int/T/E/human_rights/Ecri..., on the 20th of April 2004.

¹⁴² Amnesty International, *Ethnic minorities under attack*, Russia campaign, taken from www.amnesty.org/russia/minorities.html on the 14th of February 2004.

usual practice, as well, can be to confiscate the identity document, a passport for example, as a pledge for the payment of a fine. In a nutshell, the control of residence registration leads to many abuses and to violations of the most fundamental human rights¹⁴³.

Those who should ensure the protection are those violating the law, not only with discriminatory practices, but also with the use of bribes as a mean of pressure. The statement of many non-governmental organisations is that the endemic corruption in the country affects the whole population and especially the most vulnerable groups as migrants¹⁴⁴. These practices will not change as long as it is not recognized as a problem by the federal authorities. The militia's attitude reflects the growth of xenophobia in the country and maybe even more so, the absence of the federal authorities' power on the local authorities and on the police.

2.2.3. Unofficial practices, absence of official reactions to xenophobia within the police

The police officers are feared in the Russian Federation. It is very difficult to address a complaint against their acts and with no guarantee of success even if the human rights violation is clear. The federal authorities have been tolerating discriminatory behaviours and therefore violating their international commitments to Article 2-1 of the United Nations International Convention for the Elimination of Racism and all Forms of Racial Discrimination: *"Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation"*.

Racial discrimination, violence, incitement to racial hatred and xenophobic campaigns are not judged in Russia. No crime is recognised on the basis of ethnic hatred. A law on countering extremist activities has been passed, however complaints concerning the

¹⁴³ Oleg Mironov, Russian Ombudsman, in *Dokumenty! Discrimination on grounds of race in the Russian Federation*, Chapter 4: *Registration-a gateway to abuse*, Amnesty International, ibidem.

¹⁴⁴ Francesca Mereu, for "Johnson's Russia list", *Russia: Moscow markets present troubled tableau of life of city's immigrants*, 15 November 2001, taken from www.cdi.org/russia/johnson/5547-12.cfm, on the 4th of April 2004.

extremist behaviour of police officers are hardly ever heard. It has been proved that some police officers even had links with extremist groups.

Racism among police officers has been reported, *"some victims have complained that some police officers are themselves racist, claiming that random document checks, detentions and even beatings of migrants are commonplace"*¹⁴⁵. It is, however, quite difficult, to a certain extent, to describe control procedures as racist or xenophobic, to evaluate the actions of a police officers and to prove that their actions are guided by racist feelings.

Obvious illegal and discriminatory practices by the police officers are ignored by the federal authorities. The extortion of money, the use of violence, the entrance into one's house, daily harassment in the street, and in the metro are common when the police are dealing with migrants from Central Asia or from the countries of the Caucasus. A tyranny of the militia is now being installed in some regions and is supported by some regional authorities as Mayor Luzhkov in Moscow spoke of bringing the terror to the street¹⁴⁶ in order to make migrants leave the capital city. Targeted operations of the police should also be mentioned. Targeted operations against drug dealers are in fact operations against Roma people¹⁴⁷, and officials simply answer that it is not their fault if all Roma people are drug dealers. The attitude of officials and of law enforcement agents demonstrates once again that the protection of migrants is not a priority. The duty of diligence, i.e. the responsibility of the State to protect all individuals and to prevent abuses is not considered of importance in the Russian Federation.

¹⁴⁵ Sergei Blagov, *Racial extremism on the rise in Russia*, *CNSnews*, February 19 2004, www.cnsnews.com/viewForeignBureau.asp?Page=%5CForeignBureau%5FCarchive%5C200402%5FCOR2004-04-02, consulted on the 3rd of March 2004.

¹⁴⁶ Interview with Svetlana Gannushkina, *ibidem*.

¹⁴⁷ Interview with Tania Lokshina, *ibidem*.

Transition to part 3

Immigration policy can only be efficient if it does not contradict economic interests¹⁴⁸, both national and personal. As long as the issue of bribery within the police and the administrative authorities will not be addressed, there will be no progress in the respect and the application of migration law in the Russian Federation. Laws may be imperfect, but some provisions providing some protection do exist, and the equality of all is guaranteed in the Constitution¹⁴⁹.

Measures have been taken towards the fight against racial discrimination, but texts will never be enough in order to ensure the protection of individuals. Their respect and implementation must be guaranteed by those representing the State and being its defenders. If they want to impose the respect of the law, law enforcement agents should also respect it.

¹⁴⁸ Zhanna Zayonchkovskaya, *Chinese Demographic Expansion into Russia in George*, in G. Demko, Grigory Iofee, Zhanna Zayonchkovskaya, *Population Under Duress, The Geodemography of Post-Soviet Russia*, p. 145.

¹⁴⁹ Article 19 of the Russian Constitution stipulates that everyone is equal before the law and prohibits any restriction of rights on the grounds of race, ethnicity, national origin, or language.

The attitude of officials and of law enforcement agents towards migrants reflects the general xenophobia in the Russian Federation, but does also influence it. The example given by the local authorities and the civil servants does not influence the people to respect or to leave their prejudices aside. The attitude of law enforcement agents towards migrants in the Russian Federation is more than questionable; it helps to create and to breed xenophobia in the society. The targeting of foreigners, as they might not have legal documents, gives to the population the feeling that most of the foreigners are criminals. The police arrest them thinking that they have more chances to find a "bandit" among the migrants. At the same time, the population compares migrants to bandits and they then have real fear when seeing all the arrests in the streets and in the metro. Anyone who might look suspicious may be arrested and have his identity papers checked.

The weight of presentment in the attitude of law enforcement agents cultivates popular myths and only makes the new phenomenon called "migrantophobia" gain importance. We will see in the third part the state of the public opinion and of the media towards migrants and how it may influence the application of migration law in the Russian Federation.

THIRD PART: THE PERCEPTION OF MIGRANTS IN A MULTI-ETHNIC SOCIETY: XENOPHOBIC VS. RECEIPTIVE ATTITUDES OF RUSSIANS TOWARDS MIGRANTS

The application of migration law in the Russian Federation has to be contextualised in order to have a reasonable approach to the matter. The law is made by and for the people; therefore it is interesting to pay attention to the attitude of the Russian people and of the Russian media towards migrants. The application of migration law in the Russian Federation depends on the global attitude of the people towards migrants. In addition, that attitude is deeply influenced by the behaviour of officials and of the police towards migrants. What is the perception of migrants in the Russian society? And do migration laws and the behaviour of law enforcement agents influence the public opinion, or is it a reflection of a general tendency that would be an overall hostility towards migrants based on prejudice and fear?

3.1. Variable hostility towards migrants

3.1.1. General attitude towards migrants

For Mark Getchell, *"Migrantophobia is growing along with the growth of migration"*¹⁵⁰. The Russian population is far from being the most open or the most hostile to migration. However, the fear of migrants has increased and the attitude towards migrants has deeply changed in the last ten years. A 2004 survey¹⁵¹ states that 64% of Moscow inhabitants feel negatively towards the arrival of migrants. In 1996, they were about 50% to answer this way. However, talking about only xenophobia might be too simplistic, as the living conditions of the Russian population has to be taken into account. The population feels much more worried about its own social and economic difficulties than about the situation of migrants. Social hardship is definitely an obstacle to migration and to the

¹⁵⁰ Mark Getchell, *Foreword: Tolerance in immigration policy, a threat or a condition of Russian security?* IOM Open Forum, *Russia's immigration policy: the ethnic context*, August 2002.

¹⁵¹ Survey mentioned by Anna Nikolaevna Rubtsova, IOM, *ibidem*.

welcoming of migrants on the Russian territory. According to Daniel Meszhyaryakov¹⁵², *"there has been a raise of racism because of a raise of social problems in Russia"*. Migrants are an easy target; it is indeed easier to blame them for one's own poverty. Finding enemies is a common way to avoid dealing with the core of problems.

Russian migration policies make it clear that migrants are not welcomed on the territory or in a very restricted limit. Russians who are returning are not welcomed either¹⁵³. Ads for flats or for jobs which mention that they are reserved for ethnic Russians have become common and show that there is a clear and general practice of ethnic selection, i.e. racist attitudes. Ethnically biased expressions or vocabulary are not shocking; they have been integrated into common language. The expression *"Russians only"* has become part of everyday life in Russia¹⁵⁴. Policies are made for Russians, not automatically against non Russians. Can the preference given to nationals in some fields be immediately compared to discriminatory and xenophobic practices?

The silent xenophobia in Russia is worrying but might for the moment be less dangerous than the development of extremist movements particularly hostile to migrants. That phenomena did not until recently worry the authorities. It has been evaluated that there are about 50,000 skinheads¹⁵⁵ in Russia and that their number is increasing. Attacks organized by skinheads are well-known and talked about in the press, but there has been little official reaction so far. The case of a 9-year old girl¹⁵⁶ stabbed in St Petersburg in February 2004 shows that the problem is more than worrying. Migrant children are targets for attacks, as well as for requests of bribes¹⁵⁷. Migrants do not feel safe in the Russian Federation because of the attitude of several actors, extremist movements, officials and the population in general. *"Putin has said that everyone should feel at home here, and that is of*

¹⁵² Interview with Daniel Meszhyaryakov, *ibidem*.

¹⁵³ Interview with Lidia Grafova, *ibidem*: *"the economic situation has had a huge influence on the problem of racism"*. Today, 30% of the Russian population lives under the poverty rate.

¹⁵⁴ Interview with Tania Lokshina, *ibidem*.

¹⁵⁵ Natalie Nougayrède, *Les attaques racistes se multiplient en Russie, à l'aube du second mandat de M. Poutine* (Racist attacks multiply in Russia before Putin's second mandate) in « Le Monde », 23 March 2004.

¹⁵⁶ Case mentioned by Svetlana Gannushkina (Civic Assistance Committee), Lidia Grafova (Migrants' Forum), Mark Getchell (IOM) and in a number of articles.

¹⁵⁷ Students of the Russian University of People's Friendship in Moscow (from 1960 until 1992, it was called Lumumba University) are also being targeted for attacks. On the 24th of November 2003, a fire destroyed the residence number 6 and killed 42 students. According to officials, it was because of a court circuit. The students claim that it was a criminal act and say that they haven't been cured as well as if they had been Russians and regretted the late intervention of the rescue. Foreign students coming from Africa, Asia and Latin America fear walking around Moscow and taking the metro. An official enquiry on the origin of the fire is still waited for and the negligence of the authorities has been highly criticized.

course welcome. But we want to feel safe, not at home", states Petrus Indongo, Secretary General of the Association of African Students at the Russian University of People's Friendship¹⁵⁸.

However, skinheads do not represent the majority of the Russian population, and we have to bear in mind that if there might be some expression of xenophobia in the attitude of the Russian population, it is all much more linked with their economic and social situation and the attempt to find an explanation of it. 30% of the Russian people do not want to answer surveys on racism and xenophobia¹⁵⁹; there is a general hostility towards migrants and a fear of talking about the attitude towards them. The attitude of the population has been formed and influenced by myths, fears and stereotypes, governed by the principle "us versus them"¹⁶⁰. Some authors assimilate these behaviours to contemporary racism, focusing on culture. *"We tacitly approve of the everyday humiliation of people in the metro under the pretext of "passport checks"; after all, those who are checked do look somehow wrong"*¹⁶¹.

