

Open letter

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

Russian Federation

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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,

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Oleg Orlov, **Human Rights Center "Memorial," Moscow**

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