

Asylum and Immigration Tribunal

RM (Young Chechen Male - Risk - IFA) Russia CG [2006] UKAIT
00050

THE IMMIGRATION ACTS

Heard at Field House
Promulgated
On 16 May 2006

Determination

On 12 June 2006

Before

Senior Immigration Judge Batiste
Senior Immigration Judge Waumsley
Mrs L R Schmitt

Between

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Alan Briddock instructed by Messrs Alsters
Kelley

For the Respondent: Ms S Leatherland, Presenting Officer

A young Chechen male will not as such be at real risk of persecution or a breach of Article 3 either on return to Russia, or on the rail link to Chechnya, or in Chechnya, and, as an alternative, has a viable internal relocation option in Ingushetia. However a Chechen, who is recorded as wanted by the Russian authorities in connection with or for supporting the rebels in Chechnya, will be at real risk on return at Moscow or St Petersburg Airports, and

anywhere else in the Russian Federation. He will not however be a refugee if his own conduct is enough for Article 1F to exclude him. This decision replaces MR (Chechen - Return) Russia CG [2002] UKIAT 07562 as current country guidance on these issues.

DETERMINATION AND REASONS

1. The Appellant, a citizen of the Russian Federation, seeks reconsideration of the determination of Mrs G McLachlan, Adjudicator, dismissing his appeal against the decision of the Respondent on 1 June 2004 to issue removal directions and refuse asylum. By virtue of the transitional provisions made on the abolition of the IAT, this appeal takes effect as a reconsideration by the Tribunal pursuant to an order under section 103A of the Nationality, Immigration and Asylum Act 2002, limited to the grounds on which permission to appeal was granted.

The Claim

2. The Appellant's material claim as presented to us can be summarised as follows. He is an ethnic Chechen who came from a small village near a town in Chechnya about 40 kilometres from Grozny. In 1980 when he was 2 months old he moved with his parents to Astrakhan in Russia, but they returned to their home village in Chechnya in 1992 when the Appellant was 12 years old. He was 14 years old in 1994 when the conflict in Chechnya began. He had by then received only intermittent schooling. His village was bombed in December 1994/early January 1995. There were grave problems for the civilian population because of the activities of the Russian forces. The Appellant suffered the loss of relatives during the conflict. His uncle died in a mine explosion and his aunt and her relatives died in a rocket attack whilst going to his funeral. It was very difficult for the Chechens to move around their local area. The Russians attacked Grozny in 1996. The Appellant became aware that members of his family and the local population provided assistance to the Chechen freedom fighters in the form of food and accommodation. As the violence died down the Appellant assisted his family at home looking after the cattle. School had not been reopened. The violence began again at the end of 1999. It was commonplace for Russian soldiers to undertake house-to-house searches. The soldiers were looking for freedom fighters and the Appellant, as a young male, would have been suspect. At the beginning of 2000, when his village was searched, the Appellant hid in a cellar until his mother told him the soldiers had gone. On another occasion, the Appellant hid in the local

forest, knowing that the soldiers would not venture there for fear of ambush.

3. In early 2001 his father died after an illness. In the summer of 2001 the Appellant was stopped at a checkpoint by Russian soldiers. He was with another man in a taxi going to the market to buy clothes for resale. The Appellant's shirt was removed as the soldiers looked on his body for scars and bruises which would be taken to be signs of carrying a machine gun. The Appellant was beaten several times by the soldiers and also kicked. The soldiers found no scars or bruising on him, though they did on the other man in the taxi who was then taken away. The Appellant was released. There was a further incident about a month later when the Appellant was on a bus when soldiers wanted him but women on the bus shouted abuse at the soldiers and they left the Appellant alone.
4. Two or three weeks later, the Appellant was removed from his house by soldiers early in the morning and was accused of being a freedom fighter. He was thrown into a hole used to detain prisoners, guarded by a soldier. Two or three people were already in the hole under guard. The other detainees were frequently taken from the hole and beaten seriously although the Appellant was not. All the detainees were deprived of food and drink. The Appellant's family paid a bribe of \$1000 to obtain the Appellant's release. Upon his release the Appellant went to stay with relatives in the same village, staying only for two days before moving to another relative. He moved between 10 or 15 different houses staying only two days at each. He did this for several months whilst his relatives looked for a way to assist him to leave Chechnya. He was considered to be particularly at risk from the Russian soldiers who suspected him of being a freedom fighter. The Appellant believes that he was suspected of this and targeted because the soldiers had discovered the support given by members of his family to sheltering freedom fighters. The Appellant's relatives collected \$2,200 for his journey into the neighbouring province of Ingushetia. From there he travelled through various countries reaching the United Kingdom on 3 September 2001 when he claimed asylum.

The Previous Proceedings

5. The Appellant's first asylum appeal in the UK was dismissed by an Adjudicator in 2002, after he did not appear in the courtroom for the hearing. The Appellant claimed that he was in the building at the time but was not aware he was expected to go to the courtroom. The Respondent exercised his discretion and gave the Appellant the opportunity to make a

second application. This was refused on 1 June 2004 and the dismissal of his subsequent appeal is the subject of this reconsideration hearing.

6. The Adjudicator, who heard the 2nd appeal on 1 October 2004, reached adverse credibility findings concerning the claim. She noted that the Appellant had changed the date given by him for his problems with Russian soldiers. The Adjudicator concluded that this correction was in response to an attack on his credibility by the Respondent in the refusal letter rather than a genuine mistake. The Adjudicator also noted other inconsistencies in the evidence. She noted that initially the Appellant had said that the bribe of \$1000 was paid by his parents but, when it became apparent that his father died before it was paid, he corrected this to say that it was paid by his mother and his maternal and paternal relatives. The Adjudicator did not believe this. The Adjudicator also noted an inconsistency concerning the Appellant's account of his family moving to Astrakhan.
7. The Appellant claimed before the Adjudicator that he had difficulty with the interpreters when he made his statement on the 8 August 2003 and at his interviews in September 2001 and on 19 May 2004. The problem was that the interpreters spoke Russian and although the Appellant said at the time that he was happy to be interviewed in Russian and that he understood the interpreter, he claimed later to have had difficulties as Russian was not his first language. The Adjudicator did not believe him and concluded that these complaints were concocted to deal with apparent discrepancies in what he had said. The Adjudicator also concluded that it was implausible that the Appellant would not have been found by the Russian soldiers searching the Appellant's house because according to Dr Galeotti, the Appellant's expert, it was normal for houses in the area to have storage cellars and it was implausible that the soldiers would not have searched there.
8. In view of the contradictions and discrepancies between the Appellant's various accounts, the Adjudicator did not accept that the Appellant had been subjected to oppression, detention and ill-treatment as claimed, or that his father had died in January 2001. Moreover she held that the Appellant did not provide a plausible explanation as to why he did not remain, in common with many thousands of other Chechens in Ingushetia. She held that the Appellant was an economic migrant. In reaching these conclusions she acknowledged the expertise of Dr Galeotti who had provided a report on the situation in Chechnya and Russia generally. However she concluded that she should not place "too much weight" on this report because

Dr Galeotti had not met the Appellant, had not attended the hearing to give oral evidence and face cross-examination, and because no copy of his instructions had been supplied to her. On the facts as established and in the light of her view of the objective evidence she concluded that the Appellant would not be at any real risk on return to Chechnya. She noted that the Russian government had offered an amnesty to encourage the return of displaced Chechens. She followed the country guidance in MR (Chechen - Return) Russia CG [2002] UKIAT 07562.