Most racist attacks are said to be simple hooliganism¹⁶². As already stated, racism as such is not recognized by officials as a main issue in the Russian Federation, and those in charge of implementing the law and applying migration law in particular may be those treating migrants in an unequal way and showing a disputable example to the population. Svetlana Gannushkina¹⁶³, Head of the Civic Assistance Committee, explained that the hatred of the population towards migrants depends on the attitude of the authorities¹⁶⁴. This attitude might be clear ill-treatment, contempt, ignorance, or manipulation. It has been proved that in some OVIR offices (Russian registration offices), civil servants were giving imprecise information to some migrants in order to lead them to violations of the law. Representatives of the law initiate violations of the law, Russian people referring to that attitude and trusting official authorities may then also despise migrants.

¹⁵⁸ Amnesty International, *Dokumenty! Discrimination on grounds of race in the Russian Federation*, p. 1., ibidem.

¹⁵⁹ Interview with Galina Vitkovskaya, IOM Moscow, ibidem.

¹⁶⁰ Vladimir Chuprov and Julia Zubok, Chapter 6: *The Ethnic Consciousness of Russian Youth*, in Christopher Williams, Thanasis D. Sfikas, *Ethnicity and nationalism in Russia, the CIS and the Baltic States*, Brookfield, Ashgate Publishing Ltd, 1999, p. 109.

¹⁶¹ Vladimir Mallakhov, *Racism and migrants*, ibidem.

¹⁶² Liz Fekete, for the International race and refugee news network, quoting Vlad Zubkov, Moscow police spokesperson in *Moscow: a focal point for racism*, 11 January 2002, taken from www.irr.org.uk/cgi-bin/news/open.pl?id=334 on the 5th of April 2004.

¹⁶³ Interview with Svetlana Gannushkina, ibidem.

¹⁶⁴ She referred to the specific case of Krasnodar where the police are known for their cruel behaviour towards migrants.

It is also of interest to see whether the Russian population views differences between migrants and expresses preferences for some categories of migrants. Can *migrantophobia* mentioned before be restricted to “*caucasophobia*”¹⁶⁵ or “*blackophobia*”? Is it reasonable to agree with Inna Limashevskaya¹⁶⁶ stating that “*The Russian psychology is that anyone who has dark skin or does not look like him or her should not live in this country*”?

3.1.2. Preferences and differences in the perception of migrants

Migration policies and law enforcement agents can sometimes initiate differences in the treatment of migrants and in the application of law. These differences may also come from a general behaviour in Russia that is to differentiate migrants from the Caucasus (Georgia, Azerbaijan and Armenia) from others. Xenophobia would then be called “*caucasophobia*”. This phenomena is visible in the results of a number of surveys, e.g. the survey made by the Foundation Expertisa with the result of 77% of the Russians having a negative opinion about Caucasian people, 50% disliking Chinese people and 40% being distrustful towards all migrants¹⁶⁷. According to human rights organisations, aggressions against non-Slavs have increased by a third each year¹⁶⁸.

3.1.2.1. The weight of prejudice in Russian society

The attitude of the Russian population towards migrants is dominated by prejudices. Stereotypes are at all levels of the population and in all the regions. As an example, migrants are commonly said to corrupt the Russian population and to be dangerous. The IOM¹⁶⁹ made a survey on the negative aspects of migration in 2002 in Nizhni Novgorod and Saratov: most of the Russians surveyed said that the crime rates increase because of migrants

¹⁶⁵ The term “*caucasophobia*” was mentioned in several interviews, at the IOM, with Lidia Grafova and with Svetlana Gannushkina. It refers to the fear of migrants from the Caucasus (who can also already be Russian, as Chechens). “*Blackophobia*” refers to the fear of black migrants, not only those with a dark skin, but also those from Caucasus, who are called “*chiornye*” because of having a darker skin.

¹⁶⁶ In Charles Quist-Adade, *In the shadows of the Kremlin and the White House, Africa's Media Image from Communism to Post-Communism*, New York, Oxford, University Press of America, Lanham, 2001, p. 65.

¹⁶⁷ Natalie Nougayrède, *Les attaques racistes se multiplient en Russie, à l'aube du second mandat de Poutine*, *ibidem*.

¹⁶⁸ Natalie Nougayrède, *A l'université Lumumba, le cauchemar quotidien des étudiants de couleur* (At Lumumba University, the daily nightmare of students with a coloured skin) in « *Le Monde* », 30 December 2003.

¹⁶⁹ IOM Open Forum, *Labour migration to Russia and tolerance problems*, Moscow Migration Research Programme, December 2003.

and that their level of life had been decreasing because of the migrants. They are said to raise the competition for jobs and not to have the same hygiene habits as Russians. The Mayor of Moscow, Mr. Luzhkov, tells people in Moscow that they should blame migrants if their situation is not so good. They see that expensive flats are bought by migrants¹⁷⁰ and keep in mind the image of them ruling the Moscow markets¹⁷¹.

As already stated, social hardship, ethnic bias, religious animosities or maybe even territorial sensitivities are grounds for the spread of stereotypes and hostility towards migrants in Russia. These grounds are those of the whole population, officials, civilians and law enforcement agents. They do clearly influence the application of the law, and the promotion of tolerance is not yet enough developed in order to ensure that these prejudices won't guide official policies and the application of migration law. One has to take into account the individual animosities towards migrants (Russians comparing their own level of life to the one of migrants in an attempt to find someone guilty for one's hardship) and general animosities that could be explained by history and the international context (e.g. actions against terrorism).

3.1.2.2. Russians and Caucasians

It is demonstrated in a number of reports, articles and surveys that Caucasians are the less welcomed group of migrants in the Russian Federation. The police arrest many more people with a darker skin in the street or in the metro; that may incite the population to consider that Caucasians are bandits, drug or arms dealers. Mrs. Lokshina¹⁷² gave an interesting explanation to the expression "*chiornye*". Migrants from Caucasians are called this way since the late 1980s. People came from Georgia and Armenia to Moscow and had the connections to buy in the shops reserved to foreigners. They could buy goods in the closed stores and sell them to the Russian population on markets at a rather high price. The Soviet mentality of considering traders as bandits remained. Most of the Caucasian migrants¹⁷³ are traders; they work on market places, and the Russian population sees them as

¹⁷⁰ Interview with Svetlana Gannushkina, *ibidem*.

¹⁷¹ These prejudices feed the Russian nationalist parties that are gaining votes one election after another.

¹⁷² Interview with Tania Lokshina, *ibidem*, she qualified the stereotype "*Caucasians are ruling Moscow markets*" as a ridiculous myth.

¹⁷³ Christopher Williams, Thanasis D. Sfikas, *ibidem*. More precisely, the Russian population treats Georgians in the worst way, Azerbaijanis feel a bit more tolerance and Armenians are the less disliked among Caucasians.

the reason why they are poor or poorer than before, as the prices on the markets are becoming higher. Only their presence seems to explain why prices got higher¹⁷⁴.

There are on-going debates on who is forming the public opinion about migrants. Did "*caucasophobia*" form itself alone in the Russian opinion or is it the result of a targeted policy by officials and law enforcement agents? Caucasians are today the most feared and the most hated according to surveys. One should not forget that the on-going war in Chechnya and the terrorist acts in Moscow and in the south of Russia play a major part in inciting Russians to fear all migrants from Caucasus. The attitude of Russians towards Caucasians is also a reaction to the attitude of Caucasians towards Russians. Hate against Russia is clearly expressed in Georgia and Azerbaijan and Russians are aware of it.

Cultural differences are said to be the grounds for hate and a number of misunderstandings. The behavior of Caucasians is criticized by Russians, as they are said to be more open, maybe even aggressive and money-oriented. They may also have a contemptuous attitude towards locals and that might create tensions in some regions¹⁷⁵. Russians criticize their arrogance, their impudent behavior and feel threatened by the ethnic solidarity¹⁷⁶ among Caucasians. Tensions between Caucasians and Russians are increasing; they are the "less preferred" group of migrants and those with whom the police have the greatest difficulties.

The weight of prejudice towards Caucasians does undoubtedly influence the migration policies and the application of migration law when Caucasians come to Russia. There are clearly prejudiced migration policies against Caucasians who are said not to bring to Russia as much as they take from it. Distrust governs the relationship between Caucasians and Russians, on both sides. We will see in the next chapter how the Russian media present Caucasians and influence the public opinion.

¹⁷⁴ Interview with Galina Vitkoskaya, *ibidem*.

¹⁷⁵ Rouben Ayrapetyan, BBC Monitoring, "Ill treatment of Caucasians in Russia rooted in behaviour, 9 January 2002, taken from www.cdi.org/russia/johnson/6013-11.cfm on the 14th of February 2004.

¹⁷⁶ Human Rights Watch, *The rise of xenophobia in Russia*, 1998 Report, www.hrw.org/reports98/russia/srusstest-03.htm, consulted on the 19th of February 2004, p. 5.

3.1.2.3. Russians and ethnically different migrants

Russians' attitudes towards migrants, except Caucasians, vary depending on their ethnic origin. Chinese migrants are mostly present in Siberia, where they do take jobs unwanted by Russians and provide the population with cheap food and clothes. The population sees them as much more discrete than Caucasians and more willing to do hard work. Migration from China is obviously preferred to migration from Caucasus, also since Chinese people do not go massively to Moscow, as Caucasians do. Chinese are hardly ever seen and heard; crimes are very seldom related to them. The city of Irkutsk in Siberia provides, according to my personal experience¹⁷⁷ and analysis of the situation, an example of harmonious cohabitation and understanding between the people. The way of designating them is far from being as negative as the way of talking about Caucasians and Africans. Chinese people are called in general "*kosoglazye*" (slanting eyes).

"*Gastarbeiteri*", i.e. refugees and migrants from Central Asia working in the construction business, do not have easy living conditions in Russia but their condition remains better than that of Africans in the Russian Federation. Africans are the subjects of many attacks that are not condemned by the police. Furthermore, they are often called "*obezyiana*" (monkey). Hostility towards them is explicit, both in the language and in the attitude. African students in Moscow do not dare to take the metro alone and even diplomats have already been attacked in the street. The former socialist friends are being denigrated today. Some Russians do express that they have the feeling that the Soviet Union gave a lot to Africa, to Africans living in Russian, and received nothing in return. Ignorance remains and a 1989 survey may have the same results today; only 16% of the children in a Moscow school thought that Africans were human beings like the Russian people¹⁷⁸. It is also interesting to pay attention to ethnically similar migrants and to see specifically how they are treated in the Russian Federation.

3.1.2.4. Ethnic Russians and ethnically similar migrants: the "*nashi*" ideology

The situation of Russian migrants in the CIS states is not much better than that of migrants in the Russian Federation. In the same way, the situation of ethnic Russians who choose to return to Russia is not the most enviable. Indeed, they may encounter in some

¹⁷⁷ Reference to a trip to the region of Irkutsk (Siberia) and Ulan Ude (Buratia), spring 2002.

