

Certain Issues Governing Refugee Status in Russia

Russia's accession to the UN Convention of 1951 and the Minutes thereto of 1967 regarding refugee status has made the executive authorities in charge of migration liable for implementing those international regulations, as well as Russian statutory laws and regulations which govern granting refugee status, political or temporary asylum to foreign citizens and stateless people.

The federal law on refugees applies to public relations arising from an application by a foreign citizen or a stateless person (hereinafter, "foreign citizens") to Russian authorities for granting them refugee status. The law governs relations between the state and this group of foreign citizens. While recognizing a given person to be a refugee, Russia provides social guarantees to the applicant and enables him/her to hide in its territory from prosecution based on race, religion, citizenship, nationality, affiliation with a particular social group, or political creed.

The right of asylum (of being recognized a refugee) is an institution of immigration law. Each state declares that right to the extent which conforms to the essence and economic ability of that state because granting of asylum requires significant budget spending.

Russia's appeal to illegal migrants can be attributed to its open borders, liberal laws, weak controls over the stay of foreign citizens in its territory, and relatively high living standards of the public. Over three million illegal migrants currently arrive illegally in Russia, according to estimates. Under certain conditions, many of those migrants may apply for asylum to obtain legal status.

Criminal groups, composed of both Russian and foreign citizens, have taken shape over the past 15 years in and out of Russia, focusing on the delivery of migrants into the Russian Federation and other developed nations. In recent years, individuals and entities have emerged which assist expatriates in legitimizing their presence by obtaining asylum in Russia. To this end, they supply expatriates with cover stories and fake documents to "verify" their identity and even "document" prosecution in their native land. Russian laws still fail to prescribe any punishment for such behavior which is deemed a highly punishable crime in other states.

Upon its accession in 1992 to the UN Convention of 1951 and the Minutes thereto of 1967 regarding refugee status, the Russian Federation undertook to accept persons who apply for refugee status, to examine their applications and to safeguard their rights if they are deemed to be refugees. The key provisions of the Convention and the Minutes are set forth in Law "On Refugees" which was adopted in February 1993. This paved the way for establishing immigration legislation as a new segment of Russian law.

As regards the key provisions of the Federal Law "On Refugees", first of all, the current version of the law defines "refugees" and their rights in a way which is closest to the UN Convention on refugee status of 1951. In addition, the rights and duties of applicants for refugee status and officials of the executive authorities concerned, including immigration control agencies, have been legislatively enacted. Prior to that, their rights and duties were stipulated by subordinate laws, edicts of the President and regulations of the Government of the Russian Federation.

The law also stipulated the three-year effective term of refugee status, making it impossible for a large group of people enjoying life-long refugee status to enter Russia and, hence, place a heavy burden on the federal budget. As a result, an individual faces the choice of traveling back safely to his/her native land, provided that tensions have subsided there, or integrating into the Russian society, including through obtaining a residence permit or becoming a Russian citizen if he/she so wishes and meets qualification requirements. However, the law calls for an extension of refugee status if

he/she can still be affected by adverse developments in his/her native land (previous place of residence), but such extension is limited to one year. Certain articles of the law list a set of steps to be taken by an asylum-seeker who applies for refugee status, stipulate the deadlines and procedures for the examination of his/her application by the executive authorities concerned, and guarantee relevant legal support at the locality where the application was filed, including at immigration control posts at checkpoints at the Russian state border.

The procedure for obtaining refugee status involves a series of steps to review an applicant for compliance with the criteria used to define a "refugee" under Item 1 of Article 1.1 of the Federal Law "On Refugees", i.e. to review whether the applicant is reasonably afraid of prosecution on the basis of race, religion, nationality, social affiliation or political creed in his/her native land or former host country.

The procedure for obtaining refugee status is not limited to filing an application subject to examination. Its key elements include reviewing the accuracy of data obtained about the applicant and his/her accompanying family members, the circumstances involving their arrival and the grounds for their stay in the Russian Federation, as well as an in-depth examination of the reasons and motives for a flight from his/her native land, as described by the applicant. The agencies in charge of implementing the procedure for granting refugee status are stipulated by the law.

Individuals who have been granted refugee status are also entitled to social security, employment and professional training assistance, placement of their children in state-owned and municipal pre-school and general educational establishments, and are able to travel out of Russia according to the statutory procedure.

However, the law has imposed certain restrictions on individuals who obtain a certificate of examination of their applications and persons granted refugee status for the purposes of promoting national security, morality, health, rights and lawful interests of Russian citizens and other individuals who have a legitimate residence in the Russian territory.

The law calls for expatriates to be documented. For the period of examination of an application, a relevant certificate is issued, or a refugee certificate if a person has been granted refugee status. In case of a need to travel abroad, refugees are given a travel document which is similar to a foreign passport. All those documents serve as identity cards and are adequately protected. National passports and/or other identity documents are given in to migration authorities for storage.

The law provides for building up housing assets for the temporary accommodation of recognized refugees. Housing is provided to them for such a period as their refugee status is valid.

A separate article of the law deals with guarantees for the rights of individuals who have applied for, or have been granted, refugee status, and those who have seen their refugee status lost or canceled. In particular, an individual is given the right to file an appeal with a superior body or court against actions (inaction) of executive authorities and officials involving the performance of the Federal Law "On Refugees". The law prescribes a procedure and time limits for filing of such appeals. By the way, the vast majority of individuals affected by negative decisions appeals against them through the courts. Key expenditures for the implementation of the Federal Law "On Refugees" are funded from the federal budget.