9. On 6 March 2005, a Vice-President of the IAT granted permission to appeal on the following basis:

“Other than the Adjudicator’s reference to his report at paragraph 20, it is not clear what weight (if any) the Adjudicator attached to the report of Dr Galeotti. If she dismissed what he says, she should say so and explain why. The fact that he has not met the claimant is irrelevant, as is the fact that he did not appear to give oral evidence (it may not have been an approved expense) and the fact that the Adjudicator did not have sight of his instructions.

10. A different panel of the AIT (Senior Immigration Judge Freeman, Immigration Judge Grimmett and Mr T A Jones MBE) concluded following at the 1st stage reconsideration hearing on 31 January 2006 that:

“The Adjudicator at paragraph 20 made comments about the evidence of the “country expert” which would not have justified completely discounting it: indeed she herself apparently accepted the submissions of the Presenting Officer that she should “not place too much weight on it”. Having said that she needed to look at what the “country expert” said about the individual case, decide how far it was relevant to the Appellant’s credibility, and take such account of it as she saw fit on that basis. It follows that there will need to be a full reconsideration of this appeal.”

11. At a “for mention” hearing on 27 March 2006, the Appellant sought and obtained permission to call expert oral evidence at the 2nd stage reconsideration hearing. In the event no expert witness was called and no new expert evidence beyond Dr Galeotti’s report of 12 July 2004 was produced. Mr Briddock explained that Dr Galeotti was in the US and unavailable and it was not a viable use of public funds to instruct another expert. We accept that, although unfortunately it means that Dr Galeotti has not had the chance to comment on the more recent objective evidence from the last two years

The Hearing

12. We heard oral evidence from the Appellant, and oral submissions from both Representatives, all of which are set out

in our record of proceedings. We have also taken into account the following documentary evidence, which was presented to us by the parties. The objective evidence comprised within it is itemised in the attached schedule.

1. The Court bundle.
2. The Appellant's bundle
3. a. The Appellant's supplemental statement
b. The Appellant's further statement
4. The Respondent's bundle.
5. The country guidance in MR (Chechen - Return) Russia CG [2002] UKIAT 07562 and other case law referred to in paragraph 16.
6. The Appellant's Representative's skeleton argument
7. US State Department report for 2005
8. Norwegian Refugee Council report of May 2005
9. Pravda article of 1 June 2004.
10. Appellant's statement in the 2002 appeal
11. Appellant's grounds of appeal in 2002

13. The issues canvassed before us were as follows:

1. If the Appellant's claim were credible would he be at an real risk due to being wanted by the Russian authorities?
2. If he were not credible would he be at real risk as a young Chechen male?
3. Would he be at risk on return to Moscow or St Petersburg airports?
4. Would he be at real risk travelling from the airport to Chechnya.
5. Would he be at real risk in his home area in Chechnya
6. Would he have a viable internal relocation option in Russia, outside Chechnya, that would not be unduly harsh?

14. In asylum and associated human rights appeals the burden of proof lies with the Appellant and the standard of proof is that of "real risk" (also described as "a reasonable degree of likelihood"). No Article 8 issues were canvassed before us. Nor has any issue relating to military service by the Appellant been raised before us.

The Objective Context

15. The IAT provided country guidance about the risk in Chechnya and internal relocation in respect of people with varying characteristics. The Adjudicator specifically followed the case of MR (Chechen - Return) which related to an ethnic Chechen male. It concluded that:

18. The appellant will face a difficult time on return to Chechnya but the evidence suggests that there is some limited support in the region and relative stability there despite the obvious difficulties with the security situation. It would not in our view arguably breach the appellant's human rights for him to be required to return. It would not expose him to inhuman or degrading treatment, having regard to the high threshold required to establish a claim under Article 3. Any interference with his private or family life would be proportionate and in pursuit of a legitimate aim (immigration control). Despite giving careful and sympathetic attention to the points made by the appellant, we are unable to assist him.

16. Other country guidance from 2002/3 subsists in OA (IFA – Unduly Harsh – Chechens – Relocation) Russia CG [2002] UKIAT 03796. This was a case involving an ethnic Russian male, a pilot, from Chechnya who had refused to fly planes for the Chechen rebels; AV Russia CG [2002] UKIAT 05260, which relates to an ethnic Russian female with a Chechen boyfriend; and EM, LM (IFA – Chechen) Russia CG [2003] UKIAT 00210, which concerns two ethnic Russian sisters from Chechnya. In each of these cases the risk profile of the individuals involved is materially different from the Appellant in this appeal and neither Mr Briddock nor Ms Leatherland has relied upon them.
17. Mr Briddock invited us to conclude in the light of the current objective evidence that not only those wanted by the Russian authorities but all young male Chechens would be at real risk of persecution and/or a breach of Article 3 on return at Moscow and St Petersburg Airports, on their way to Chechnya, and in Chechnya. Moreover there is no viable internal relocation option for them that would not be unduly harsh. He referred us specifically to the material identified in his skeleton argument, and to Dr Galeotti's report of July 2004 and a report of May 2005 by the Norwegian Refugee Council.
18. Ms Leatherland confirmed that returns effected by the Respondent would be to Moscow or St Petersburg Airports. She produced a report from Pravda of 1 June 2004 of the resumption of a passenger train service from Moscow to Grozny, stopping at, amongst other places, a town near to the Appellant's home village. She produced an objective bundle and relied in particular on the CIPU Operational Guidance Note of 9 May 2006 on the Russian Federation, which gives a useful summary of the current situation in Chechnya (much of which is sourced from the 2005 US State Department report) and of the Respondent's policy in respect of granting asylum or humanitarian protection. It is in the following terms:

3.6.2 The conflict in Chechnya is currently the most serious on the territory of the former Soviet Union. The Russian government intervened in the Republic in 1999 after a short chaotic period of

virtual Chechen self-rule after Russian troops withdrew in 1996. Much of the destruction of Grozny and other Chechen cities and towns was caused by indiscriminate use of heavy artillery and aerial bombing by the Russian military. However such attacks are now intermittent and the Russian response is becoming more targeted.

3.6.3 Despite Moscow's claims of "normalisation", fighting has continued with frequent attacks by militants on federal and local forces, especially in the highland south. Reports of human rights abuses remain high. There have been widespread and credible allegations of extra judicial killings, disappearances, torture, rape and unlawful detention by all sides.

3.6.4 Since the start of the Chechen conflict there have been widespread reports that both sides have killed or tortured prisoners. The Russian Armed Forces and police units are also reported to have routinely abused and tortured persons in holding facilities where federal authorities sorted out fighters or those suspected of aiding rebels from civilians. Federal forces and police units also reportedly ransomed Chechen detainees (and, at times, their corpses) to their families for prices ranging from several hundred to thousands of dollars.

3.6.5 Although, the statistics from both the authorities and NGO Memorial appear to point to a decline in abductions and disappearances in 2005 they continue to occur. Some of these disappearances can be attributed to federal forces or pro-Moscow Chechen forces.