¹⁷⁸ Charles Quist-Adade, *ibidem*, p. 54.

parts of the country as many difficulties as any other migrant coming to the Russian Federation. In 1997, 76,5 % of the Russian population defined a Russian as someone who was born or who had lived most of his or her life in Russia; ethnic Russians are then considered as maybe being less Russian than others. Mrs. Grafova put an emphasis on what she called "*xenophobia of Russians against Russians*" and tried to explain the problems of ethnic Russians returning to Russia. They are supported by the Russian authorities when they are on the territory of other former Soviet States¹⁷⁹ and once back in Russia, they are migrants, as migrants from Belarus or Ukraine. Ethnic Russians coming from Islamic countries are considered as "*Islamised Russians*"¹⁸⁰ when they arrive in Russia. They get used to the way of living and took the religion, the habits¹⁸¹ and the values (respect towards elderly people, value of work), and maybe do not integrate very easily¹⁸².

Migrants from Ukraine and the Belarus, who do have a much easier integration in the Russian society due to their common culture, language and appearance, also encounter the hostility of officials and of the population. There may be a feeling of common identity, of belonging to the same ethnic group for Ukrainians and Russians.

Slavic and non-Slavic migrants are distinguished in the Russian Federation; one should not forget that ethnic distinctiveness in Russia means, in fact, the greatness and superiority of Russians. If they are different, they cannot be "*nashi*" (ours) and cannot have their rights protected as well as Russians. By differentiating between types of migrants and their country of origin, officials do influence the Russian public opinion. In general, the Russian population is not prepared to welcome migrants in its territory, but targeted policies against some migrants play with the public opinion. The laws do exist and present some guarantees of protection for migrants. However, the application of the law depends on the will of the law enforcement agents. Men in charge of applying the law remain men, with their opinions, their judgements, and the possibility of letting their own fear or anger dominate their function.

¹⁷⁹ "*Their Russian citizenship is only valid outside Russia*". Interview with Tania Lokshina, *ibidem*.

¹⁸⁰ Interview with Lidia Grafova, *ibidem*.

¹⁸¹ Refusing to drink vodka is a common practice.

¹⁸² Lidia Grafova mentioned some stories of ethnic Russians who returned. Some saw their new house burn, their living conditions in the new and modern houses were much better than those of the local population who has difficulties to understand how they could get wealthy.

The Russian population is in general hostile to migrants, mainly because of a will of the state. The easiest way to make the population dislike Russians is to make them fear migrants and to keep them in this sphere. The media are the easiest way to transmit clear and short messages to the population. Officials encourage the media to have xenophobic discourses and the Russian media do not present an honest and trustworthy picture of the reality. The application of the law is explained through images and reports presented in the media, and somehow justified as they tend to correspond to the public opinion.

3.2. The Russian media and migrants

The media portrayal of migrants is very bad in the Russian Federation. The media cultivate a climate of hatred and suspicion by blaming migrants for everything. The positive effects of migration are never presented in the media, in the news and in the newspapers; the emphasis is put on violations of the law by migrants. The Russian media are promoting *stereotypes on migrants. Caucasians are the first suspects. As an example, criminals or killers in soap operas would always be individuals of Caucasian nationality.* Television news often reports that all migrants are involved in criminal activities¹⁸³, that they live in closed ethnic communities and belong to the mafia. Reports on events concerning migrants often contain data about the number of migrants in Russia, the number of Caucasians, their connection with ethnic crime and drug traffic. These assumptions serve Russian officials, for whom migration is a threat, and influence the attitude law enforcement agents may have against some categories of migrants¹⁸⁴.

The use of wordings is of importance when looking at the attitude of the media towards migrants. In the last few years, the use of the term “*ethnicity*” has dramatically increased. A racist terminology was developed; “*chiornye*” (black) can also now be used for Asian migrants, despite the colour of the skin, only to underline the fact that they are different and not welcomed. Is it due to xenophobia or is it explainable by the ethnocentric character of the Russian population¹⁸⁵?

¹⁸³ Interview with Galina Vitkovskaya, *ibidem*.

¹⁸⁴ Lioudmila Alexeeva, CSCE Report, *Intolerance in contemporary Russia*, *ibidem*.

¹⁸⁵ Vladimir Malakhov, *Racism and migrants*, *ibidem*.

The media play a key role in raising feelings of hatred towards Caucasian migrants. Migrants are shown on a regular basis as bandits, stealers, and people that would harm the Russian population. Campaigns against Caucasians started in 1999. The media are playing with the people's opinions¹⁸⁶. As a result, the population is misinformed on the reality of migration in Russia. Racial discrimination and racist violence are hardly ever mentioned in the media. Journalists are using vocabulary of fear and threat when writing about migrants. Criminals are rather often of Caucasian appearance. The "Moskovskii Komsomolets" repeats regularly that *"Moscow should again become Russia"* and the famous "Argumenti y Fakti" warns that Native Russians shall be soon the minority. This goes against the principles of Article 4 of the Law on Mass Media that stipulates that *"the dissemination of information aimed at fomenting national or racial intolerance is prohibited"*. The gap between the law and the practice plays against migrants.

The international community has not yet reacted strongly about the attitude of the Russian media towards migrants. No concrete action has been taken, even if some calls to action have been launched here and there. Human rights activists could only welcome the stop of 3 newspapers, "Sturmovik", "Vityaz" and "Slavianin" in 2000 and act through rather diplomatic means. ECRI expressed its serious concern *"at the wide and increasing presence in the Russian Federation of extreme nationalist, racist and intolerant material in the press and in the broadcast media"*¹⁸⁷ but the efficiency of such a call remains undetermined.

¹⁸⁶ Tania Lokshina talked about manipulation of people by the media, *ibidem*.

¹⁸⁷ ECRI, *Report on the Russian Federation*, 26 June 2003, taken from www.coe.int/T/E/human_rights/Ecri/5-Archives/1-ECRI's_world/1-Country-by-country/Russian_FederationCBCI on the 20th of March 2004, p.23.

Conclusion

Russian migration law offers some guarantees of protection to migrants, but we have to keep in mind that it is a work in progress. The Russian legislation has demonstrated serious problems and cannot ensure the protection and the guarantee of the respect of migrants' rights everywhere on the territory of the Russian Federation. Is it then possible to state that "*The end of Communist era also meant the end of the protection for foreigners*"¹⁸⁸? The application of the law depends, in Russia especially, on the will of the law enforcement agents to apply it. Therefore, and also due to contextual reasons such as social hardship, economic difficulties, identity crisis; the application of migration law is more than imbalanced, it can be qualified both as inconsistent because the treatment of migrants varies according to their ethnic origin and their place of stay in Russia, and as xenophobic in that the attitude of officials is being guided by common myths on migration.

The conclusion will present some positive developments in the protection of migrants in the Russian Federation indicated by the work of local and international organisations and the slow but effective actions taken by the authorities. It shall then present recommendations to the Russian authorities and to the international community, ensuring a better application of the law and therefore a better protection of migrants.

1. The fight for the promotion of tolerance in the Russian Federation¹⁸⁹

A number of NGOs are working today with migrants in Russia, with projects going from awareness raising in schools to special training programmes on tolerance for police officers and law enforcement agents. The organisation of conferences and the production of reports with a national and an international echo are among the main activities.

Svetlana Gannushkina, Head of the Civic Assistance Committee, presented the Committee as an organisation that tries to provide migrants with social, organisational, legal,

¹⁸⁸ Michael Waganda, Kenyan historian and researcher who has spent 20 years in Russia, in Charles Quist-Adade, *In the shadows of the Kremlin and the White House, Africa's Media Image from Communism to Post-Communism*, New York, Oxford, University Press of America, Lanham, 2001, p. 80.

¹⁸⁹ A particular attention should be given to the words, the Russian Federation is working for tolerance and not fighting against racism. In seminars for police officers organized by the IOM, racism is never mentioned as such.

humanitarian, medical and psychological assistance. They help with their integration and socialisation in the Russian society, distribute free theatre and cinema tickets, and organise parties. A part of their mission is to distribute free brochures on the rights of migrants and a major activity is running the centre for education and adaptation for migrants' children. Giving information to migrants about their rights is the first and a fundamental step towards a better protection of all foreigners in Russia.

The Migration Rights network is an umbrella organisation for 198 organisations throughout the country. They offer free legal consultations and the network is aimed at the protection of rights and legitimate interests of forced migrants. The network shall also work towards the development of public consciousness and understanding of migration problems.

Education is playing a key role in the formation of public opinion; a multicultural environment for children where they may play together is the simplest and best way to fight for tolerance. Some organisations try to settle projects in schools. Last year, the Migrants' Forum had the project "Train for peace" going from Ural to Chechnya through 11 cities where lectures on tolerance were given in schools¹⁹⁰. The project was rather successful, as debates on Chechnya and ethnic differences were then launched in the schools.

The Moscow Helsinki Group is one of the biggest Russian human rights organisations. It has various activities, from monitoring and writing reports that are given then to the government, to the organisation of special programmes on tolerance and discrimination in universities and more "official" work with the different commissions of the government (the ones in charge of the redaction of migration law, citizenship laws, even if the influence is rather small). The Moscow Helsinki Group is planning to take some cases of racial discrimination at work to the court and to give more publicity to racist attacks.

2. Evolution of the attitude of officials towards migrants

There have been some positive steps demonstrating that somehow awareness of the tolerance problem is growing. Russia is only thinking now about how to deal with the "flow" of migrants; Russian migration policies are at their very beginning and the tolerance issue is

¹⁹⁰ Interview with Lidia Grafova, *ibidem*.

being raised more and more often. The Minister of Nationalities Zorin has pledged to promote tolerance from nursery school level upward. However, his mandate is not powerful enough to really do something on the matter. Mrs. Lokshina evaluated his attitude as somewhat cooperative. He organises conferences and workshops¹⁹¹ on migration. Federal migration services have proved their willingness to cooperate when participating in seminars organised by the International Organisation for Migration on tolerance and irregular migration and is by different means providing assistance to Russia's state bodies in improving migration policy.

The Russian authorities have tried to show that there is a growing interest for the issue of tolerance, if racism, as such, is not mentioned. As an example, they invite 6 NGO representatives to take part to the Russian Human Rights Commission. ECRI acknowledged that *"positive steps had been taken by the Russian Federation to combat racism and integrate migrants"*¹⁹². The ministry of Education is also active, it has created a program on tolerance; the Moscow State University has special courses at the institute for journalists¹⁹³. The programme on tolerance and prevention of extremism in Russian society (POTPEX), launched by the Russian authorities, is aimed at the promotion of values and practices based on tolerance in a multi-ethnic Russian society. The IOM and the Moscow Helsinki Group representatives have been the most hopeful concerning future cooperation with the Russian authorities and the rather positive evolution of the attitude of officials. Indeed, dialogue needs to be maintained in order to be able to remain helpful¹⁹⁴, and enough distance shall be kept to have room for criticism. A balanced way of cooperation needs to be found so that the work of the organisations will be useful to both migrants and Russian authorities.

