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беженцам и мигрантам

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Human Rights Committee (CCPR)
Human Rights Treaties Division (HRTD)
OHCHR

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Report to the UN Human Rights Committee

Submitted by the Civic Assistance Committee (the CAC)

**for the List of Issues and Problems Regarding the Rights of Refugees and Migrants in
Russia within the Scope of Articles 6, 7 and 13 of the ICCPR**

**in Relation to the Review of the 8th Periodic Report of the Russian Federation
CCPR/C/RUS/8**

Session 129

- 1.1. The “Civic Assistance” regional non-governmental charitable organization for assistance to refugees and migrants (the abbreviated name is the Civic Assistance Committee or the CAC) bases its activities on non-commercial principles and self-government. Our mission is to help migrants, who found themselves in a difficult life situation, protect their rights on the territory of the Russian Federation, and particularly in Moscow.
- 1.2. The Committee has been successful in assisting refugees and internally displaced persons, largely due to active cooperation with the Main Directorate for Migration Affairs of the Ministry of Internal Affairs of Russian Federation (former Federal Migration Service of the Russian Federation), its regional offices and government agencies in Moscow. We are also the executive partner of UNHCR. Since 1997, our organization has a passport of a charitable organization issued by the City Charitable Council of the Government of the city of Moscow. Since 2009, the Committee has been included in the Register of Non-Governmental Non-Profit Organizations Interacting with the Executive Authorities of the City of Moscow (No. 09-0179 dated April 7, 2009) and in the Register of Charitable Organizations of the City of Moscow (No. 09-0179 /

09-0036 dated 05.26.09). The CAC is registered in the list of NGOs acting as “foreign agents”.

1.3. The current submission provides a brief overview of four important issues regarding the rights of refugees and migrants in Russia that we would like the Committee to address to the Russian government:

- 1) violation of the non-refoulement principle guaranteed by the article 13 of the ICCPR; superficial examination of arguments about risks of ill-treatment in case of extradition/expulsion;
- 2) lack of access to asylum procedure where free access is a measure to guarantee effective protection against refoulement;
- 3) fines during asylum seeking procedure;
- 4) failure to improve the legislature; unsuccessful amendments.

Violation of the non-refoulement principle guaranteed by the article 13 of the ICCPR

- 2.1.**The core norm of international refugee law is the principle of non-refoulement according to which no “state shall expel or return (" refouler ") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”³⁵ This principle has found entry³⁶ and has been developed in international human rights law. It is nowadays a norm of customary international law.³⁷ Not only refugees, for whom the state of refuge has recognized a risk of persecution in the country of asylum, but also asylum-seekers benefit from the duty of non-refoulement, since their claim might be founded.³⁸ In its jurisprudence, the Committee developed a concept of non-refoulement obligations under the ICCPR.
- 2.2.**The guarantees of non-refoulement provided for by Russian legislation do not fully conform to the requirements of Article 32 and 33 of the 1951 Convention.
- 2.3.**In Russia there is no homogenous legal practice with regard to the consideration of refugees’ expulsion cases: the practice varies from region to region.
- 2.4.**Both illegal refugees and refugees staying in the Russian Federation on legal grounds run the risk of refoulement.
- 2.5.**There are no precise data on the number of refugees expelled from Russia, but taking into account the large number of refugees in the country, the insufficiency of legislative guarantees, and the large number of expulsions or attempts of expulsion known to NGOs, the scale of expulsion of refugees should be considerable.
- 2.6.**A significant number of the Committee’s decisions include a finding that there would be a violation of Article 7 of the ICCPR if the applicants were to be extradited to the requesting countries as the domestic courts failed to scrutinise rigorously the applicants’ allegations of such a risk of ill-treatment.
- 2.7.**One of the most prominent cases is the case of the former presidential guard from the Q. D. nation of X, mr. T. R. who faces the death penalty for helping his country’s opposition and who has been deported from Russia in July 2019¹.
- 2.8.**The Committee constantly reiterates that requesting an applicant to produce “indisputable” evidence of a risk of ill-treatment in the requesting country would be tantamount to asking