3.6.6 During 2005 there was a continued shift in Russian tactics away from operations involving Russian military formations and towards police operations and from the use of federal forces toward reliance on paramilitary and police units of the Chechen Republic. There were fewer mopping up operations, known as "zachistky" in 2005 than in previous years, although more targeted operations, such as night raids continued. According to the NGO Memorial in some cases zachistky were accompanied by abductions, looting and beatings, most zachistky were conducted with no serious human rights abuses. According to Amnesty International many of the human rights abuses in Chechnya occurred during targeted raids by federal and pro Russian Chechen forces.

3.6.7 Chechen security forces were nominally under the control of Chechen civilian authorities but also often conducted operations jointly with Russian federal forces.

3.6.8 Amnesty International reported that in most cases the Russian and Chechen authorities failed to conduct prompt, independent and thorough investigations into allegations of human rights violations against the civilian population.

3.6.9 However some action has been taken by the Russian authorities. According to statistics compiled by the general prosecutor's office, since 1999, 103 verdicts have been rendered in cases involving federal servicemen charged with crimes against civilians. Of these, 27 were given prison sentences of from 1 to 18 years in prison, 8 were acquitted and 20 were amnestied. Sentences in the remainder were suspended or the guilty were fined. Government statistics also showed that 34 law enforcement officers were charged with crimes against civilians, with 7 sentenced to prison and arrested, convicted and given suspended sentences.....

3.6.11 Sufficiency of protection. As this category of claimants' fear is of ill-treatment/persecution by the state authorities they cannot apply to those authorities for protection.

3.6.12 Internal relocation. All adults in the Russian Federation are issued with internal passports, which they must carry while travelling, and they are expected to register with the local authorities within 90 days of their arrival in a place. Corruption in the registration process in local police precincts was a problem and although the fees for permanent and temporary registration remained low, police demanded bribes when processing registration applications and during the spot checks for registration documentation.

3.6.13 The current advice from the FCO is that any returnee who is the holder of a valid Russian passport (indicating former residents of Russian territory) should be able to resettle in any of a number of regions in the Russian Federation, even after a prolonged absence.

3.6.14 In general, as this category of claimants' fear is of ill-treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible and Chechens who fear the Russian authorities will not be able to relocate internally. However internal relocation is an option for those Chechens who do not fear or are not wanted by the federal authorities. The IAT found in a number of cases that although Chechens face societal discrimination and had difficulties finding accommodation and employment these difficulties in a round do not make it unduly harsh for a person to relocate internally.

3.6.16 Conclusion. The Russian authorities have committed serious human rights abuses including torture, rape, kidnappings and extra judicial executions in Chechnya. The Chechen rebels have also been involved in serious human rights violations including major acts of terrorism outside Chechnya and summary executions of civilians. Those who are involved or are suspected of being involved with Chechen rebels, face a serious risk of persecution from the federal authorities. Where any individual is able to demonstrate that they are at serious risk of facing such persecution on account of their activities a grant of asylum will be appropriate.

3.6.17. However, Chechens from Chechnya who simply fear the general situation can internally relocate to another area of the Russian Federation and will not therefore qualify for a grant of asylum all humanitarian protection.

The Risk Arising on Return

19. In assessing the evidence as a whole and the submissions we begin with the position for Chechen returnees at Moscow and St Petersburg Airports and note Ms Leatherland's acceptance that a person with a Chechen name and Chechen appearance will be identifiable as such on return. We note further the Respondent will not return a person without proper papers, which in practice mean either his own passport or emergency travel documents.
20. Dr Galeotti is the founder and director of the Organised Russian & Eurasian Crime Research Unit. He writes for Jane's Intelligence Review and has lectured extensively on his subject to a variety of national and international intelligence organisations. His report is well sourced and his views must be taken seriously and considered carefully. He reported that there is a computerised document control system which

combines data from a variety of organisations including the Ministry of Internal Affairs (MVD) and the Federal Security Service (FSB). Consequently a person who is wanted by the authorities will be flagged on entry and detained. Though we have not been shown any other specific objective evidence to confirm this assertion, it is consistent with the view expressed in the CIPU OGN that a person who “is involved or is suspected of being involved with Chechen rebels faces a serious risk of persecution from the federal authorities”.

21. We are conscious that information about the gathering and dissemination of intelligence material in many countries is often hard to come by. We accept Dr Galeotti’s opinion, as an expert on criminal and related issues in Russia, that wanted and suspected Chechen rebels can be identified either by this computerised system or indeed by enquiries of their home area if doubts arise. Consequently we accept, as does the Respondent in his OGN, that those Chechens who are recorded as wanted by the Russian authorities in connection with or for supporting the rebels in Chechnya will be entitled to asylum, subject to the operation of any relevant exclusion clause under the 1951 Convention, on the basis of their race and real/imputed political opinion, and will face a real risk of a material breach of their Article 3 rights. Indeed we find there is ample objective evidence of serious ill-treatment by the authorities of such people in detention.
22. However much of Dr Galeotti’s opinion was predicated on assessing the risk to the Appellant on the basis that he was credible in his account and fell within the category of a wanted person. As we shall describe later, we have considerably more information about the changes in the Appellant’s evidence between his various accounts than was made available to Dr Galeotti, and we do not share his view on the Appellant’s credibility. We must therefore go on, as urged by Mr Briddock, to consider whether in the context of the objective evidence as a whole, a young Chechen male who is not wanted by the Russian authorities, and is not suspected by them of rebel connections, and has never come to their specific adverse attention, would also be at risk on return as such or as a consequence of being a failed asylum seeker.
23. We note the guidance of the Court of Appeal in AA and LK [2006] EWCA Civ that a person who can return voluntarily in safety to his country of nationality is not a refugee even if on forced return he would be at risk.
24. Dr Galeotti makes the point that a person who has left Russia illegally will almost inevitably be detained on arrival as he is in

breach of the 1998 Law on Entry and Exit, as amended in 2003. At the very least he will be detained by the border troops who will then handle a preliminary investigation. However he does not suggest that any penalty for what is a prosecutable offence would be disproportionate but suggests rather that even if such a person is never charged he may still have to endure lengthy detention in cruel, inhuman or degrading conditions. However there is current country guidance in ZB (Russian prison conditions) Russian Federation CG [2004] UKIAT 00239 to the effect that conditions in Russian prisons are not so severe as to be in breach of Article 3, and in our judgment there is nothing in Dr Galeotii's report or the objective evidence before us that lead us to reach a different view from the Tribunal in ZB, who assessed this issue with great care. Indeed Mr Briddock did not seek to argue before us to the contrary. In this regard our decision confirms ZB.