3. Recommendations

A national legal system cannot work effectively and fairly if it is not applied consistently throughout the country; this is the case in the Russian Federation. At a modest scale and after research in the field, I would have some recommendations to both national

¹⁹¹ Mrs. Lokshina told a story showing that officials in the higher sphere are not conscious of the problem. Mr. Zorin went to the metro to see what racial profiling was exactly. He was arrested, and almost detained, as he was not carrying his identity papers.

¹⁹² ECRI, 2nd Report on the Russian Federation, *ibidem*. See the conclusions of the report in the annexes.

¹⁹³ Interview with Tania Lokshina, *ibidem*.

¹⁹⁴ Interview with Mark Getchell, *ibidem*.

and international actors in order to improve the situation of migrants in Russia. There is tremendous work¹⁹⁵ to be done in order to improve Russian immigration law and its application in a way that would help reduce ethnic and regional discrimination.

First, Russian legislation on migration should be developed, in order to present all the guarantees that are mentioned in the international commitments of the Russian Federation. Everything should also be done in order to ensure that there will be a unified or at least balanced application of the law in the national territory. Contradictory regional laws should no longer be applied, and the equal application of migration law to all migrants should be guaranteed. The law doesn't make a difference between migrants according to their nationalities, but it is proved that these differences exist in practice.

So far, officials are protected by impunity and nothing is done in order to combat prejudiced policing. All law enforcement agents and police officers should be accountable for their acts and stop harassment. Racial profiling is definitely not a reasonable way of implementing the law¹⁹⁶. A guarantee that complaints concerning racial attacks will be addressed would raise the protection of migrants. Law enforcement agents and police officers should be the first ones to respect the law and show an example of respectful attitude towards migrants to the Russian population. The behaviour of officials and police officers should be controlled; a difference should be made between migration and the militia, in order not to let the militia alone deal with migrants¹⁹⁷. Russia needs a real migration policy now and special bodies that would deal only with migrants¹⁹⁸. In short, one of the main duties of the Russian authorities is to make the law effective and to make the authorities abide by them. In that purpose, concrete mechanisms for implementing laws and controlling their implementation are needed.

There are on-going debates on legalization of migrants. The IOM is urging the Russian government to regularize illegal migrants; irregular migration is perceived as

¹⁹⁵ A first task would be to recognize that the situation of migrants in the Russian Federation is problematic. Russian diplomats stated recently that "Racism as such is not a problem in Russia" at the Russian Human Rights Commission.

¹⁹⁶ Interview with Tania Lokshina, *ibidem*.

¹⁹⁷ Tatiana Korotkova, in *Vestnik Forum* (Bulletin of the Forum), March-April 2004: *Migranty Rossii gotovyat vtoroi chrezvychainyi s'ezd* (Migrants of Russia prepare the second extraordinary summit), p. 12.

¹⁹⁸ A first task would be to evaluate the number of legal and illegal migrants in the Russian Federation and to make these data public.

encouraging the growth of xenophobia and of crime. A solution has to be found for the millions of irregular migrants who have been living in Russia for years.

Positive action can also be taken by the Russian authorities. Tolerance has become an issue of interest for the authorities, but it has never been considered as a priority and shall not be considered as such as long as there will be social hardship for most of the population. Hate speech in the media should somehow be controlled. The Law on the Media is clearly not sufficient to prevent the Media from inciting xenophobic attitudes towards migrants. Training programmes on tolerance could also be organised at a wider scale, with Russian law enforcement agents and police officers together with representatives of the migrants' community. The first seminars organised have been a first step that should be developed and extended everywhere on the territory of the Russian Federation¹⁹⁹. They may help provide a civilised reception for migrants, which is one of the main tasks of an immigration policy²⁰⁰. A suggestion for the promotion of tolerance in the Russian society could be to have representatives of all ethnic minorities in the official structures, in the police and at the registration office.

4. The international community

Mrs. Gannushkina²⁰¹ severely blamed the international community for its inaction in the protection of migrants in the Russian Federation, despite the number of reports and appeals sent to the authorities of different countries. The issues of xenophobia and intolerance need to be strongly addressed with no delay by the international community. The European Union, with the European Initiative for Democracy and Human Rights²⁰², and the Council of Europe both have programmes on tolerance in the Russian Federation. However, these programmes are still a drop in the ocean. They may have a key role to play

¹⁹⁹ According to Amnesty International, such programmes should “ensure that public officials, including law enforcement officials, border officials, members of the security forces, judges and lawyers, including prosecutors, do not themselves act in a discriminatory way and are aware of their obligation to protect all people from such discriminatory action by others”, in *Dokumenty! Discrimination on grounds of race in the Russian Federation*, p.67, *ibidem*.

²⁰⁰ IOM Open Forum, *Russia's migration policy: two views, two contexts*, September-October 2001. Conclusions

²⁰¹ Interview with Svetlana Gannushkina, *ibidem*, “A stamp can change a life and authorities do what they want, there is an emergency to react for the international community”.

²⁰² Interview with Tatiana Bokareva, the EIDHR is currently funding a 2 year project designed to improve inter-ethnic relations and develop tolerance.

in encouraging the Russian Federation to take measures to improve the situation of migrants in the country but are now prioritizing economic relations with the Russian Federation.

5. Prospects for migrants in the Russian Federation

Russia can hardly see her future without migration²⁰³. So far, migrants and the application of migration law have been an avoided problem in the Russian Federation, and as long as no-one speaks about the problem, it does not exist. Furthermore, Sergueï Kovalev, famous dissident and former deputy at the Duma, stated with regret, *the situation of migrants in Russia is hardly ever well reported in Russian newspapers; my appeals are only heard in international papers*²⁰⁴.

Lidia Grafova²⁰⁵ saw her work in the last 14 years, her commitment and her 300 articles as maybe not as useful as she has been hoping for many years. She would still like to be optimist but regrets the little power all the organisations have on the Russian authorities²⁰⁶.

Organisations working with migrants do not work on the core reasons why the Russian population and officials are hostile to their venue in Russia. The socio-economic conditions appear to be the very first reasons for racial discrimination and lead to abuses, dividing the population in *"them and us, friends and foes"*²⁰⁷. Most of the people fear more competition for jobs²⁰⁸. Migrants are seen as a source of social injustice. Furthermore, the population might be upset by the lack of will to integrate by some migrants as well as learning the language and the rules of the host country. But the Russian state has undoubtedly failed in its duty to protect migrants on its territory, and this duty cannot be fully realized as long as migration will remain uncontrolled and spontaneous.

²⁰³ Evgueni Gontmakher in *Vestnik Foruma* (Bulletin of the Forum), March-April 2004: *Migranty Rossii gotovyat vtoroi chrezvychainyi s'ezd* (Migrants of Russia prepare the second extraordinary summit) p.6.

²⁰⁴ Interview with Sergueï Kovalev, Kovalev, Sergei, former member of the Duma, Moscow, 8 May 2004 (phone interview). He denounced the tacit approval of the population to Putin's politics, in general and towards migrants.

²⁰⁵ Interview with Lidia Grafova, *ibidem*: *"If we were not here, it would be even worse"*.

²⁰⁶ Interview with Lidia Grafova, *idem*, *"They hear but do not listen"*.

²⁰⁷ Oksana Oracheva, Chapter 3: *The ideology of Russian nationalism*, in Christopher Williams, Thanasis D. Sfikas, *Ethnicity and nationalism in Russia, the CIS and the Baltic States*, Brookfield, Ashgate Publishing Ltd, 1999, p. 60.

²⁰⁸ Interview with Galina Vitkovskaya, IOM, *ibidem*.

A clear line has to be drawn between xenophobic attitudes towards migrants and the necessity of a migrants' selection, more due to economic and social reasons than to intolerance. Still, a lot of work remains to be done in the field of migration law and its application in the Russian Federation in order to ensure an equal treatment of all migrants on the territory. Russian authorities need to take more than positive steps; effective actions are needed for a more humane management of migration. We may say that the question of the application of migration law in the Russian Federation reflects the complexity and opacity of Russian policies towards migrants and this complexity may not be always understood in a rational way. I would like to quote the Russian poet Tiutchev to end this work and would agree with him that reason might not always help to understand Russia, "*In Russia, you can only believe*"²⁰⁹.



²⁰⁹ Mr. Kovalev spoke about his years of dissidency. He is today one of the most powerful Russian activists, invited rather often abroad, e.g. at the European Parliament in Strasbourg where I first met him in September 2002.

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²¹⁰ The transcription standards are being applied.

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1



Russian Constitution 1993

[...]

Article 19.

1. All people shall be equal before the law and in the court of law.
2. The state shall guarantee the equality of rights and liberties regardless of sex, race, nationality, language, origin, property or employment status, residence, attitude to religion, convictions, membership of public associations or any other circumstance. Any restrictions of the rights of citizens on social, racial, national, linguistic or religious grounds shall be forbidden.
3. Man and woman shall have equal rights and liberties and equal opportunities for their pursuit.

Russian Constitution 1993

[...]

Article 27

1. Everyone who is lawfully staying on the territory of the Russian Federation shall have the right to freedom of movement and to choose the place to stay and reside.
2. Everyone shall be free to leave the boundaries of the Russian Federation. The citizens of the Russian Federation shall have the right to freely return into the Russian Federation.

Russian Constitution 1993

[...]

Article 63.

1. The Russian Federation shall grant political asylum to foreign citizens and stateless citizens in conformity with the commonly recognized norms of the international law.
2. The extradition of persons persecuted for their political views or any actions (or inaction), which are not qualified as criminal by the law of the Russian Federation, to other states shall not be allowed in the Russian Federation. The extradition of persons charged with crimes and also the hand-over of convicts for serving time in other countries shall be effected on the basis of the federal law or international treaty of the Russian Federation.