¹ Russia to Deport X National Facing Death Penalty at Home, 8 July 2019, the Moscow Times.

him to prove the existence of a future event, which is impossible, and would place a clearly disproportionate burden on him. Any such allegation always concerns an eventuality, something which may or may not occur in the future. Consequently, such allegations cannot be proven in the same way as past events. The applicant must only be required to show, with reference to specific facts relevant to him and to the class of people he belongs to, that there is a high likelihood that he would be ill-treated.

- 2.9.** In addition, the decisions by the migration authorities and by the courts appeared to give preponderant weight to the fact that the applicant had waited for too long before applying for refugee status, and that he had failed to substantiate his claim that he risked political or religious persecution. On the first point, the domestic authorities' findings as regards the failure to apply for refugee status in due time did not, as such, refute his allegations under Article 7 of the ICCPR. On the second point, the criteria that are laid down for granting refugee status are not identical to those that are used for assessment of the risk of treatment contrary to Article 7 of the ICCPR.
- 2.10.** At the 1250th meeting (March 2016) (DH), the Committee of Ministers of the Council of Europe invited the authorities to provide an updated action plan on issues including the lack of effective and thorough scrutiny by the authorities of the risk of ill-treatment alleged by the applicants and lack of an effective remedy in this respect due to the persistent failure by the domestic courts to conduct such scrutiny (violations of Articles 3 and 13). In the next *Action Plans* the Government, *inter alia*, indicated that the corresponding legislation initiatives (the amendments in the Code of Criminal Procedure, the Code of Administrative Offenses, and the draft of the law "On Granting Asylum") effusively solve the indicated problem. **However, this is not true.** Certainly, these legal initiatives (an important question of delay in their adoption will be discussed below) literally prohibit transfer of a person to countries where the applicant is at risk of torture or execution, **but the methodology and approach to in-depth examination of the correspondent arguments by migration services and courts are not included in these amendments at all.**
- 2.11.** At the 1280th meeting (07-10 March 2017) (DH), the Committee of Ministers invited the authorities to provide more detailed information concerning these draft amendments which appeared to further elaborate and codify in law some aspects of the Supreme Court's Plenum Ruling no. 11 of 2012. The Deputies indicated that the information on the further development of court practice in the light of these amendments, if adopted, would also be useful. **Regrettably, in the recent Action Plan of 2019 there is no information on that topic at all.**
- 2.12.** We believe that the courts must play a central role in overseeing such transfers, not only in law but also in practice. Judiciaries should exercise their role in the authorization and review of extradition, deportation and detention to the essential extent. Courts should place human rights guarantees, in particular the principle of *non-refoulement*, at the center of their decision-making and **provide a full, objective and rapid review** of administrative decisions. Prior to any transfer, judges should make a full evaluation of the risk of violations of human rights of the suspect following transfer, taking into account the circumstances of the individual case and drawing on information on the general human rights situation in the country. Under no circumstances should a judge authorize any transfer where there is a real risk of torture or ill-treatment; denial of the right to life; enforced disappearance; denial of the right to a fair trial; or any other serious human rights violation. No transfer should be carried out until a decision has been taken before the highest court available in the procedure.

Limited access to asylum procedure

- 3.1.** It is important to note that there is no right to asylum under international law. Furthermore, unlike the Universal Declaration of Human Rights in its Article 14 (1), the ICCPR does not guarantee a right to seek and enjoy asylum. Consequently, the duty of non-

refoulement imposed on States by the ICCPR must not be confused with asylum. Whereas the former prevents a state from removing a person to a situation of danger, the latter describes the act of a state protecting a person by granting her/him refuge on its territory. The Committee, however, relates asylum to Article 6, 7, and 13, seeing it as a measure to guarantee effective protection against refoulement. It therefore demanded States parties on several occasions to grant individuals access to asylum procedures.