25. The next question on return specifically is whether a young Chechen male would as such be at real risk at the airport. As both representatives admitted to us there is very little objective evidence on this subject. Ms Leatherland suggested that this was because they were not at risk and if they were there would be such evidence. Mr Briddock argued that it was difficult to prove a negative; that there were not many returns; and that no NGO actually monitored such returns.
26. The main evidence on this subject is comprised in some faxes from the FCO post in Russia and from a report of the Norwegian Refugee Council, which Mr Briddock told us is similar to the Immigration Advisory Service in the UK. The relevant passages are on page 54 of the report and are as follows:

"Establishing facts about Chechens that have been returned to the Russian Federation from other countries is difficult as no independent body or organisation monitors this group. According to the Danish Support Committee for Chechnya, both the men returned from Denmark in 2005 were temporarily detained upon arrival in Moscow. The release of one of the men is attributed to the fact that he had relatives in Moscow who protested against the detention. This person is currently living "underground" in Moscow. The committee has not had any contact with the other person after his return. The person referred to above who was returned to Russia by Swiss authorities, claims that he was ill treated by Russian law enforcement officials upon arrival. The man told the Swiss Refugee Council that he was apprehended and questioned by the police at the airport in Moscow and then brought to a police station where he was ill treated before he was released after 24 hours. Allegedly he had to give the police officers money in order to be released and was told by the police officers that he had been lucky and that he should not stay in Moscow. A Chechen asylum seeker who arrived in Norway after having been detained in Ukraine claims that he was told by Ukrainian law enforcement officials that

none of the Chechens that were deported and handed over to Russian law enforcement officials reached Russia in one piece. According to a report in 2002 by the Norwegian Helsinki Committee, the problems returnees have faced have been similar to the difficulties experienced by the Chechen population in general, except that young male returnees will be interrogated by the police about possible guerilla affiliations and that any temporary registration of residence of the returnees will be cancelled. This assessment is from late 2002 before a series of new grave terrorist attacks in Moscow and Beslan. In February 2004, Human Rights Watch expressed concern that the Chechens cannot, or are not able to safely access, the necessary documentation to ensure a safe return. In March 2004, Amnesty International wrote that most Chechen asylum seekers rejected in European countries are returned to Moscow and that information available suggested that many of them are immediately subject to thorough questioning at Moscow Airport. Some of the returned Chechens are allegedly also deprived of money or other belongings by Russian security officers. In a statement from May 2004, Svetlana Gannushkina emphasised that even though she could not document that Chechens were persecuted exactly for having been to a foreign state, asking for asylum and deported to Russia, this did not mean that there were no such cases....."

27. The evidence from the FCO is contained in correspondence between the Home Office and the post. A Home Office letter of 27 January 2006 raised a number of questions on a variety of topics. The material replies on risk on return were as follows. On 2 February 2006, there is a fax that:

"[] is correct that there is no indication of ethnicity in Russian internal or foreign passports. However, I also agree that Chechen names are reasonably distinctive and most of the airline staff I work with can identify a Russian passenger's ethnicity with very little difficulty. The other obvious giveaway is the place at birth. I have seen no evidence that Chechens are subjected to any additional security checks when entering or departing from Russia. Certainly at Domodedovo and Sheremetevo they are treated in exactly the same way as other passengers."

However this appears to have been qualified by a subsequent fax which states that:

"On question 8, I've checked with one of our Russian staff members, who says that nationality (ie ethnicity) does not appear in either Russian foreign or Russian internal passports. It does appear in old Soviet passports. But Chechen faces and names are quite distinctive, so it is entirely possible that they could be singled out for checks."

28. Dr Galeotti identified the case of:

"A Chechen deported from Germany to Russia, only to have his money, jacket and suitcase taken by immigration officials on arrival as a bribe because he did not have a proper passport. A few days later he was forced to go into hiding after police came looking for him."

29. That is essentially the limit of the objective evidence on the risk at the point of return to which we have been referred. Taking it as a whole, we conclude that a young male Chechen, who is not wanted by or of material adverse interest to the Russian authorities, may be detained for questioning on arrival at Moscow or St Petersburg Airport. He may face some harassment and demands for bribes (which appear to be endemic in Russia). He may be detained for questioning. But we do not consider that the evidence supports the view, advanced by Mr Briddock and Dr Galeotti, that he will be detained for any great length of time or will face a real risk of ill-treatment of sufficient severity to amount either to persecution or a breach of Article 3.

Risk on the Journey to Chechnya

30. The next question is whether such a person will be at any real risk on the journey from Moscow or St Petersburg to Chechnya. We have not been referred to any specific objective evidence on road and air links. However the article in Pravda of 1 June 2004 reports the re-establishment of a direct rail link from Moscow to Grozny. Mr Briddock invited us to conclude in the absence of any other more recent evidence that this material from 2004 did not mean there was now a current rail link. However we can only assess the evidence before us. There is no evidence to show that the rail link has closed or does not function.
31. On that basis we conclude that there is a viable rail link as a basis for return from Moscow to Chechnya. The need for registration with local authorities internally (where problems of discrimination can arise for Chechens in some parts of Russia, especially in Moscow and St Petersburg) arises only when a person has been living in an area for a specific period of time. It would not arise en route during a rail journey. There may well be security checks of papers en route to Chechnya, especially given the instances of serious acts of terrorism such as at the Beslan school. However we conclude on the evidence as a whole that such checks would not be reasonably likely to entail any more adverse consequences for a young Chechen male with the appropriate papers who is not wanted by the authorities, than the checks already carried out at Moscow or St Petersburg airport on arrival.

The Risk in Chechnya

32. We come then to the question of whether a young male Chechen would as such be at real risk of persecution or a

breach of Article 3 in his home area in Chechnya. As we have indicated, the country guidance in MR was to the effect that on the objective evidence available in 2002 he would not. The CIPU OGN of May 2006 that we have quoted above suggests that the risk has lessened since then due to the continuing switch in tactics away from the use of Russian to Chechen forces, and from relatively indiscriminate mopping up to targeted operations.

33. Dr Galeotti has not been given the opportunity to comment on the objective material that post-dates his opinion in July 2004 and his specific observations about the Appellant are essentially predicated, as we have said, upon his account being credible and that he is “wanted” by the Russian authorities. As we have said, we accept that a young Chechen male who is wanted by the authorities in connection with the rebels will be at real risk in Chechnya and we will deal later with whether the Appellant comes within that category. We at this point are assessing to risk to one who is not wanted.
34. Mr Briddock in his skeleton argument has referred us to a number of specific items in the objective material. There is a report from Amnesty International of 30 September 2005 which asserts that the Russian Government is using the war on terror as a pretext for human rights violations in Chechnya. It refers to continuing disappearances, the extraction of confessions under torture, and the obstruction of investigations into human rights abuses. Another report of 18 April 2006 highlights the disappearance of 2 men after being arbitrarily detained. Mr Briddock also relies on a CIPU OGN of October 2005 to show that the Russian Government’s record on human rights remains poor, with continuing killings by both the Government and the rebels. A report of 31 March 2005 from Freedom House highlights the human rights abuses in the “mopping up” operations by the Russian army. A report of 21 February 2006 from the Society for Threatened People was in similar vein.
35. UNHCR on 24 February 2006, following a visit to the region, made a statement which included the following observations:

“In Chechnya and elsewhere I emphasised to my interlocutors that the Chechen people have many friends throughout the world who support their desire to live in a peaceful society governed by the rule of law. I came in part to convey the distress felt by many who had witnessed the devastation inflicted on the Republic and who continue to witness the ongoing violence wrought on its citizens..... I noted that welcome physical reconstruction appeared to be under way in Grozny and that political structures were being put in place to normalise the situation..... I nonetheless also stressed that I had very serious concerns about the integrity of certain institutions, especially in the area of law enforcement. Two phenomena are

particularly disturbing: the use of torture to extract confessions and information, and the intimidation of those who make complaints against public officials. There can be little doubt that these phenomena are more than allegations but have considerable basis in fact..... I left Chechnya with the distinct impression that, despite ongoing political and physical reconstruction, the Republic has still not been able to move from a society ruled by force to one governed by the rule of law..... There is no question of that the Federal Authorities are seized with this issue and are aware of the imperative need to assist Chechnya in addressing its very serious shortcomings in this regard."