The report contains a number of conclusions and recommendations. In particular, the Commission:

- encouraged the government to ratify Additional Protocol No. 12 to the European Convention on Human Rights, as well as the European Charter for Regional or Minority Languages, the Revised Social Charter, and the European Convention on Nationality, and 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;
- noting that mention of nationality is still imposed in some official documents issued at the regional level, encouraged the authorities to ensure that all identification and other official documents issued by the regions are in conformity with the guarantees enshrined in the Constitution;
- strongly urged that the effectiveness of initiatives aimed at improving the prosecution of hate speech be regularly and thoroughly monitored;
- strongly encouraged the government to consider adopting a body of comprehensive civil and administrative provisions covering discrimination in different areas of life such as employment, education, housing, access to public and social services and public places and contractual relations between individuals, including provisions for effective mechanisms of enforcement;
- urged the government to monitor the effectiveness of the Law on Mass Media in close consultation with all interested parties and to take any necessary corrective action in cases of dissemination of information aimed at fomenting national or racial intolerance;
- emphasised the urgent need for training in anti-discrimination standards and for awareness-raising initiatives in the area of racism and racial prejudice for all professional groups involved in the administration of justice;
- expressed strong support for the establishment of independent and adequately funded regional ombudspersons in all regions of Russia, and urged that the appointments to these positions follow as rapidly as possible;
- recommended that in conjunction with the possible adoption of a comprehensive framework of anti-discrimination legislation (see above), consideration be given to the establishment of a specialised body with specific responsibility, *inter alia*, for supervising the implementation of that legislation and for providing an effective means of redress for individual grievances at the national and local levels;
- encouraged all implementing agencies, and particularly the Ministry of Education, actively to involve civil society organisations in the practical implementation of POTPEX, not only in carrying out of practical initiatives and projects, but also in identifying priority areas in which initiatives and projects are most needed; recommended that one such priority area 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;
- encouraged the government to pay particular attention to the question of the persistent presence of antisemitism in

Russian society in the course of the regular review of school curricula, and to make full use of the rights given to the federal authorities in the elaboration of curricula and textbooks used in the educational systems;

- recommended that access to the asylum procedure be further simplified and that the government ensure that the basic needs of asylum-seekers are met while their claims are being examined;
- urged the government to ensure equal access for all to social services such as health care, welfare and housing, as well as access to public places, without discrimination, including discrimination based on the lack of a residence permit;
- recommended that further efforts be made to ensure that the fundamental right of access to education is respected independently of the possession of a residence permit;
- urged the government 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; urged that employment be one of the areas covered by the body of comprehensive civil and administrative anti-discrimination legislation recommended above;
- strongly urged the government to ensure that law enforcement functions are carried out exclusively by persons officially qualified for these tasks and that all acts of harassment and violence committed by members of the Cossack movement are properly investigated and prosecuted as necessary;
- recommended that urgent action be taken to end the discriminatory treatment of Meskhetian Turks by the authorities of Krasnodar *krai* as concerns residence permits and the enjoyment of civil, political and socio-economic rights; urged the government to investigate any allegations of human rights violations by law enforcement officials and paramilitary groups and to take appropriate proceedings;
- stressed 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;
- urged the government to strengthen its efforts to counter antisemitic and extremist attitudes, including through measures aimed at sanctioning political parties that resort to hate speech, as well as through a more effective implementation of the existing legislation against incitement to racial hatred;
- urged the government to distribute widely its General Policy Recommendation No. 3 on combatting racism against Roma/Gypsies - which proposes a range of legislative and policy measures governments can take - among local administrations in areas where Roma/Gypsies live and to promote its implementation at both the federal and regional levels;
- strongly encouraged the government to consider the establishment of a system that 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; recommended that adequate redress for the victims also be available;
- stressed the need for further initial and ongoing training of law enforcement officials to promote awareness of all aspects related to discrimination; strongly urged the government to take action to ensure an adequate

representation of members of minority groups in the police force as a step towards improving the current situation;

- expressed the strong hope that the government will investigate and take proper action against allegations of human rights violations and abuses in Chechnya, and make all possible efforts to restore normal living conditions in the region as rapidly as possible in close cooperation with international organisations;
 - urged the government to investigate thoroughly all complaints of fabrication of evidence against Chechens and Ingush persons, and to bring to justice any members of the law enforcement staff found responsible for such acts;
 - strongly urged the government 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;
 - urged the government to ensure that the rights to freedom of movement of aliens legally in the Russian Federation are thoroughly respected in practice.
-

Open letter

AI Index: EUR 046/051/2003

21 May 2003

Russian Federation: Open letter from a coalition of non-governmental organisations to Vladimir Vladimirovich Putin, President of the Russian Federation

Russian Federation

103132 Moscow

Pl. Staraya, 4

Kremlin

21 May 2003

Dear Mr President,

We, international and Russian non-governmental organizations listed below, are writing to express our concern that discriminatory practices and procedures are preventing many former Soviet citizens in the Russian Federation from obtaining permanent residency rights and Russian citizenship.

The introduction of two new laws in 2002: the Federal Law "On Citizenship of the Russian Federation" and the Federal Law "On the Legal Status of Foreign Citizens in the Russian Federation" has exacerbated the problems faced by hundreds of thousands of former Soviet citizens in obtaining official legal status. These new laws have exacerbated the possibility of applying citizenship legislation in a discriminatory way, and in many cases the denial of citizenship and permanent residency rights may be linked to ethnicity or nationality.

We welcome your statement made in the annual address to the Federal Assembly on 16 May 2003 in which you acknowledged the shortcomings of the laws adopted in 2002 on citizenship and the status of foreigners. In particular, you highlighted the problems of acquiring citizenship for millions of people in the Russian Federation and the need to facilitate the process of legalisation, especially for former Soviet citizens. We support the introduction of measures in line with the recommendations stated in this appeal, and call for the speedy amendment of the laws on citizenship and the status of foreigners which were adopted in 2002.

The Law on Citizenship of the Russian Federation (2002) provides that foreign nationals and stateless persons can apply for Russian citizenship provided that a number of criteria are met. One of these criteria stipulates that applicants must have permanently resided in the Russian Federation for a period of five years since being granted a permanent residence permit. In practice, many former Soviet citizens who have actually been permanently residing in the Russian Federation for the last 10 to 12 years were denied permanent residence registration by local internal affairs departments for discriminatory reasons. Under the new legislation and associated enforcement practices they are therefore unable to get temporary residence permits and subsequently permanent residence permits. In effect, they are prevented from exercising their legal right to apply for citizenship.

In addition, former Soviet citizens unable to obtain Russian citizenship face severe consequences under the Law on the Status of Foreign Citizens. In agreement with Article 37 of this law, if you do not have documentation to prove that you are legally and permanently residing in Russia you will be considered a person temporarily staying in the country and receive a migration card which limits the term of stay to three months. If you have not been granted temporary right to reside following this three month period, by law, you can be deported.

In effect, the impact of these laws is to bring to an end the permanent residency and citizenship rights of hundreds of thousands of former Soviet citizens, the majority of whom have been residing habitually and lawfully in the Russian Federation since the break up of the USSR. Now rendered illegal migrants, many face imminent deportation.

We urge you to use your authority to ensure that the appropriate steps are taken to guarantee that the discriminatory elements of these laws, or discriminatory aspects of their implementation, are effectively redressed.

In particular, we consider the following categories of persons to be affected by these laws in a discriminatory way:

- 1) **Former Soviet citizens who were permanently residing on the territory of the Russian Federation prior to the 1991 Law on Citizenship of the Russian Federation coming into force (6 February 1992)**
- 2) **Former Soviet citizens (citizens of Commonwealth of Independent States (CIS) countries and stateless persons) who legally entered the territory of the Russian Federation after the dissolution of the Soviet Union within the last 10 to 12 years without a visa, and are permanently residing in the Russian Federation.**

Former Soviet citizens residing permanently in the Russian Federation before 6 February 1992

Many of the people within this category were forced to flee from other states of the Commonwealth of Independent States (CIS) as a result of conflicts immediately preceding the end of the Soviet Union in 1991. As provided by Article 13, part 1 of the 1991 Law on Citizenship, those belonging to this group were entitled to be recognised as Russian citizens unless they specifically indicated their willingness not to become Russian citizens.

Interpretation of the permanent residency requirement

Despite being entitled to acquire citizenship, in practice, many of these people were denied the right to citizenship as provided in this law. The 1991 Law on Citizenship requires that persons applying for citizenship must be permanently residing on the territory of the Russian Federation. State bodies processing citizenship applications interpreted the permanent residence condition as requiring possession of permanent residence registration or "propiska". Some regional and local internal affairs departments interpreted the permanent residency requirement as requiring documentary proof of registration at their place of abode on the day the 1991 Law on Citizenship came into force. Frequently, attempts to obtain such registration were also unlawfully blocked by the local and regional authorities through unconstitutional regional laws or practices for discriminatory reasons on the basis of the ethnic background of applicants.

According to the Presidential Commission on Citizenship of the Russian Federation, by the end of 2001, fewer than half the people living lawfully and habitually on the territory of the Russian Federation but without residence registration at the time the 1991 Law came into force had been able to obtain Russian citizenship.

However, as you will be aware, the Constitutional Supervision Committee of the USSR has twice ruled the residence registration system ("propiska") to be unlawful, in 1990 and

1991. This means that, since these rulings, the term “permanent residence” does not equate to or require possession of residence registration (“propiska”). Both of these rulings were made prior to 6 February 1992, the date the 1991 Law on Citizenship came into force.

Notwithstanding these rulings, which rendered “propiska” unconstitutional, it is clear that the residence registration system has continued to be a major factor in the denial of citizenship to former Soviet citizens who should have been entitled to citizenship under the 1991 law.

Discriminatory application of citizenship laws

The ethnicity of applicants has also played a significant role in obstructing the acquisition of Russian citizenship; many minorities have been prevented from obtaining Russian citizenship, and therefore associated legal rights, on the basis of their ethnicity. Ethnic groups particularly affected by this are the Meskhetians in Krasnodar Territory, Kurds, and Armenians. For example, the vast majority of the 11,000 to 13,000 Meskhetians living in Krasnodar Territory are being denied their legal right to citizenship because of discriminatory legislation and practices specific to the territory.¹

Former Soviet citizens (citizens of CIS countries and stateless persons) who legally entered the Russian Federation after the dissolution of the Soviet Union and have been residing permanently in the Russian Federation since 6 February 1992

Currently, only those people belonging to this category who possess residence registration are eligible for permanent residence permits. Meanwhile, the overwhelming majority of former Soviet citizens in Russia have been living in Russia with temporary registration or have been arbitrarily denied any form of registration. Official estimates by the Russian authorities indicate that persons within this group number from half a million to just over three million people. This group is of particular concern as many people who have actually been permitted to reside in the Russian Federation for a number of years now face the immediate threat of deportation.

As previously mentioned, the Law “On the Legal Status of Foreign Citizens in the Russian Federation” of 2002 now provides that members of this group will be eligible for migration cards. Following this, if they wish to remain in the Russian Federation, they then have three months in which to apply for temporary residence permits if they wish to remain in the Russian Federation. However, because the procedure for applying for temporary residence permits can take up to six months, according to another article of the law, they may inadvertently be rendered ‘illegal’ pending the outcome of the registration procedure. They are as a consequence vulnerable to discrimination on the basis of status and ethnicity and may face deportation when the three months expire. Furthermore, these people are deprived of the right to work or to have any other source of income in Russia.

The following safeguards and standards are essential to ensure effective implementation of laws relating to citizenship and the status of foreign nationals in the Russian Federation, without discrimination in particular on the basis of ethnicity:

- the protection of the rights and legitimate interests of former Soviet citizens lawfully and habitually resident in the Russian Federation;
- the granting of legal status to those lawfully and habitually resident in the Russian Federation;
- compliance with the constitutional and international obligations of the Russian Federation;

¹ Population estimates from “The Situation and Legal Status of Meskhetians in the Russian Federation”, Alexander Ossipov, Memorial Human Rights Centre, January 2003.

- protection against *refoulement* -- forcible return of persons to a situation where they are at risk of grave human rights abuses, in accordance with the international treaty obligations of the Russian Federation and principles of customary international law;
- the right to seek and enjoy asylum from persecution and to a fair and satisfactory procedure for determining refugee status;
- the right to due process, in accordance with international standards, before steps are taken to expel or deport an individual.

