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Collective expulsion of Georgians from the Russian Federation - strict migration regulation policy or other hidden motives?

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Factual background

On 27 September 2006, the Georgian law-enforcement authorities detained four military officers, all citizens of the Russian Federation, and charged them with spying. The following day the Russian Federation's Consular Office in Georgia suspended the issuing of visas to Georgian citizens and the Russian Plenipotentiary Ambassador in Georgia was recalled to Moscow for consultations by the Russian Federation's Ministry of Foreign Affairs.

Shortly afterwards, the families of a number of Russian diplomats in Georgia were evacuated to the Russian Federation

by plane. The Russian detainees were transferred to the Organization for Security and Co-operation in Europe (OSCE), which ensured their safe transportation to the Russian Federation. The Russian Government then suspended air, land and naval communications with Georgia and mail/parcel delivery between the two countries.

The Russian Ministry of the Interior sent an official request to all secondary schools and universities in the Russian Federation requiring them to provide local police stations with a list of all the children of Georgian ethnicity studying at their schools. The Saint Petersburg and Leningrad regional GUV D (Main Department of Internal Affairs) sent round a demand to their units to "conduct

large-scale measures to detect and deport the maximum number of Georgian citizens illegally staying on the territory of Russia and to initiate decisions only to deport the above-mentioned category of citizens through the GUV D detention centres."

The Russian authorities inspected numerous private businesses in the Russian Federation that had ties to ethnic Georgians or Georgian nationals, resulting in mass closures of those establishments.

On 6 October 2006, the first wave of Georgians, 143 people, were deported from the Russian Federation by cargo plane. Between 27 September 2006 and 30 January 2007 the Russian Courts adopted 4,634 deportation decisions

with regard to Georgians and 2,380 Georgians were¹ deported through detention centres.

Four Georgian citizens died during the process of their deportation from Russia, allegedly due to inadequate medical care. Throughout this period high-ranking Russian Federation officials continually appeared in the mass media and made various statements aimed at Georgia and its nationals. For example, the Chair of the State Duma, Boris Grizlov, stated that "In case of continuing provocations Georgia may be subjected to other, much stricter sanctions than restrictions on bank transfers;... not all sanctions are introduced yet".

Senior officials from the Federal Migration Service (AVC) stated that the Russian² Federation did not need Georgians. The international community has expressed its concern over the expulsion of hundreds of³ Georgians from the Russian Federation.

Principal human rights issues arising

Notwithstanding the fact that the majority of the deported Georgians had valid documents certifying their legal residence in Russia, they were arrested on the street without a report being drawn up on their detention.

Without being given reasons for their arrest, they were taken to premises belonging to the Ministry of Internal Affairs, or directly to the courts. The courts delivered similar administrative penalties - ordering their expulsion from the territory of the Russian Federation without reasonable and objective examination of the particular circumstances of each case.

There was no separate examination of individual circumstances, no real

consideration of any arguments made by the applicants, and no particular identification of the reasons and purposes for expulsion or deportation. In the vast majority of cases the entire judicial process lasted between two and ten minutes. Some individuals were not even allowed into the trial rooms and the courts considered their cases in absentia, while they waited in the corridors or in cars.

In all cases the deportees were not provided with legal representation, and in the majority of cases they were not given copies of the decisions of the court; they were also effectively denied the right to appeal against the deportation decisions. They were placed in special detention centres for foreigners, in conditions that were arguably inhuman and degrading treatment. They were then deported, even before the expiration of the 10-day time limit for an appeal.

Principles established by the relevant European Court case-law

Can this be described as collective expulsion? The European Court has defined the term 'collective expulsion' as being "any measure compelling aliens, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case⁴ of each individual alien of the group".

In *Andric v Sweden* the Court emphasized that "the fact that a number of aliens receive similar decisions does not lead to the conclusion that there is a collective expulsion when each person concerned has been given an opportunity to put arguments against his expulsion to the competent authorities on an individual basis"⁵.

The authorities must therefore be

able to demonstrate that personal circumstances have been "genuinely and individually taken into account"⁶.

On 6 April 2007, the Georgian Young Lawyers' Association (GYLA) and EHRAC submitted an application to the European Court of Human Rights on behalf of 12 Georgians deported from Russia,⁷ which has been registered by the Court. An inter-state case has also been initiated by the Georgian Government against the Russian Federation.

1 See the report of the Parliamentary ad hoc Commission on Actions Against the Citizens of Georgia from the Russian Federation issued on 22 February 2007, p 14.

2 For a detailed summary of available information on statements made by Russian officials during this period, see the report prepared by the Civic Assistance Committee and Memorial Human Rights Centre for the fourth round of consultations on human rights between Russia and the EU, Brussels, on the 7-8 November 2006, 14.11.2006 available at: http://refugee.memo.ru/For_ALL/RUPOR.NSF/450526ab8b3e4d91c325702e0065b29bfe88d1c9aa97d6f1c32572260059cecb?OpenDocument.

3 See the statement of 25.10.2006 made by Benita Ferrero-Waldner - European Commissioner for External Relations; statement of 03.10.2006 made by the Secretary General of the Council of Europe - Terry Davis; statement of the European Commission against Racism and Intolerance on recent events affecting persons of Georgian origin in the Russian Federation (adopted on 15 December 2006 at ECRI 41 plenary meeting); US State Department 2006 Country Reports on Human Rights Practices; Human Rights Watch (World Report 2006); Council Conclusions on Georgian-Russian Federation relations (Council of the European Union, 2756th External Relations Council meeting, Luxembourg, 16-17 October 2006); European Parliament resolution on the situation in South Ossetia (26 October 2006, Strasbourg).

4 See *Andric v Sweden*, No. 45917/99, dec. 23.2.99; *Conka v Belgium*, No. 51564/99, 05.02.02, para. 59.

5 *Andric v Sweden*, No. 45917/99, dec. 23.02.99.

6 *Conka v Belgium*, No. 51564/99, 05.02.02, para. 63.

7 *Irina Chokheli and others v Russia*, No. 163691/07.