36. On 6 April 2006 Radio Free Europe reported that:

A Russian soldier who confessed to killing three Chechen civilians was sentenced today to 18 years in prison. A military court in Rostov-on-Don in southern Russia found Aleksei Krivosheonok guilty of murdering the three civilians at a road block outside the village of Staraya Sunzha near Grozny in November 2005. Reports say the sentence was the heaviest yet to be handed down to a Russian serviceman found guilty of involvement in what human rights activists say are widespread abuses by the military in Chechnya.

37. What then do we make of this in the context of the risk to young Chechen males as such in Chechnya, and, if there is such risk, the prospect of internal relocation elsewhere in Russia?

38. There has been judicial discussion in the Court of Appeal about what "real risk" comprises, and a probing of the different descriptions of it in different judgments of the Court of Appeal ranging from *Hariri v The Secretary of State for the Home Department [2003] EWCA Civ 807* to *Batayev v The Secretary of State for the Home Department [2003] EWCA Civ 1489*. We have noted the advice of Sedley LJ in the latter case that:

"The authority of this court has been lent, through the decision in *Hariri*... to formulations that treatment which is "frequent" or even "routine" does not present a real risk to the individual unless it is "general" or "systematic" or "consistently happening"..... Great care needs to be taken with such epithets. They are intended to elucidate the jurisprudential concept of real risk, not to replace it..... There is a danger if *Hariri* is taken too literally, of assimilating risk to probability. A real risk is in language and in law something distinctly less than a probability, and it cannot be elevated by lexicographic stages into something more than it is."

39. We have followed the approach described by the Court of Appeal in our assessment of real risk. As we have indicated, we accept the view expressed by Dr Galeotti and in the CIPU OGN that if a young Chechen male is wanted in connection with suspected rebel involvement he will be at real risk in Chechnya and elsewhere in Russia of at least ill-treatment in breach of Article 3, and will also have a well-founded fear of persecution for the 1951 Convention reason of race and real/imputed

political opinion. We consider however that where a young Chechen male is not wanted by the authorities in connection with such involvement, and hence there is no specific targeting of him, the risk of being caught up in action by the military or in abusive exercises of power by individuals, does not amount to real risk. That was essentially the view reached in MR in 2002 and in our assessment the risk is progressively lessening with the reduced involvement of Russian troops; with the increased participation in security operations by the forces of the Chechen Government; and with the move away from general mopping up operations to targeted action. There are still serious human rights violations but these appear to be in the main of targeted individuals. The change appears to be reflected in the numbers of refugees displaced from Chechnya at the height of the conflict, who have now returned there. Thus we conclude on the evidence as a whole that a young ethnic Chechen male as such will not now be at real risk of persecution or of a breach of Article 3 by reason of ill-treatment on return to Chechnya. Nor, we would add, are the conditions in Chechnya in general so severe that they cross the high threshold required to engage Article 3.

Internal Relocation

40. Finally in assessing the objective context, we come to the question of internal relocation. The House of Lords has recently considered this issue in Januzi v Secretary of State for the Home Department [2006] UKHL 5 and has offered the following guidance:

13. In England and Wales, the Court of Appeal in *E and another v Secretary of State for the Home Department* [2003] EWCA Civ 1032, [2004] QB 531 declined to adopt what may, without disrespect, be called the Hathaway/New Zealand rule. It was argued for the appellants in that case (see para 16 of the judgment of the court given by Lord Phillips of Worth Matravers MR) that

"The 'unduly harsh' test is the means of determining whether an asylum seeker is '*unable to avail himself of the protection of* the country of his nationality. The *protection* in question is not simply protection against persecution. It is a level of protection that secures, for the person relocating, those benefits which member states have agreed to secure for refugees under articles 2 to 30 of the Refugee Convention."

In paragraphs 23-24 of its judgment the court said

"23. Relocation in a safe haven will not provide an alternative to seeking refuge outside the country of nationality if, albeit that there is no risk of persecution in the safe haven, other factors exist which

make it unreasonable to expect the person fearing persecution to take refuge there. Living conditions in the safe haven may be attendant with dangers or vicissitudes which pose a threat which is as great or greater than the risk of persecution in the place of habitual residence. One cannot reasonably expect a city dweller to go to live in a desert in order to escape the risk of persecution. Where the safe haven is not a viable or realistic alternative to the place where persecution is feared, one can properly say that a refugee who has fled to another country is 'outside the country of his nationality by reason of a well-founded fear of persecution'.

24. If this approach is adopted to the possibility of internal relocation, the nature of the test of whether an asylum seeker could reasonably have been expected to have moved to a safe haven is clear. It involves a comparison between the conditions prevailing in the place of habitual residence and those which prevail in the safe haven, having regard to the impact that they will have on a person with the characteristics of the asylum seeker. What the test will not involve is a comparison between the conditions prevailing in the safe haven and those prevailing in the country in which asylum is sought....."

20. I would accordingly reject the appellants' challenge to the authority of *E* and dismiss all four appeals so far as they rest on that ground. It is, however, important, given the immense significance of the decisions they have to make, that decision-makers should have some guidance on the approach to reasonableness and undue harshness in this context. Valuable guidance is found in the UNHCR *Guidelines on International Protection* of 23 July 2003. In paragraph 7 II(a) the reasonableness analysis is approached by asking "Can the claimant, in the context of the country concerned, lead a relatively normal life without facing undue hardship?" and the comment is made: "If not, it would not be reasonable to expect the person to move there". In development of this analysis the Guidelines address respect for human rights in paragraph 28:

"Respect for human rights

Where respect for basic human rights standards, including in particular non-derogable rights, is clearly problematic, the proposed area cannot be considered a reasonable alternative. This does not mean that the deprivation of any civil, political or socio-economic human right in the proposed area will disqualify it from being an internal flight or relocation alternative. Rather, it requires, from a practical perspective, an assessment of whether the rights that will not be respected or protected are fundamental to the individual, such that the deprivation of those rights would be sufficiently harmful to render the area an unreasonable alternative."

They then address economic survival in paragraphs 29-30:

"Economic survival

The socio-economic conditions in the proposed area will be relevant in this part of the analysis. If the situation is such that the claimant will be unable to earn a living or to access accommodation, or where medical care cannot be provided or is clearly inadequate, the area may not be a reasonable alternative. It would be unreasonable, including from a human rights perspective, to expect

a person to relocate to face economic destitution or existence below at least an adequate level of subsistence. At the other end of the spectrum, a simple lowering of living standards or worsening of economic status may not be sufficient to reject a proposed area as unreasonable. Conditions in the area must be such that a relatively normal life can be led in the context of the country concerned. If, for instance, an individual would be without family links and unable to benefit from an informal social safety net, relocation may not be reasonable, unless the person would otherwise be able to sustain a relatively normal life at more than just a minimum subsistence level.

If the person would be denied access to land, resources and protection in the proposed area because he or she does not belong to the dominant clan, tribe, ethnic, religious and/or cultural group, relocation there would not be reasonable. For example, in many parts of Africa, Asia and elsewhere, common ethnic, tribal, religious and/or cultural factors enable access to land, resources and protection. In such situations, it would not be reasonable to expect someone who does not belong to the dominant group, to take up residence there. A person should also not be required to relocate to areas, such as the slums of an urban area, where they would be required to live in conditions of severe hardship."