We the signatories to this appeal therefore urge you as President of the Russian Federation and a constitutional guarantor of human rights, in accordance with powers thereby conferred upon you, to:

1. Issue a Presidential Decree concerning former Soviet Citizens entitled to Russian citizenship by the 1991 Citizenship Law:
 - Recognising as entitled to Russian citizenship [it should be an individual's choice/decision as nationality/citizenship cannot be imposed] those citizens of the former Soviet Union who have that right in accordance with Part 1, Article 13 of the Law on Citizenship of the Russian Federation of 1991. This concerns those who were permanently residing in the Russian Federation on the day the 1991 Citizenship law came into force (6 February 1992);
 - Ensuring that groups such as the Meskhetians, Kurds, Armenians and other ethnic and national minorities will be guaranteed the right to citizenship without discrimination;
 - Making provisions to guarantee that the relevant officials of the internal affairs department will give due consideration to citizenship applications for those that fall within the above category, whether or not the applicant is in possession of formal registration documents
2. Table amendments in the State Duma to the Law on Citizenship of the Russian Federation of 2002, aimed at facilitating the acquisition of citizenship for former Soviet citizens.
3. Issue a Presidential Decree concerning former Soviet citizens who have entered and been permanently residing in the Russian Federation prior to 1 November 2002:
 - Setting out a simplified procedure to grant legal status (permanent right to reside) to former citizens of the Soviet Union who were residing in the Russian Federation on the day that the federal law of 2002 "On the Legal Status of Foreign Citizens in the Russian Federation" came into force (on condition that they entered the country no later than 1 November 2002);
 - Stipulating a fixed period in which the above group will be guaranteed the right to apply for permanent residency status, on the submittal of evidence (the admissibility of which is recognised by Russian law) of their arrival on the territory of the Russian Federation and actual residency therein before November 2002;
 - Ensuring transparency of the procedure, in particular by making provision for legal representation and judicial review rights;
 - Guaranteeing that applicants will not be forcibly deported or compelled to leave the territory of the Russian Federation pending a final decision on their applications.

4. Table amendments in the State Duma to federal law of 2002 "On the Legal Status of Foreign Citizens in the Russian Federation" to remove any restrictions or potentially discriminatory conditions, including transitional conditions, to access to legal status for former Soviet citizens residing in the Russian Federation.

The above actions would serve to restore and ensure respect for the rights, including economic, social and cultural rights, of hundreds of thousands of people lawfully residing in the Russian Federation who are being denied access to their legal rights. We believe these issues can be solved swiftly and effectively by the executive authorities through implementation of the recommendations contained within this appeal, and we urge you to exert all appropriate authority as President of the Russian Federation to ensure that these steps are taken as swiftly as possible.

We look forward to your response.

Yours sincerely,

Irene Khan, Amnesty International

Valery Abramkin, Centre for Prison Reform, Moscow

Ashot Airapetian, Centre for Interethnic Cooperation, Moscow

Alexander Axelrod, "Tolerance" Foundation, Moscow

Boris Altshuller, Movement without Borders and "The Rights of the Child," Moscow

Semen Ateev, Kalmyk Human Rights Center, "Elista"

Andrey Blinushov, Ryazan Society "Memorial"

Alexander Brod, Moscow Bureau on Human Rights

Yuri Vdovin, Human Rights NGO "Citizens' Watch," St Petersburg

Alexander Verkhovsky, Information and Analytical Centre "Sova," Moscow

Dmitry Vokhmianin, Committee for Human Rights Protection in the Republic of Tatarstan, Kazan

Svetlana Gannushkina, Civic Assistance Committee, Moscow

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Natalya Klochkova, Kaliningrad Regional Youth Migrants' NGO "Youth of the 21st Century"

Alexey Kozlov, Charitable Foundation "For Environmental and Social Justice," Voronezh

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Boris Kreyndel, Regional Non-Governmental Institution "Commission on Human Rights in Tomsk Oblast," Tomsk

Alexander Kuznetsov, Charitable Humanitarian NGO "The World of Childhood," Krasnodar Krai

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Alexander Nikitin, Saratov Human Rights Center "Solidarity"

Oleg Orlov, Human Rights Center "Memorial," Moscow

Nadezhda Pavlova, Karelian Union for the Protection of Children, Petrozavodsk

Fuad Pepinov, International Society of Meskhetian Turks "Vatan," Moscow

Irina Poduzova, Ioshkar-Ola City NGO "Man and Law"

Georgy Rafailov, Regional Charitable NGO "Association for Assistance to Refugees," St Petersburg

Yulia Sereda, Interregional Group "Human Rights Network," Ryazan

Olga Smitnitskaya, Kaliningrad Regional NGO Foundation for Support to Refugees and Forced Migrants "Home"

Nina Tagankina, Nizhny Novgorod Human Rights Society and Nizhny Novgorod Peace Group

Natalya Taubina, Foundation "For Civil Society" and Russian Research Centre for Human Rights, Moscow

Sarvar Tedorov, International Society of Meskhetian Turks "Vatan," Krasnodar Krai

Leonid Teleleiko, Krasnodar regional NGO "Human Rights Center,"

Vladimir Tishinsky, **Krasnodar Human Rights Center**

Andrey Yurov, **International Network – Youth Human Rights Movement (YHRM),**

Voronezh

External Document

Russian Federation: Cases of discrimination on grounds of race

The following information is an extract from Amnesty International's report '*Dokumenty!*' *Discrimination on grounds of race in the Russian Federation*. The cases listed below illustrate discrimination on the grounds of race against ethnic minorities, asylum seekers and refugees.

- One July evening in 2002 a group of about 10 Russian men with shaven heads shouting racist abuse brutally attacked African students, refugees and asylum seekers who were picnicking in a Moscow park. Police nearby refused to come to their help. When finally police arrived half an hour later all but two of the alleged attackers had left. One of the officers accused the picnickers of starting the fight and ignored evidence forwarded by eyewitnesses. One of the picnickers, **Germain Kembou, a student from Cameroon**, suffered serious injuries during the attack. Despite needing hospital treatment, he was taken to a police station with the two alleged attackers for questioning. Germain Kembou was admitted to hospital several hours after the attack only after the intervention of a Cameroonian embassy representative. Germain Kembou's case received considerable media attention and a criminal investigation was opened. This case is unusual for the fact that the racist nature of the attack was acknowledged in the charge. However, to date no one has been arrested in connection with this attack.
- **Andre Guy Tranquille Temgoua, a Cameroonian student**, came to the Russian Federation to study in 1996. He told Amnesty International that within a week of his arrival he was attacked by a gang of youths. Since then he has reportedly been attacked on a number of occasions and has also regularly been subjected to racist insults and threats. He told Amnesty International that despite making official complaints on a number of occasions, the police have concluded either that there were no grounds for opening a case, or that there was no evidence of racial motives.
- **Usam Baisaev** of the Memorial Human Rights Centre flew to Moscow in March 2001 on his way from Ingushetia to Switzerland to attend the 57th session of the UN Commission on Human Rights. He was stopped by police in Moscow as he was meeting his aunt, and although his documents were in perfect order, he was asked to go to the local police station for verification of his identity. When Usam Baisaev asked for the reasons for his detention, as his documents were in order, the only explanation he got was that he was a **Chechen**. One of the officers then insulted Usam Baisaev and threatened to have him detained for at least a week. Usam Baisaev and his aunt were both forced to pay a bribe to the police. An investigation into the case was instigated following the intervention of State Duma Deputy Sergei Kovalev. No further progress is known to have been made.
- In May 2002 **Tatiana Sapunova** noticed an **anti-semitic placard** at the side of a road in the Moscow region. She tried to pull the placard out of the ground but it was connected to an explosive device, which went on causing her burns and facial injuries. Days after the incident, a Moscow police chief reportedly told a national newspaper that he did not consider the slogan

on the placard, "Death to Jews!", to be explicitly anti-semitic or an incitement to ethnic hatred.

- **Lom-Ali Tasuev**, a computer specialist working in a school, was living in Moscow, where his wife was registered, even though he was registered in Fiazino, a city 25 km from Moscow. In September 1999, several men in plain clothes went to his flat, carrying out, what they said was an "identity check". They took Lom-Ali Tasuev to a police station giving as a reason him being a **Chechen**. Three days later his wife was informed that he was not going to be released because 0.15 gm of drugs had been found on him. His wife lodged a complaint with the district procuracy and Lom-Ali Tasuev was released on parole. Lom-Ali Tasuev told Amnesty International that he was told by police in the presence of witnesses to empty his pockets on a table. A police officer asked him to pick a foil lying under the table but he refused saying that it did not belong to him. The foil was found to contain heroin. Lom-Ali Tasuev's case was heard in Liublino intermunicipal court where he proclaimed his innocence. In a written explanation to the court he stated that the drugs were placed on him by police. He linked the criminal case against him with the anti-Chechen campaign in Moscow which followed a series of bombings of apartment buildings which were blamed by the authorities on "Chechens". Nevertheless, the judge found Lom-Ali Tasuev guilty for the possession of drugs and imposed a conditional sentence of six months with one year's probation.
- In July 2000 the inhabitants of the village of Starbevo sent a letter to the Main Department of Internal Affairs of Moscow region and the Prosecutor of the town of Khimki, expressing their gratitude to a group of **Tajiks** who came the previous year to their village to work for a telephone company and stayed on to do private construction work. "Such people earn their money only with the calluses on their hands. We all sign up to their innocence and demand that steps be taken against the excesses committed by the supposed law enforcement agencies," the letter said. On 4 July 2000 a group of unidentified men had entered a house in Starbevo village, Khimki district, where Tajik construction workers lived, and reportedly insulted and severely beat three men before taking them away and charging them with drugs offences. The men in the group were police officers led by a major from the 4th division of RUBOP, the organized crime squad, in Moscow region. In March 2002, three officers appeared in court charged with fabricating evidence, exceeding their authority, theft and extortion.
- **Bogsho** (family name withheld), a senior member of staff at the Academy of Sciences in Moscow, is a **Tajik with a Russian passport**. In May 2002 a racist gang attacked him, his son and a student of his, as they were returning from a cultural event in the Moscow area. Between 25 and 30 young skinheads surrounded Bogsho and his companions in the train carriage they were travelling in and severely beat them. By the time they reached the next stop, all three victims were covered in blood. Later Bogsho was taken to hospital where X-rays showed that he had a broken rib. He told Amnesty International that he asked the police to investigate the incident several times. He was reportedly told at the end that there was no point in doing anything because the attackers were teenagers. At the end of May, Bogsho saw a group of young skinheads marching around waving racist slogans in a park opposite the local police station. He told the duty officer about the demonstration. The duty officer did nothing.
- **Lachin Aidinov, a Meskhetian** from the village of Novoukrainsk, has lived in the Krymsk District of Krasnodar Territory for more than 12 years. As a Soviet citizen resident in the Russian Federation at the time the Law of Citizenship came into force in 1992, he is entitled to Russian citizenship. However, this right continues to be denied to him. The reason is discrimination on the grounds of ethnicity. The result is discrimination in almost every aspect of daily life including education, employment and health care.
- **Mikhail Madjitov is a Meskhetian** living in Krymsk District, Krasnodar Territory. He has a 20-year old son who cannot get a passport. Mikhail Madjitov complained that his son's

documents sat for a year at the passport office and at the end he was told that only Russian citizens can get Russian passports. As a result the son cannot go anywhere for fear of being arrested.