3.2. The Committee's practice allows, however, to draw the conclusion that its exigencies towards procedural guarantees for asylum procedure would hardly fall short of the guarantees provided in Article 14 (1). Bearing in mind that States parties are under an obligation to ensure the enjoyment of the rights in the ICCPR, Article 2 (1), it would be difficult to understand how a biased, subordinate body could ensure that rights under Articles 6, 7 and 13 would not be violated by the rejection of an asylum claim. In its Concluding Observations on Latvia, the Committee explicitly considered asylum procedure as a remedy in the sense of Article 2 (3) against refoulement.

3.3. An asylum-seeker must be allowed sufficient time to lodge her/his claim and conversely access to asylum procedures must be granted within reasonable time. The Committee already called upon the Russian Federation to change its administrative practice, under which some asylum-seekers had to wait for more than two years before being admitted to asylum procedure². However, no remedies to improve the situation have been adopted.

3.4. The provisions of Federal Law "On Refugees" and the Administrative Regulations of the Ministry of Internal Affairs of the Russian Federation (07.11.2017) stipulate the unconditional right of any person to apply to migration services with an application for refugee status or temporary asylum. To apply for a relevant status, only a national passport, its translation certified by a notary, and two photographs are required. There are no other conditions or obstacles. However, in fact, the applicants are faced with a number of difficulties, which they, being foreigners, who do not speak Russian and often are undocumented on Russian territory, are simply incapable to overcome.

3.5. The law does not sanction denying the asylum seeker at least an opportunity to submit an application for recognition as a refugee, or an application for temporary asylum³.

3.6. Nevertheless, the lack of unrestricted access to the asylum procedure constitutes one of the main problems of the asylum system in Russia.

3.7. Almost every refugee applying for asylum to the Migration Office of Moscow and that of the Moscow Region face obstacles in access to the procedure. The nature of these problems has changed over time.

3.8. The list of the obstacles that constitute limited access to the procedure can be in brief summarised in the next way:

- 1) Denial of access to the asylum procedure⁴. For example, Refusal to register a new applicant because of "workload" or inability to conduct an interview on a given day. At the same time, the applicant is not informed about another possible date of admission.
- 2) Refusal of the applicant's interviewing for refugee status, substitution of the procedure by the request of temporary asylum. There are two parallel legal procedures in the law – a person has the opportunity to apply for refugee status and temporary asylum. Even if an applicant expressed an unequivocal plea to submit documents specifically for refugee status, he or she can nevertheless be questioned only for temporary asylum, although this is a different procedure.
- 3) Consultation and intentionally wrong advice from Migration office staff members⁵

² Russian Federation (CCPR/CO/79/RUS), 6 November 2003, para. 25.

³ Russia as a Country of Asylum, Report on the implementation of the 1951 Convention relating to the Status of Refugees by the Russian Federation, E. Yu. Burtina, E.Yu. Korosteleva, V.I. Simonov, Moscow, 2015, p. 28, Annex. 1

⁴ Ibid., p. 35

⁵ Ibid., p. 35

- 4) Denial due to the non-possession of a passport⁶
- 5) Denial due to the lack of documents confirming legal right to stay in the Russian Federation⁷
- 6) Denial with the recommendation to apply for asylum in other regions⁸
- 7) Denial due to the lack of documents proving residence in the region⁹
- 8) Refusal to admit a representative (an advocate or a lawyer of an NGO).
- 9) Refusal to admit an interpreter. Occasionally, the lawyer brings a qualified interpreter. Sometimes such interpreter is allowed, and sometimes not, referring to his "tendentiousness" and "bias". However, migration services do not provide an official interpreter instead.
- 10) Refusal to admit an applicant because of "lack of proof" of probable ill-treatment in case of expulsion. Although law prohibits it, during the initial registration of a person employees of migration services begin to require for proof of threats in connection with the applicant's return to the homeland.
- 11) Refusals to receive applications for the extension of temporary asylum¹⁰
- 12) Refusal to accept repeated asylum applications¹¹
- 13) Detention at the moment of applying for asylum¹²
- 14) Access to the procedure of asylum application at a border checkpoint¹³.
- 15) Offensive, rude and discriminatory behavior of the employees when questioning asylum-seekers.