These guidelines are, I think, helpful, concentrating attention as they do on the standards prevailing generally in the country of nationality. Helpful also is a passage on socio-economic factors in Storey, *op cit*, p 516 (footnotes omitted):

"Bearing in mind the frequency with which decision-makers suspect certain asylum seekers to be simply economic migrants, it is useful to examine the relevance to IFA claims of socio-economic factors. Again, terminology differs widely, but there seems to be broad agreement that if life for the individual claimant in an IFA would involve economic annihilation, utter destitution or existence below a bare subsistence level (*Existenzminimum*) or deny 'decent means of subsistence' that would be unreasonable. On the other end of the spectrum a simple lowering of living standards or worsening of economic status would not. What must be shown to be lacking is the real possibility to survive economically, given the particular circumstances of the individual concerned (language, knowledge, education, skills, previous stay or employment there, local ties, sex, civil status, age and life experience, family responsibilities, health; available or realisable assets, and so forth). Moreover, in the context of return, the possibility of avoidance of destitution by means of financial assistance from abroad, whether from relatives, friends or even governmental or non-governmental sources, cannot be excluded."

41. We have applied these principles to the objective evidence before us. Mr Briddock referred us to a report of 12 January 2006 from Medecins Sans Frontieres, which talks of a limited international aid presence and the insecurity of life for the displaced persons. It says:

"The living conditions for the tens of thousands of Chechens remaining in Ingushetia vary from difficult to unbearable, with many

inhabiting overcrowded, dank, dilapidated buildings that enable diseases like tuberculosis and pneumonia to flourish."

42. The US International Rescue Committee reported on 31 January 2006 that:

"While the situation now in Chechnya has become quieter and many displaced families are making their way home voluntarily, some 36,000 people still remain in exile in the nearby republics of Ingushetia and Dagestan. Some 38,000 within Chechnya itself are also still unable to return to their own homes. Humanitarian and reconstruction needs retain their urgency and human rights abuses still occur on a significant scale. Some 800,000 of Chechnya's estimated 1.1 million people are recognised by the UN as being especially vulnerable."

43. A report by the Memorial Human Rights Centre (Russia) states that by the summer of 2004 all the tent camps in Ingushetia had been abolished and some of their residents had secured accommodation in places of compact living. However there was continuing pressure for displaced persons to return to Chechnya.

44. The CIPU OGN of May 2006 states that:

Although Chechens and other ethnic minorities face societal discrimination in the Russian Federation and often have difficulties finding accommodation and employment, these difficulties on their own do not make it unduly harsh for a person to internally relocate. In general it is not unduly harsh for members of ethnic minority groups who are not wanted by the Federal authorities to internally relocate to another part of the Russian Federation.

45. The US State Department report for 2005 says:

International organisations estimated that the number of IDPs and refugees who left Chechnya as a result of the conflict reached a high of approximately 280,000 in the spring of 2000. At various times during the conflict authorities restricted the movement of persons fleeing Chechnya and exerted pressure on them to return there. At the year's end the Office of UNHCR estimated that 26,155 IDPs remained in Ingushetia in private accommodations and in temporary settlements.

46. UNHCR reported in April 2006 that:

In Ingushetia, High Commissioner Guterres visited the Berd-Yurt settlement in the Sunzha district, which houses more than 100 IDP families who want to remain in Ingushetia. During his visit, the High Commissioner also met with local government representatives. As of 31 January 2006, some 26,000 IDPs from Chechnya had been registered by a UNHCR implementing partner for assistance in Ingushetia.

47. We first record, as we have already said, that there is no viable internal relocation option for a young Chechen male who is wanted by the Russian authorities in connection with the rebels. For those who are not wanted and who do not wish to return to Chechnya, the most obvious place for internal relocation, absent specific individual factors, is in the neighbouring republic of Ingushetia where more than a quarter of a million Chechen refugees from the fighting and displaced persons originally went, and where up to about 30,000 still reside either in private accommodation or in camps. The conditions there are far from ideal, as indeed is true of many refugee camps resulting from various conflicts around the world. We do not consider however that the conditions revealed by the objective evidence as a whole concerning the camps and other accommodation available in Ingushetia are so severe as to render internal relocation for a young Chechen male unreasonable or unduly harsh or in breach of Article 3, especially when with the continuing return of Chechen displaced persons to Chechnya, the pressure of numbers is reducing and the worst of the temporary accommodation, such as the tent camps, is abolished._

Current and Continuing Country Guidance

48. In paragraphs 15 and 16 above, we identified four potentially relevant existing country guidance cases. Each dealt with risk and internal relocation but related to people with different personal situations. We are concerned in this case with a young ethnic Chechen male and we have more and more recent objective evidence concerning this category than was before the Tribunal in 2002 in *MR (Chechen - Return)*. Accordingly this decision replaces *MR* as current country guidance. As the other three country guidance cases (*OA*, *AV* and *EM & LM*) relate to people with very different profiles about whom we have heard no submissions nor been directed to any specific objective evidence, we are not in a position to comment upon them.

Assessment of the Specific Claim

49. We must now apply these general findings to this specific appeal and the first issue that arises is that to the Appellant's credibility.
50. There have been a number of accounts of the Appellant's substantive claim since his arrival in the UK on 3 September 2001 when he was detected making a clandestine entry and then when removal papers were served on him, applied for asylum. The various accounts are as follows:
1. 05/09/2001 1st interview

- | | | |
|-----|------------|-----------------------------------|
| 2. | 03/04/2002 | 1 st written statement |
| 3. | 2002 | 1 st grounds of appeal |
| 4. | 08/08/2003 | 2 nd written statement |
| 5. | May 2004 | 2 nd interview |
| 6. | Undated | chronology of events |
| 7. | Undated | response to refusal letter |
| 8. | 01/10/2004 | oral evidence to Adjudicator |
| 9. | 10/01/2006 | 3 rd written statement |
| 10. | 10/05/2006 | 4 th written statement |
| 11. | 15/05/2006 | oral evidence to Tribunal |

51. There are significant differences between these accounts concerning the core of the Appellant's claim of the events in 2001 that led to his fleeing from Chechnya. We have described above his account as presented to us. It is illuminative to appreciate its evolution through the different accounts.
52. In his 1st interview, which was held 2 days after his arrival in the UK, he said that when he was taken to Russia in 1980 "my parents separated so I went with my mother". He said he personally had helped the "Chechen warriors" occasionally and had been threatened and beaten several times by Russian soldiers in random incidents. He confirmed that his father had died from an illness on 19 January 2001. He answered a number of questions about Chechnya. He was asked why he did not go to Ingushetia where there were many other Chechen refugees and he said that that "there is nothing for me in Chechnya. I wanted to learn English, to lead a normal life and not to be oppressed." He also said he had heard that displaced persons might be sent back to Chechnya. He confirmed that he had obtained a passport by paying money in 1997 but had lost it in November 1999. He made no mention of having been detained for 3 days in a pit and of being released on payment of a bribe by his family.
53. In his 1st written statement, produced some 7 months later, he said that he moved to Astrakhan in Russia with his mother in 1980, when his parents separated. He returned to his village in Chechnya in 1992 (which is near a city) and his father died on 9 January 2001. In November 2000 he was taken with other young Chechen men to a military post where he was detained for 3 days in a pit and was beaten by Russian soldiers though they treated him carefully because they were awaiting a ransom from his family which was paid by family members. Thereafter he travelled between relatives' homes within Chechnya before leaving. He did not say that he went to Ingushetia but said that he was aware of the standard of living there and was concerned that refugees would be returned to Chechnya. There is no mention of any other specific incident

concerning him and no suggestion either of his family's support for the Chechen fighters or of his being targeted because the authorities were aware of this. He said that he fled because there was continuing fighting and he was in fear of his life. The 1st grounds of appeal are in a similar vein and repeat in two places that the 3 day detention was in November 2000.