- **The Aliev family** bought a tumbledown dirt-floor cottage in the village of Kievskaja in Krasnodar Territory, and next to it they constructed a habitable home. However, they later received notice that their home would be demolished as it had been constructed without official permission. The authorities failure to recognize the civil or legal rights of **Meskhethians** living in Krasnodar Territory means that they are unable to officially register house or land purchases. As a result many of them are forced to build homes illegally, which leaves them at risk of extortion by corrupt officials or having their homes demolished.
- **Samuel Davies, a 34-year-old community health nurse from Sierra Leone**, arrived in Moscow in 1993. In 1995 he registered with the UNHCR for refugee status. On 16 March 2001 Samuel Davies was approached by three police officers who asked for his documents. He showed them the document he had received from the UNCHR but the policemen refused to recognize the document and demanded money for a fine. Samuel Davies was taken to a police station where he says he was held for four days without food in a cell without blankets or bedding. An immigration officer interviewed him on 20 March and promised to contact the UNHCR. On 28 March Samuel Davies was sent to the Severnyi camp, the main detention centre for "illegal" male foreign nationals in Moscow. He remained there for more than 10 months and was released following intervention by the UNHCR. On his release Samuel Davies required treatment for tuberculosis which he says he contacted in the detention centre.
- **An Iranian national arrived** at Moscow's Sheremetevo II international airport in March 2001 seeking asylum. He attempted to apply for refugee status at the immigration control point inside the airport, but was told that his claim would not be considered. An appeal against this decision was lodged and in the meantime he was detained at the private detention facility run by Aeroflot, a private airline of which the majority shareholder is the Russian government, in the Sheremetevo Hotel. Despite the fact that the Moscow Office of the UNHCR informed all the relevant authorities and the airline that an appeal was pending the man was forcibly returned to Iran where he was arrested. According to information received by Amnesty International, he was arrested on his return to Iran.

5



International public movement in support
of migrants and their associations.

FORUM OF MIGRANTS ORGANIZATIONS

MOSCOW
2003

Hello!

We are – the «Forum of Migrants Organizations».

International public movement in support of migrants
and their associations.

*Our motto:
«Migrants Are Not a Burden But
a Blessing for Russia».*

Our address: 13 Kostyansky Pereulok, Moscow, Russian Federation
tel./fax: 208 9462, 208 8802
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Corresponding Bank account: 30101810400000000225
Savings Bank of the Russian Federation, Meschanskoye Branch,
Moscow
Bank code: 044525225

FORUM OF MIGRANTS ORGANIZATIONS



WHO WE ARE:

The "Forum..." — is the largest migrants' umbrella NGO in Russia. Today the "Forum..." unites 198 migrants' organizations (self-help community based organizations), created by migrants in 47 regions of the Russian Federation. The "Forum..." also includes 3 NGOs of potential migrants to Russia living in other CIS countries (Kazakhstan, Tajikistan, Uzbekistan).

HOW THE "FORUM..." WAS BORN

Even the birds, returning from the South to the North, fly in flocks. Migrants' organizations started to appear in the CIS countries even before migrating to Russia.

When in Russia, the majority of these communities did not know anything about each other.

FORUM OF MIGRANTS ORGANIZATIONS

The idea to unite efforts appeared in the minds of Russian migrants long time ago.

In March 1993 the Coordination Council for Assistance to Refugees and Forced Migrants (CC) was created on the basis of the public committee "Civil Assistance". Together with Moscow organizations working with migrants 12 migrants' communities became members of the Council. Later, the Coordination Council helped regional migrants' NGOs to unite in one movement.

The process of preparation for the Geneva Conference on Migration in the CIS Countries (1994 – 1996) became an important stimulus for further unity.

In April 22 – 23, 1996, a month before the Geneva Conference, the 1st Forum of Migrants' Organizations took place at the Parliamentary Center in Moscow. The organization "Forum of Migrants' Organizations" ("Forum...") was created.

The "Forum's" Office is located in the center of Moscow, at the building of the famous media outlet "Literaturnaya Gazeta". This became a tradition. "Literaturnaya Gazeta" used to be the most popular newspaper in Russia and was the first to write about refugees. In February of 1990 at this particular building at the initiative of the journalist Lidia Grafova a first Russian NGO in support of migrants was created – committee "Civil Assistance".

In 1993 the Committee "Civil Assistance" united a number of Moscow organization helping migrants – a Coordination Council in Support of Refugees and Forced Migrants (CC) was created. Later, the Coordination Council helped regional migrants' NGOs to unite in one movement. Thus, the "Forum..." had its predecessors.

The governing body of the Movement is the Executive Committee. Its members are elected for the period of three years by the general conference of migrants' organizations. Currently, 19 leaders of migrants' NGOs from different regions of Russia participate in the Executive Committee.

Currently, there 19 leaders of migrants' NGOs from different regions of Russia in the Executive Committee. The Coordination Council in Support of Refugees and Forced Migrants (CC) still plays the role of the "working body" (apparatus) of the "Forum..."

Today 9 experienced staff members work at the CC.

FORUM OF MIGRANTS ORGANIZATIONS

WHAT WE DO

Our Mission:

Unite efforts of migrants' organizations to share experience of survival and more effective migrants' rights' protection.

Main objectives of the "Forum..."

- ☒ Lobby more humane migration policy;
- ☒ Participate in development of migration legislation;
- ☒ Defense of the rights of each migrant asking for protection from illegal actions of the bureaucrats;
- ☒ Creation of constructive collaboration with all branches of the government (both on Federal and regional levels);
- ☒ Formation of a favorable attitude of the society towards migrants.

Major Activities:

- ☒ Strengthening capacities of migrants' NGOs/ capacity building (training in strategic planning, cooperation with government, fundraising, etc.);
- ☒ Assistance in creation of new NGOs;
- ☒ Creation of coalitions of public and human rights NGOs for more effective protection of human rights and migrants' interests;
- ☒ Formation of Centers of Social Adaptation of Migrants and Local Population (mutual adaptation);
- ☒ Constant cooperation with the State Duma of the Russian Federation, Federal Migration Service, MIA (suggest amendments to draft laws on migration);
- ☒ Development of the regional network of the Information Agency "Migration" (IAM);
- ☒ Publication activities (publication of the popular monthly bulletin "Vestnik Foruma", brochures and methodological materials);
- ☒ Children programs;
- ☒ Humanitarian aid, including the action "From hand to Hand".

WHAT WE HAVE ALREADY ACHIEVED:

During 7 years the "Forum..." implemented a number of important activities and projects, promoting the creation of organized migration movement in the Russian Federation.

From 1996 to 2001 the UNHCR and IOM were the "Forum"'s constant partners. Thanks to their financial support the following activities were implemented:

- ☒ Four all-Russian Migrants' Conferences in Moscow (1996, 1998, 2000, 2001);
- ☒ Network of uniting conferences of migrants in the following Russian regions: Tver, Vladimir, Ekaterinburg, Lipetsk, Oryol, Stavropol, Belgorod;
- ☒ "Migrants- are not a burden but a blessing for an accepting region" (Smolensk);
- ☒ "Regulation of migration processes in border regions" (Orenburg)

Round Tables:

- ☒ "How can migrants renovate free military stations/ towns?" – Kaliningrad
- ☒ "How to effectively assist forced migrants from Chechnya" – Krasnodar

Seminars:

- ☒ Strategic Planning
- ☒ Fundraising
- ☒ Creation of coalitions in defense of mutual interests (with the help of the National Democratic Institute, USA)
- ☒ Dissemination of information among migrants' NGOs;
- ☒ Production/business activities of public organizations;
- ☒ Seminar series on business activities and creation of business-incubators together with the Ministry of Anti-Monopoly Policy.



REPORTAGE

A l'université Lumumba, le cauchemar quotidien des étudiants de couleur

LE MONDE | 30.12.03 | 13h23

"Vivre en Russie, c'est être constamment sur le qui-vive".

Moscou de notre correspondante

"Que fleurisse notre capitale natale !" Les grandes lettres en cyrillique surplombent le bâtiment gris de ce qui fut, pendant une trentaine d'années, un centre de rayonnement de l'Union soviétique, et de son idéologie, à travers le tiers-monde. D'ici sont sortis des "révolutionnaires" sud-américains, le terroriste Carlos, des militants palestiniens... L'université "Patrice Lumumba, de l'amitié entre les peuples", créée en 1960, a cessé en 1992 de faire référence à l'ancien dirigeant indépendantiste congolais. On l'appelle désormais l'"université russe de l'amitié entre les peuples".

La nuance n'est pas sans importance. Devant l'esplanade enneigée, une étudiante africaine, ses longs cheveux tressés dépassant d'un bonnet épais, commente amèrement : *"La capitale natale en question, c'est Moscou, bien sûr. Ce n'est pas une référence aux capitales de nos pays, à nous, étudiants étrangers. On est en Russie. Les Russes pensent à eux-mêmes."*

LE DRAME DU 24 NOVEMBRE

Dans le hall d'entrée, passé les tourniquets où des gardes en treillis contrôlent les sacs - récente mesure de sécurité -, une affiche discrète rappelle le drame qui s'est produit, le 24 novembre, à 2 heures du matin, lorsque, en une demi-heure, un incendie a ravagé le foyer numéro 6 des étudiants étrangers, faisant 42 morts à ce jour. Une nuit d'enfer, qui a laissé un traumatisme profond chez les 2 600 étrangers, sur les 11 300 étudiants que compte l'université originaires d'Afrique, d'Asie, d'Amérique latine, du Proche-Orient.

"C'était un incendie criminel, nous en sommes convaincus", affirme un étudiant béninois de la faculté de médecine, qui se dit "soulagé" à l'idée de partir bientôt en France. Quitter la Russie, fuir ses bouffées nationalistes... "Dans mes cauchemars, je vois des corps se jeter par les fenêtres du foyer numéro 6, et qui s'écrasent dans la neige." Pour Sidonie, étudiante tchadienne en quatrième année de sociologie, "vivre en Russie, c'est être constamment sur le qui-vive".

Elle parle, comme tous ces jeunes étrangers à la peau sombre, du cauchemar quotidien que sont les trajets en métro, dans la rue. *"Sortir tard le soir, c'est accroître le risque de croiser des skinheads. On évite le métro. Alors, il faut prendre un taxi, mais cela coûte cher." Le racisme ordinaire, les bousculades, les insultes font partie de leur quotidien. "C'est simple, ajoute-t-elle avec tristesse, pour un Russe, un Noir, si c'est un garçon, c'est un dealer, si c'est une fille, c'est une prostituée."*

Quelques heures après l'incendie du 24 novembre et avant même toute enquête, le maire de Moscou, Iouri Loujkov, avait publiquement attribué le sinistre à un *"court-circuit, parti de la chambre 203"*, où logeaient des jeunes Africaines et Asiatiques. L'indignation des étudiants

étrangers, qui avaient subi dans les semaines précédentes une série d'alertes à la bombe, obligeant à de pénibles évacuations, de nuit, en plein froid, a été vive. Un comité extraordinaire s'est formé, réunissant seize étudiants d'Afrique, d'Asie, d'Amérique latine, du sous-continent indien et de pays arabes, pour demander une enquête approfondie et des compensations financières pour les victimes (environ 180 personnes sont encore hospitalisées).