3.9. The everyday work of our organisation makes it possible to draw a disappointing conclusion that the procedural guarantees in cases of application for refugee status or temporary asylum have become less effective with the reform of 2016.

3.10. The situation with the access to the asylum procedure in other regions of Russia is not better¹⁴.

3.11. In many territorial bodies of the Russian FMS the rights of refugees for access to the asylum procedure are systematically violated. This shows non-execution by the Russian Federation of the obligations accepted by the signing of the 1951 Convention.

3.12. A serious obstacle to realising the right to seek asylum in the Russian Federation is due to the inaccessibility of information to foreign citizens regarding the ways in which asylum can be requested.

3.13. Queues, unreasonable refusals form obstacles in gaining access to the asylum procedure outside of the territorial authorities of the Russian FMS. There are cases of detention and deportation of refugees at the time of applying for asylum which are a gross violation of the principle of non-refoulement.

3.14. At the border checkpoints the right of access to the asylum process is broken because of non-performance by the staff of the FSB border control of Russia of Paragraph 3 Part 1 Article 4 and Part 4 Article 4 of the Law On Refugees regarding requirements on the receipt and transfer of asylum applications to the bodies of the Russian FMS. This also leads to violation of the non-refoulement principle.

3.15. At places of detention the right for access to the asylum procedure is violated because of refusals by the administration to transfer statements of the intention to apply for asylum to the relevant departments of the territorial bodies of the Russian FMS. There is also an

⁶ Ibid., p. 35

⁷ Ibid., p. 35

⁸ Ibid., p. 36

⁹ Ibid., p. 36

¹⁰ Ibid., p. 37

¹¹ Ibid., p. 37

¹² Ibid., p. 38

¹³ Ibid., p. 43

¹⁴ Ibid., p. 41

untimely response to these statements by the management of the departments and a lack of interaction between the Russian FMS and bailiff service for the purpose of the termination of the execution of deportation decisions concerning the persons who filed asylum applications.

3.16. Satisfying the appeals of certain persons relating to their refusals to be admitted to the asylum procedure, the Russian Migration Office doesn't take effective measures to end such violations of rights; this leads us to conclude that the initial restriction of access to the procedure is authorized by the Russian Migration Office.

Recommendations for the Main Migration Office of Russia:

3.17. To organise an information display on asylum procedures and phone numbers of departments of the territorial bodies of the Main Migration Office of Russia that are responsible for work with refugees in English, French and Arabic languages (in other languages as well if necessary) in places of the usual arrival to the Russian Federation of persons who are seeking asylum (airports, stations, border check points).

3.18. To undertake effective measures to terminate systematic violations of the right to access to asylum procedure at the territorial authorities of the Main Migration Office which are repeatedly reported:

- to achieve mandatory observance of points 11, 43, 44 of Administrative Regulations on the receipt of asylum applications on the day of the application or other day coordinated with an applicant and on avoiding queue formation;
- to exclude the facts of careless consultations and unreasonable refusals in reception to persons seeking asylum: to oblige staff of territorial bodies to conduct all communication with visitors at a workplace only, to present themselves to the visitors, to engage an interpreter if necessary, to maintain an electronic database of consultations and to record a summary of the recommendations given to the visitor, to print this and provide the visitor with a signed copy of this;
- to categorically exclude facts of detention of persons seeking asylum at the stage of asylum application to the territorial authorities of the Main Migration Office: to send out to territorial authorities a special explanation of this issue and to bring employees and heads of the territorial authorities who allowed such violations to disciplinary responsibility;
- to take real measures to eliminate corruption within the territorial bodies of the Main Migration Office: to conduct audio and video recordings of consultation with visitors, as a response to all appeals against extortion, to carry out serious functional audit checks by conducting confidential surveys of persons who became objects of extortion and granting them guarantees of protection against prosecution from extortionists.