54. The second written statement was made in the context of his second appeal. He said that the whole family moved to Astrakhan in 1980 where he had 6 years of schooling. He added detail of the situation in Chechnya after his return there. He said that his uncle died in a mine explosion in 1995 and relatives died in a rocket attack on their way to his funeral. He mentioned that in 1996 his parents and others gave food and shelter to the Chechen fighters when they came to the village. The fighting broke out again at the end of 1999. Russian soldiers searched the village every two months or so and the Appellant had to hide from them, once in the cellar and once in the forest. He then identified the three incidents with Russian soldiers. The first, about being stopped at a checkpoint, when in a taxi with another man, was put as being in summer 2000. The second, about the bus, was one month later. The third, about being held in the pit for 3 days, was two or three weeks after that.
55. The 2nd interview was held some 10 months after the date of the 2nd written statement. He said he had heard that close relatives had been murdered but he was unable to say who they were. His previous claim of having to hide during searches in his village during 2000 was put to him and confirmed by him. He said that he had never fought against the Russians but his parents provided food to the fighters but he could not say how often and said that it stopped after the searches. He could not explain why he was not found when he was hiding in the cellar. He said that once in 1996 his parents had sheltered fighters along with others in the village. He was then asked about the claim to have been detained for 3 days. As the claim was being probed he changed his account and said that it was in 2001 and not 2000, because it was after his father had died. He said he was not beaten as badly as the others because they were awaiting the payments of a bribe from his parents. He was asked to confirm that the bribe was being paid by his parents and said yes. He was asked how they got the \$1000 for the bribe and said it was all they had got in the house and it was in the US currency. He was then asked specifically whether both parents paid the bribe and he said that his father was dead. He said that the bribe was paid by his mother and by maternal and paternal relatives. He again said he was targeted because of the help his parents had given the fighters. He also said that in

2002 his uncle had been killed by unknown people who came to his house and shot him and that he had a brother in prison in Russia on false criminal charges. He was a businessman.

56. The chronology, the response to the refusal letter and the 3rd written statement (which was produced in 2006) all confirm that the three incidents described were in the summer of 2001, rather than summer 2000. The Appellant essentially repeated this in his oral evidence to the Adjudicator.

57. The 4th written statement was produced in 2006 and related to a letter of 18 April 2005 provided by Akhmed Zakaev in the Appellant's support. Mr Zakaev stated in the letter of that:

"I confirm that Madaev Ramzan (sic) actively helped Chechen resistance forces. He is a convinced supporter of the independent Chechen state."

58. The Appellant in his 4th written statement said that the statement from Mr Zakaev was obtained for him by an unnamed former Chechen fighter who knew that the Appellant's family had helped the fighters. The Appellant added however that he had met Mr Zakaev once in London and he was aware that the Appellant had assisted Chechen fighters when he was in Chechnya.

59. The final part of the Appellant's account of his claim was in his oral evidence to us. He said that the first interview was not accurate because there were problems with the translation. The interview had been conducted in Russian which although he could speak it was not his first language. He said that there had been a misunderstanding about the circumstances in which he had been taken to Russia in 1980. His parents had separated then only in the sense that his mother had gone to Astrakhan and his father had joined them there a short while later. Their relationship had never broken down.

60. He confirmed that his detention of three days was in the summer of 2001. He did not know why November 2000 was in his statement but had always said that this incident was in 2001. He reasserted that the reason for his detention was because his family supported the freedom fighters but said that he was never questioned during his detention or told why he was detained. He was asked about having \$1000 in the house to pay the bribe as stated in the 2nd interview and confirmed that in Chechnya people did not use banks and kept their money at home. His family were not poor and they were not rich.

61. He was asked why Mr Zakaev had not attended the hearing to give oral evidence on his behalf and said that he did not ask him to come. He was unable to describe the circumstances in which he had lost his passport in 1999.
62. He was asked why he was unable to identify the close relatives he said had been murdered since he came to the UK. He said that he did not have direct contact with his mother and sister who still lived in their home in Chechnya. His contact was with a man from the village who lived in Astrakhan and visited the village from time to time. The village in which he lived was very small and everybody knew each other and many were related. He was asked when he had last spoken to this man and said that it was two to three months ago. He was then asked why he did not know who else had been killed besides his uncle but said that was all he knew. With regard to his brother in prison, he said he had been convicted of being a gangster but this was not true.
63. We have identified the evolution of the Appellant's claim to demonstrate the material changes and inconsistencies in it that have appeared over time and the explanations given by the Appellant for this. We have considered all the evidence and submissions and have reached the following findings of fact.
64. We accept that the Appellant is of Chechen ethnicity and from Chechnya. This has not been challenged by Ms Leatherland and is indeed corroborated by his ability in interview to answer detailed questions about Chechnya. She accepted that the Appellant would be identifiable as a Chechen by his appearance and name on return to Moscow or to St Petersburg. We also accept that the Appellant's father died from an illness on 9 January 2001. The Appellant has been entirely consistent about this from the time of his 1st interview.
65. We do not accept that any material difficulties arose during the Appellant's 1st interview or in the making of his statements by reason of the conduct of those proceedings in Russian. We note that the Appellant spent the first 12 years of his life in Russia and was educated for 6 years in a Russian school where teaching would have been in Russian. We note that he agreed to the 1st interview being in Russian, accepted that he could understand the interpreter, and made no complaint about any misunderstanding at the time. We also note that his first witness statement prepared by his then solicitors contained a declaration by an interpreter that it had been translated in Russian and that she was satisfied that the Appellant understood its contents. It has been suggested on the Appellant's behalf that the interpreter at the 1st interview may

not have been a native Russian and but we do not consider that if true this is of any material significance bearing in mind the Appellant's agreement of the time that he could understand the interpreter and the lack of any contemporaneous complaint.