Plus généralement, il s'agit d'exercer une vigilance auprès des autorités russes. *"Jamais la situation, à l'égard des étudiants de couleur, n'a été aussi dramatique"*, dit un membre du comité. *"Les ambassades de nos pays se sont jointes au mouvement, ajoute une jeune Tchadienne. Le recteur de l'université a été contraint de présenter sa démission, mais elle n'a pas encore été formellement acceptée."*

Les élections législatives du 7 décembre en Russie ont été marquées par une montée en puissance des partis nationalistes. Rodina (La Patrie), soutenue par le Kremlin, et la formation LDPR (Parti libéral-démocrate de Russie), de l'extrémiste Vladimir Jirinovski, ont recueilli ensemble plus de 20 % des voix. La thématique xénophobe est également présente au sein du Parti communiste (le KPRF a recueilli 12 % des suffrages) et de la formation Russie unie (37 %), soutenue par Vladimir Poutine. Avec la prolongation de la guerre en Tchétchénie, point de fixation nationaliste, le regain d'une certaine nostalgie impériale russe et les excès favorisés par la *"guerre internationale contre le terrorisme"*, le racisme s'aggrave en Russie. *"L'antisémitisme n'en constitue qu'une partie"*, soulignait récemment, sur Radio-Liberté, le célèbre joueur d'échecs Gari Kasparov.

Au pied de la façade calcinée du foyer numéro 6, des fleurs et des pommes sont posées dans la neige, auprès des photographies de victimes. Ce soir du 24 novembre, les secours ont tardé. Une sourde rage anime aujourd'hui les étudiants. Debout devant les décombres du bâtiment, Martial, étudiant camerounais, pense à ses proches, à ses amis russes (*"Tous les Russes ne sont pas pareils."*). Il veut rentrer au pays et pense à son héros, Patrice Lumumba : *"Pour moi, le premier homme d'Afrique qui a vraiment compris ce qu'est la liberté."*

"EH TOI, LE SINGE !"

Il raconte cette histoire, qui résume pour lui la Russie : *"Je marchais dans la rue quand cinq adolescents russes m'ont bousculé. "Eh toi, le nègre, le singe, qu'est-ce que tu fais là ?" Un homme, de type caucasien, voit la scène et se porte à mon secours. Il les chasse à coups de pied. Une femme russe assise sur un banc s'en prend alors au Caucasien : "Pourquoi frappes-tu nos jeunes, qui ne t'ont rien fait ?". Il lui répond : "Et toi, pourquoi ne disais-tu rien quand ils frappaient cet étudiant ?". La femme s'est tue. Elle avait l'air perplexe. La Russie, c'est ça : un groupe qui t'agresse, un homme seul qui te défend, et les autres qui ne comprennent rien."*

Selon des organisations de défense des droits de l'homme, les agressions contre des personnes *"de type physique non slave"* en Russie augmentent d'environ un tiers chaque année. La plupart des enquêtes mènent à des non-lieux. La police, à de nombreuses reprises, a manifesté de l'indulgence, voire de la complicité, avec des groupes de skinheads.

En 2001 et 2002, une série d'attaques contre des employés d'ambassades africaines et asiatiques à Moscou avait mené à des protestations officielles de la communauté diplomatique auprès du ministère russe des affaires étrangères. *"Les Russes ont réagi en ouvrant une ligne téléphonique pour les appels d'urgence"*, commente aujourd'hui un diplomate africain, en poste à Moscou depuis douze ans.

"Le problème d'insécurité s'est aggravé, car les attaques deviennent de plus en plus organisées. Je me réjouis de partir bientôt", conclut-il. Si Moscou continue, en dépit de tout, d'attirer des étudiants étrangers, c'est pour deux raisons, explique un étudiant béninois : *"D'abord, les études ici restent bon marché. Mais, surtout, la Russie est pour nous un pays de transit. Après deux ou trois années ici, enregistrés comme étudiants, il est plus facile d'obtenir ensuite des visas pour l'Europe ou l'Amérique."*

Natalie Nougayrède

De Noël au Nouvel An : une période à risques

Pour les étudiants de l'université "de l'amitié entre les peuples", la période des fêtes qui s'ouvre (Nouvel An, Noël orthodoxe le 7 janvier, puis Nouvel An orthodoxe le 13 janvier) est celle de tous les dangers. *"A chaque date où les Russes boivent beaucoup, il nous faut redoubler de précautions"*, constate Martial, un étudiant en mathématiques originaire d'un petit village de l'ouest du Cameroun.

"Une autre date risquée pour nous est celle de l'anniversaire de la naissance de Hitler, ajoute-t-il. Vers le 20 avril, des groupes de jeunes Russes font des descentes. On se regroupe alors, à 30 ou 50 étudiants étrangers, pour prendre le bus ensemble, à une heure convenue d'avance."

• ARTICLE PARU DANS L'EDITION DU 31.12.03

7

Les attaques racistes se multiplient en Russie, à l'aube du second mandat de M. Poutine
LE MONDE | 23.03.04 | 18h11
Le pays compte aujourd'hui 50 000 skinheads, essentiellement à Moscou et à Saint-Petersbourg. Le mouvement est en plein essor.

Moscou de notre correspondante

Après une série d'attaques contre des Caucasiens, des ressortissants d'Asie centrale, et des étudiants africains, les autorités russes ont pour la première fois, à l'approche de l'élection présidentielle du 14 mars, admis officiellement l'existence, dans le pays, de *"groupes de jeunes extrémistes"* et de skinheads.

Les agressions racistes étaient jusqu'alors qualifiées d'actes isolés. Selon les statistiques officielles, la Russie compte aujourd'hui 50 000 skinheads, soit 20 % de plus qu'en 2001. Ils sont surtout concentrés à Moscou et Saint-Petersbourg.

Trois adolescents russes arrêtés dans la ville de Voronej (600 km au sud de Moscou) ont reconnu avoir battu à mort un étudiant africain au mois

de février, a indiqué, vendredi 19 mars, un porte-parole du ministère russe de l'intérieur, Valeri Gribaine. Il a toutefois ajouté que l'assassinat n'avait *"pas été commis sur des bases racistes"*, précision qui illustre l'ambiguïté du comportement de la police face à de tels crimes. Par le passé, des organisations de défense des droits de l'homme ont accusé les forces de l'ordre de collusion avec des groupes de skinheads. Selon une source judiciaire locale, citée par l'agence Interfax, le crime était motivé par *"une envie de se divertir"*.

Amarou Antonio Limo, 24 ans, originaire de Guinée-Bissau, a été mortellement poignardé en plein jour, à proximité de l'académie médicale où il étudiait depuis un an et demi, à Voronej. Les quelque 1 500 étudiants étrangers que compte cette ville d'un million d'habitants ont fait grève, pendant trois jours, pour exiger des mesures renforcées de protection de la part des autorités municipales.

ATTAQUE EN PLEINE RUE

Une semaine auparavant, à Saint-Petersbourg, c'est une fillette tadjike de 9 ans, Khourcheda Soultanova, qui succombait à des coups de couteaux. Elle avait été attaquée dans la rue avec sa famille par un groupe de jeunes Russes.

En septembre 2003, deux fillettes tziganes originaires du Tadjikistan, âgées de 5 et 6 ans, ont été assassinées à coups de barres de fer par un groupe de skinheads, alors qu'elles se tenaient avec leurs proches aux abords d'une gare. L'un des adolescents arrêtés a expliqué, par la suite, qu'il voulait *"nettoyer le pays des Tziganes"*, selon le journal *Izvestia*.

Le 2 mars, pour la première fois, le gouvernement russe a reconnu, par la voix du ministre de l'intérieur, Rachid Nourgaliev, l'existence d'un *"mouvement de skinheads"* et d' *"organisations de jeunes extrémistes"* en Russie. Jusque-là, les autorités qualifiaient les agressions contre des étrangers d'actes isolés commis par de *"jeunes hooligans"*. Un tel discours avait même été tenu lorsque 200 jeunes armés de barres de fer avaient investi un marché de Moscou, en octobre 2001, faisant trois morts.

Selon un correspondant de Radio Liberté, à Saint-Petersbourg, Dimitri Kaznine, *"fin 2003, les organisations extrémistes et racistes comptaient au total, dans cette seule ville, plus de 22 000 adolescents"*. *"Le mouvement skinhead est la partie la plus active et en pleine expansion de la sous-culture des jeunes en Russie"*, précise Sergueï Belikov, auteur d'un livre sur le sujet, publié en 2002.

PREMIÈRE CONDAMNATION

Les condamnations à des peines lourdes pour des actes racistes restent rares en Russie. L'assassinat à coups de barre de fer d'un vendeur de pastèques azerbaïdjanais, Mamed Mamedov, en septembre 2002, sur un marché de Saint-Petersbourg, a intéressé les médias russes, lorsque deux de ses assaillants, Maxime Firsov, 17 ans, et Viatcheslav Prokofiev, 18 ans, ont été condamnés, le 11 mars, à respectivement quatre et sept ans d'emprisonnement pour *"assassinat pour des motifs de haine raciale"*. C'était la première condamnation de ce genre à Saint-Petersbourg. Les jeunes assaillants avaient filmé le meurtre avec une caméra vidéo, qui a ensuite servi de pièce à conviction.

Le ministre russe des nationalités, Vladimir Zorine, a annoncé le 4 mars un programme de *"lutte contre l'extrémisme"*, dont les contours n'ont pas été précisés. Les autorités russes semblent vouloir se prémunir d'accusations de passivité face à la montée de ces crimes, qui ont alarmé des organisations, comme Amnesty International.

Le Kremlin a pourtant lui-même soutenu le vote en faveur de partis ultranationalistes, aux slogans xénophobes, lors des élections

législatives de décembre 2003, dans le but notamment de réduire le poids du Parti communiste à la Douma (Chambre basse du Parlement). A la télévision d'Etat, des téléfilms comme *Spetsnaz* (Forces spéciales), sorte de propagande romancée sur la guerre en Tchétchénie, contribuent aussi à diffuser une image dégradante des Caucasiens.

Selon une étude récente de la fondation Expertisa, 77 % des Russes disent avoir une *"opinion négative"* des Caucasiens, 50 % n'aiment pas les Chinois, et 40 % éprouvent une méfiance envers tous les étrangers. 42 % estiment que les minorités ethniques *"jouissent de trop de pouvoir et d'influence dans notre pays"*. 60 % pensent que *"la Russie sera respectée si elle inspire la peur"*. Un quart des personnes interrogées estiment qu'il faudrait géographiquement *"limiter les droits de résidence de toutes les nationalités, à l'exception des Russes"*, ce qui, selon le journal *Izvestia*, revient à rétablir la notion de *"zone de peuplement"* réservée aux juifs dans la Russie tsariste.

Le journal *Izvestia* établit, pour sa part, un parallèle entre la *"montée de l'extrémisme et d'une certaine agressivité dans la société"*, et le fossé croissant entre riches et pauvres en Russie, ajoutant que ces tendances constitueront des défis pour Vladimir Poutine, entré depuis le 14 mars dans son second mandat.

Natalie Nougayrède