3.19. To take measures to realise the right for access to the asylum procedure from places of imprisonment:

- to oblige heads of SUVSIGs to accept statements on the intention to apply for asylum from foreign citizens contained in SUVSIGs and to immediately transfer these to the heads of the territorial authorities of the Main Migration Office, immediately send experts to a pre-trial detention centres and SUVSIGs for the reception of asylum applications,
- to establish relations between the territorial bodies of the Main Migration Office and bailiffs service in order to end forceful deportations concerning persons who have applied for asylum.

3.20. To take measures to realise the right for access to asylum at the border:

- establish cooperation with the staff of border control of the Russian FSB concerning reception of asylum applications (in any form) from refugees who are held in a transit zone,
- after receiving a statement of intention for asylum application from a border check point, to immediately send an expert of the Main Migration Office to a transit zone to accept an

asylum application,

- at the non-performance by border control staff of their duty to accept and transfer an asylum application to the authorities of the Main Migration Office, to send an expert to a transit zone on the basis of information about asylum seekers coming from other sources (UNHCR, NGO, relatives and acquaintances).

Fines during asylum seeking procedure

- 4.1. In recent years the CAC has regularly encountered incidents where people applying for asylum to the migration services in the city of Moscow and Moscow region, were detained by the police right before their case was examined. Employees of the migration police call their colleagues from the security police to bring charges against the applicants under Article 18.8 of the Code of Administrative Offences of the RF (“violation by a foreign citizen or a stateless person of the rules on entering or residing”). In other words, the police take a person seeking asylum in Russia, who often speaks no or little Russian, directly from the offices of the migration services to the police station, where administrative charges are brought against the applicant. Asylum seeker is then sent to court, where a judgement is pronounced based on a standard template imposing a fine and sometimes, if the case is heard in the city of Moscow, an expulsion order. Subsequently, if the asylum seeker is not deported, he or she is brave enough to return to the offices of the migration services, and the employees of the migration service do not impede the application, then after presenting proof of payment of the fine the asylum seeker is given an appointment where his application will be considered.
- 4.2. The pervasiveness of this practice is confirmed by an analysis of court decisions, which are available on the official websites of the Lyuberets City Court in Moscow Region, and the Izmailovo District Court in Moscow. The fine typically totaled 5,000 rubles.
- 4.3. Bringing administrative charges and fines against asylum seekers for the violation of migration rules contravenes Article 31 of the UN Convention Relating to the Status of Refugees. It is also a violation of legal procedures, has a harmful psychological impact, and, if the refugees do not have the resources to pay the fine, may deprive them of the right to asylum and worsen their already difficult material circumstances.
- 4.4. **The position of the CAC¹⁵ is that fines or other penalties for expired visas should not be imposed on people applying for refugee status or temporary asylum. The offices of the migration services are not the place to investigate violations of the laws on entry and presence in the country by those applying for asylum.**

Failure to improve the legislature; unsuccessful amendments

5.1. Prepared amendments to the Code of Criminal Procedure of the Russian Federation:

- 5.2. On 29 December 2016, draft amendments to the part of the Code of Criminal Procedure (“the CCP”) concerning extradition procedure were submitted by the government for consideration to the State Duma. The amendments provided, *inter alia*, that a person subject to an extradition request is entitled to the same procedural rights in relation to all proceedings concerning the measure of restraint as other suspects and accused. Moreover, the draft amendments contained provisions prohibiting extradition in the event of a risk that the person to be extradited will be subjected to various forms of ill-treatment in the requesting state.

