

EUROPEAN HUMAN RIGHTS ADVOCACY CENTRE

EHRAC Bulletin

SUMMER 2009
ISSUE 11



In partnership with Memorial Human Rights Centre (MHRC), the Georgian Young Lawyers' Association (GYLA) and Article 42 of the Constitution

EUROPEAN HUMAN RIGHTS ADVOCACY CENTRE
EHRAC
Bulletin

Yezidis turn to European Court to resolve citizenship issues

Samantha Knights, Barrister, Matrix Chambers, London

For a number of years EHRAC and Memorial have been concerned with the situation of about 2,000 Yezidis living in southern Russia.

The Yezidis are followers of a religion with ancient origins. They are Kurdish people by background and claim one of the oldest religions in the world. However their belief system has frequently been misrepresented and as a group they have suffered persecution over a long period, with violent attacks most recently in Iraq.¹

A large community was until 1988 living in Soviet Armenia. An earthquake in 1988 caused almost all the community to flee to the Krasnodar region of Soviet Russia. Since relocating to Russia the community has experienced widespread discrimination from the Russian authorities in the region. A large number of the community resident in Russia have no local *propiska* (registration) and are not recognised as Russian citizens. The problems which follow from the lack of local registration and citizenship are myriad: lack of access to employment, social benefits, health care, education, voting rights, and freedom of movement to name but a few.

portion of the Yezidi community are entitled to Russian citizenship. Under Art. 13, part 1 of the RF Law On Citizenship of the Russian Federation of 1991, all former Soviet citizens who *permanently resided* in the RSFSR on the date the law came into force (6 February 1992) and who did not give up their Russian citizenship within one year of that date, were deemed Russian citizens. However, Russian officials have systematically interpreted the term 'permanent residence' (the concept is not defined by law) in a restrictive manner, as possession of *propiska*. This approach is widely spread although it is completely arbitrary and is not based on the law. Neither the 1991 Citizenship Law, nor its by-laws, which determined the procedure for obtaining and registering Russian citizenship, equated 'permanent residence' to the availability of *propiska* or registration by place of residence. According to the civil and administrative legislation, the place of permanent residence is the place of actual residence, that is, where a person permanently or predominantly resides. In the case of the Yezidis the denial of Russian citizenship is the result of discriminatory treatment on ethnic grounds.²

The plight of this community has a precedent in the discrimination suffered by other ethnic groups in Russia and pri-

nia. The houses in which the applicants and their families were living were completely destroyed by the earthquake, and in 1989 they were forced to move to live in the Krasnodar Krai of the now Russian Federation, where both applicants live to date. For the past 19 years they have made repeated requests to the authorities to be issued with Russian passports, all of which were refused. More recently their complaints to the Russian courts were denied on technical grounds without the courts examining the merits of their application.

The applicants argue that their inability to obtain Russian citizenship has had a significant negative impact on their private and family lives in violation of Art. 8 ECHR. They cannot legally find employment, receive medical care or marry. Their freedom of movement within and outside Russia is impaired or prevented (Art. 2 of Protocol 4), they cannot vote in parliamentary elections (Art. 3 of Protocol 1), or sell their private property (Art. 1 of Protocol 1). They also claim that the Russian authorities have waged a campaign of discrimination against the community in violation of Art. 14 and the severity of the discrimination amounts to degrading treatment under Art. 3. They have also been unable to obtain a fair hearing of

Since March 2006 EHRAC and Memorial have undertaken a number of visits to the region and raised awareness of the situation through Memorial's Law and Migration Programme. In July 2007 Memorial jointly organised a roundtable on problems in applying federal migration legislation in the Krasnodar region to which local state officials were invited.

In the meantime, EHRAC and Memorial have been assisting a number of Yazidis who have lodged claims in the domestic courts without success. Recently, in October 2008 an introductory letter was lodged with the ECtHR in respect of two applicants.

Under Russian law a substantial pro-

marily the Meskhetian Turks (Meskhetians) who were forced to migrate from Uzbekistan in 1989-1990 to Krasnodar Krai. The group comprised over 10,000 people and the authorities would not even conceal the ethnic motivation of their refusals to grant citizenship. However, while the problem was partially resolved since some Meskhetians emigrated to the USA following agreement by the US authorities, and part of them managed to legalise their citizenship earlier in other RF regions, the situation for the Yazidis remains.

The introductory letter lodged with the ECtHR in 2008 concerns two Yazidis who formerly lived in Soviet Arme-

their case within Russia (Art. 6) or an effective remedy (Art. 13).

The ECtHR has recently granted partial admissibility in another case against Slovenia which also involves the failure to recognise citizenship in accordance with the law.³ However, curiously, a substantially similar claim lodged on behalf of a number of Meskhetians was rejected by the ECtHR in a letter without reasons in early 2008. This is particularly surprising given the force of the legal arguments concerned and that the situation for ethnic minorities in southern Russia and the Meskhetians in particular is well documented by a number of domestic organisations.



Ultimately it is hoped that it will be possible to resolve the situation for the Yazidis community without having to fight the case all the way through the ECtHR. This form of discrimination which is prevalent in Russia today is senseless, degrading, and demeaning to

the community and to Russian society as a whole. Should the case be ultimately heard by the ECtHR it will be particularly important for the ECtHR to consider the Art. 14 claims in the light of the overwhelming objective evidence of the situation for Yazidis in Russia today.

1 BBC. 15 December 2008. *Yazidis targeted in Iraq attack*. [Online]. Available at: http://news.bbc.co.uk/1/hi/world/middle_east/7783278.stm.

2 Russian NGOs Alternative Report. November 2007 (updated March 2008) *Compliance of the Russian Federation with the Convention on the Elimination of All Forms of Racial Discrimination*. [Online]. Available at: <http://www.memo.ru/ht/discrim/ver1/Report-ICERD-eng-site.html>.

3 *Makuc & Others v Slovenia* (No. 26828/06) dec. 31/5/07.