¹⁵ The related report in English: <https://refugee.ru/en/news/the-price-of-refuge-fines-brought-against-asylum-seekers/>. The report in Russian: <https://refugee.ru/publications/obrok-na-spasenie-o-shtrafah-pri-dopuske-k-protsedure-obrashheniya-za-ubezhishhem/>

- 5.3. Two years ago, at the 1280th meeting (07-10 March 2017) (DH), the Committee of Ministers noted with interest these draft amendments. The Deputies indicated that information would be useful on the progress in the adoption of these amendments.
- 5.4. However, according to the CMCE, uncertainties remained as regards the procedure to be followed by the prosecutor: “under which conditions, within which time limit and by a prosecutor of which hierarchical level and territorial affiliation the issue of detention is to be examined”. Clarification was necessary as to how the amendments proposed, or other measures envisaged or taken, address this shortcoming. Additionally, the Deputies underlined the fact that the draft amendments did not address the issues of unreported and arbitrary arrest, and detention beyond the time-limits allowed by the domestic law. Information was required concerning the measures planned or taken to address these violations.
- 5.5. As regards the issues under Article 5 § 4, the CMCE noted that these draft amendments did not provide for the right of the person detained pending extradition to initiate a judicial review of his or her detention on the basis of new circumstances. The other option accepted by the Court, automatic periodic judicial review of the grounds for detention “at reasonable intervals” (guaranteeing decisions within approximately one month) was not included in the draft amendments either. This was a key source of concern, as the law in force appeared only to provide for automatic judicial review either after the first two months, if detention was ordered by a prosecutor, or once every six months if it was ordered by a court. Nor was there anything in the draft amendments to guarantee speedy judicial review of appeals against detention orders or the extension of detention, including examination of the appellants’ arguments. Information on the measures planned or taken to remedy these shortcomings was thus also required by the Deputies.
- 5.6. **No indicated gaps have received a comment from the Russian authorities in the *Action Plan of 2019*. This is not surprising, since for almost two and a half years this draft law cannot be adopted in any way. Considering the speeds that the State Duma develops when adopting a number of other drafts, this delay raises reasonable questions.**
- 5.7. The draft was examined by the State Duma in the first reading on June 16, 2017. According to the transcript of hearings, the speakers noted that this is “a very important human rights initiative”. It was also pointed out that by the second reading only three topics need to be settled, which seemed minor (questions of amnesty, juveniles and elderly people). In the first reading, the bill was passed unanimously. At the same time, the deadline for the submission of amendments was set to thirty days from the date of the adoption of the decision; that is, until July 16, 2017. **However, what happened over the next almost two years remains a mystery to us. The Russian authorities also remained silent in the *Action Plan of 2019*.** In this regard, for the time being, it seems meaningless to criticize the content of the proposed amendments for their inconsistency with the position of the Court and the CMCE.
- 5.8. We should note only the following. In its judgment *Yefimova v. Russia* (no. 39786/09, 19 February 2013, par. 301-308) the Court clarified that Article 125 of the CCrP failed to satisfy one of the key requirements concerning review under Article 5(4), as established in its case-law, namely that the reviewing court should have the competence to order the release of a detainee. Nevertheless, it is precisely this Article 125 that the Government relies on both in this draft law and in the Directive Decision no. 1 of the RF Supreme Court. **We fear that even if amendments to the CCrP are adopted, this project will be stillborn**, and the finding of typical violations of the Convention by the Court will continue.
- 5.9. ***Proposed amendments to the Code of the Administrative offences of the Russian Federation:***

- 5.10. Without going into the analysis of the text of the drafted amendments on the merits, we would like to note that the relevant draft law no. 306915-7 was considered by the State Duma in the first reading on December 21, 2017. This initiative was prepared in order to implement Resolution No. 14-P of the Constitutional Court of the Russian Federation dated May 23, 2017, in which the federal legislator was ordered to *immediately* amend the Code to ensure effective judicial control over the periods of detention in special institutions of stateless persons subject to expulsion.
- 5.11. According to the presentation, made by the draft developers in the Duma, the document passed all the necessary approvals, and if adopted, would not require funds from the federal budget for its implementation. According to the transcript of the Duma's hearings, 369 people voted to adopt the draft on first reading, 18 were against, and one person abstained. At the same time, the Duma decided to submit amendments to the draft law within thirty days from the date of adoption of the relevant resolution, that is, until January 19, 2018.
- 5.12. **However, there is no further open information about what happened with this draft in the next 14 months. As in the case with the amendments to the Code of Criminal Procedure of the Russian Federation, we consider this circumstance to be worthy of a corresponding critical assessment.**
- 5.13. *The draft law "On granting asylum":*
- 5.14. In the question of automatic suspension of the enforcement of judgments on extradition (expulsion), the Government heavily relied on the draft Federal Law "On Granting Asylum in the Russian Federation". In particular, the Government indicated that the deadline for preparing the draft law is the first half of 2020.
- 5.15. However, it would not be superfluous to note that the authorities are silent about the long history of work on this draft law, which, it seems, will never be completed. The draft was prepared in the spring of 2014. According to the open sources, from May 14 to May 29, 2014, the draft was the object of a public discussion on a special government website, from May 29, 2014 to June 4, 2014, it successfully passed an independent anti-corruption expertise. Thus, by the summer of 2014, the relevant text, in fact, was already complete to be submitted to the parliament.
- 5.16. However, the competent authorities constantly delay even this first step. It should be noted that for many years the coordinating body formed to ensure synchronized actions of the interested executive bodies for the implementation of the state migration policy has been the Government Commission on Migration Policy. For a long time I was a constant member of this Commission and had the opportunity to observe how the discussion of this bill was repetitively ignored at the meetings of this Commission (chaired by Mr. Igor Shuvalov). There were no reactions to my criticisms on this issue. On October 3, 2018, by directive No. 2123-r of the Prime minister of the RF, Dmitry Medvedev, a new composition of the Commission was adopted (chaired now by Mr. Anton Siluanov). Neither I, nor the Russian Ombudsperson, nor the Chairman of the Presidential Council on Human Rights, who were previously in the Commission, were included in the new composition.
- 5.17. **We stress with regret that the situation with the law "On Granting Asylum" remains unresolved. In view of the above, we invite the Committee of Human Rights to note with grave concern this 4-year unmoving situation with the adoption of this law, which is not even submitted to the State Duma, and to strongly request its quick adoption.**
- 5.18. *Adoption of other legal acts:*
- 5.19. In this connection, the authorities mainly referred to the Supreme Court's Plenum Resolution No. 11 of 2012, which, they submitted, considerably improved the practice of the law enforcement authorities and removed any uncertainty in the legal framework.

5.20. Indeed, the Resolution No. 11 of 14 June 2012 instructing judges to carefully evaluate the arguments of persons wanted for extradition “taking into account all the evidence available” including reports by UN structures on the situation in the requesting state, raised hopes that Russian courts might begin to properly assess the risk of torture or other ill-treatment in extradition hearings. However, according to information provided by lawyers, in practice the courts have not complied with these instructions.

5.21. Besides, the effectiveness of the provisions of the Plenum Resolution is significantly limited since it applies only to judicial bodies, but is not binding on the prosecutors, police, migration and penitentiary services mainly responsible for extradition, asylum and refugee proceedings. Apart from this, the Resolution relates only to extraditions proceedings and does not bind the court to examine risks of ill-treatment in administrative expulsion procedure or in judicial proceedings related to asylum / refugee status. Therefore, the application of the Resolution is drastically limited.

Annex:

1. Russia as a Country of Asylum, Report on the implementation of the 1951 Convention relating to the Status of Refugees by the Russian Federation, E. Yu. Burtina, E.Yu. Korosteleva, V.I. Simonov, Moscow, 2015

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