66. Having said that, it is always possible for there to be a misunderstanding between people who do speak the same language and we have carefully scrutinised the various documents and evidence to see whether there is any indication that such misunderstandings may have arisen. We do consider that there was a misunderstanding during the 1st interview over what the Appellant meant when he said that his parents had separated in 1980. The misunderstanding arose in our assessment not due to any lack of proper translation at the interview, but because the Appellant in his first written statement made an ambiguous comment. It could be read as meaning either that the parents' relationship had broken down, or that they had travelled to Astrakhan separately. We accept the Appellant's evidence that his parents separated only temporarily on their individual journeys to Russia.
67. We have also considered whether there was a misunderstanding over whether the \$1000 bribe was paid by the Appellant's parents or, after the Appellant's father's death, by his mother and relatives from both sides of the family. For reasons that we shall describe shortly we have formed the view that core elements of the Appellant's specific claim are fabrications and that amongst them is the claim that he was detained in a pit for three days by Russian soldiers and released on payment of a bribe. We conclude that his account that the bribe was raised by his mother and other members of his family and that this was what he meant by the use of the word "parents" and that there was a mistranslation, is undermined by his oral evidence to us that the bribe was \$1000 because that was the amount of money at home at the time.
68. The third area over which it is alleged that there was misunderstanding is in relation to the varying dates attributed to the three incidents with the Russian soldiers alleged by the Appellant. We do not consider that these can be explained away by mistranslation or misunderstanding. The Appellant did not mention these incidents at all in his first interview. He claimed he was tired after his journey in a lorry to the UK but the interview was not conducted on arrival but two days later when he had had a chance to rest and when his memories would be fresh in his mind. He then gave on various subsequent occasions the different dates of November 2000,

the summer of 2000 and the summer of 2001. We do not consider that so many errors could arise from misunderstandings.

69. On that basis then we turn to our remaining findings of fact. We begin with Dr Galeotti's opinion that there is nothing implausible in the Appellant's account as the things he describes commonly happened in Chechnya. We accept that such things did happen in Chechnya at the time the Appellant was there and that his account would fit within the objective context. However that does not mean it is necessarily true. We have reached the following conclusions.
70. We consider it to be implausible that the Appellant would have failed to mention at his first interview his being detained in a pit for three days and being released only on payment of a large bribe, if the incident were true. As we have said the interview took place not immediately upon arrival but two days later when he would have had a chance to rest. This would have been one of, if not the, outstanding incident in his mind leading to his departure from Chechnya. We find that the reason he did not mention it was because it did not happen. Moreover the explanations for the changes in the date given for this incident at different times are not credible. The date of November 2000 for the three day detention in the pit was given both in the Appellant's 1st written statement and in his 1st grounds of appeal, where it is mentioned twice. We do not accept that this could be based upon mis-instruction. Even if the Appellant is not good on dates he worked on the land and would be aware of the passing of the seasons. He would not confuse November with the summer. Whilst it might just be within the realms of acceptability for the series of three events to begin in late summer 2000 (say late August) and finish in November 2000, given that there was approximately a month between each incident, that timeframe could not fit into 2001 because the Appellant had arrived in the UK by September 2001. The truthfulness of this account is also undermined by a variety of further inconsistencies and contradictions. There is the inconsistency over how and by whom the money for the alleged bribe was raised, which we have described above. His account in the 1st written statement that he was beaten by the soldiers during the detention is contradicted by his 2nd written statement where he says he was not. There is contradiction between whether he was specifically targeted because the soldiers knew of his family's support for the fighters in which event he would almost inevitably have been questioned, and his oral evidence to us that he was not questioned or even told why he was detained. Thus we conclude that the entire account of targeting for reasons of family assistance to the fighters,

detention in a pit for three days and release on payment of a bribe is a fabrication. We should also mention at this point for the sake of completeness that there was mention, in response to questions, of the imprisonment in Siberia of the Appellant's brother, it is alleged on false charges that he is a gangster. It has not been suggested to us that this, if true, has had any knock-on effect in terms of risk on the Appellant or his family.

71. Next we do not accept that the Appellant has ever personally been involved in assisting the Chechen fighters, either in fighting or in any other way. He made no such claim in his 1st and 2nd statements. He made a vague and unspecific assertion of helping Chechen warriors in his 1st interview. The claim really arises out of the letter from Mr Zakaev and the 4th written statement. In his evidence to us the Appellant said of Mr Zakaev's statement "It does not necessarily mean I was in the fighting". If the Appellant had personally been involved in support for the fighters his contribution would have been mentioned in detail in his written statements or in Mr Zakaev's letter. We do not accept the evidence on this matter by either Mr Zakaev or the Appellant. It is a fabrication.
72. What then remains of the claim are the alleged incidents in the taxi when the Appellant was searched and released, and the relatively trivial incident in the bus. The failure of the Appellant to refer to them in his 1st interview suggests that they were not at that stage seen by him as being of material significance and for the reasons described above we do not accept that these incidents occurred in 2001, which was the claim presented to us.
73. We would accept that when the fighting in Chechnya was intense, the Appellant sensibly would have hidden if Russian troops were searching in his area. We also accept that he may have faced random road blocks and searches and rough handling by Russian soldiers in their security operations. We do not accept anything beyond that and we do not accept that there were any specific events in the summer of 2001 that were the trigger for his then leaving Chechnya and Russia. We find that his departure had been in contemplation since he obtained his passport in 1997 and was economically driven, given the poor state of Chechnya's economy and the lack of opportunity there. We find also that that is why he did not stay in Ingushetia with the many other Chechen refugees.
74. Finally there is the question of the Appellant's passport. As we have said, he and his family went to trouble and expense to obtain it in 1997 and this suggests the intention even then to leave the country. We do not accept his account that he lost it

in November 1999. He was asked at the hearing before us how it was lost and he was unable to give any answer beyond the mere re-assertion that it was lost. Such a document would have been a valuable possession and looked after with care. We would have expected at least some indication of the circumstances in which it was lost, if indeed it had been lost.

75. We find that it was not lost as claimed and that being so there is no reason why the Appellant could not have used it to exit from Russia and we conclude that he did. We note that he was detected entering the UK clandestinely but many people do, even if they left their countries legally, because of the difficulty in entering the UK legally and in order to enhance an asylum claim. We find that the Appellant has not established that he left Russia illegally, or, if his passport is no longer in his possession, that he will be unable to replace it by application at the Russian Embassy in London, if he so chooses.
76. In summary, we conclude that there is nothing in the established evidence before us that would cause the Appellant to be at any additional risk on arrival in Russia, or on his journey to Chechnya, or in Chechnya itself, over such risk as would attach to any young male Chechen as such. Indeed he would be better off than many others because his mother and sister continue to live in their home village. Thus he would have a home to go to and would not be a displaced person. Given our previous conclusion that young male Chechens in Chechnya will not as such be at real risk of persecution or a breach of Article 3, it follows that the Appellant's appeal must be dismissed.
77. Thus the question of internal relocation does not arise in this case. However for completeness we record our view that if he does not wish to remain in Chechnya, he has a viable internal relocation option to Ingushetia where many Chechen displaced persons still live in camps.

Summary of Decisions

The appeal is dismissed on asylum grounds

The appeal is dismissed on human rights grounds

Signed
June 2006

Dated 5

Senior Immigration Judge Batiste
Approved for electronic transmission

Schedule of Objective Evidence Considered

1. Report by Dr Mark Galeotti of 17 July 2004.
2. US State Department report for 2005
3. Norwegian refugee Council report of May 2005
4. Pravda article of 1 June 2004.
5. UNHCR Position Paper of 22.10.04
6. HRW paper of March 2005
7. ECRE paper of June 2005
8. Amnesty International paper of 30 September 2005
9. CIPU OGN of 1.10.2005
10. Amnesty International paper of 8.11.2005
11. Medecins San Frontiers paper of 12.1.2006
12. Caucasian Knot article of 1.11.2005
13. Radio Free Europe 31.10.2005
14. Freedom House paper 31.3.2005.
15. Helsinki Committee paper of 19 May 2005
16. Amnesty International paper of 18.4.2006
17. Helsinki Committee 9.4.2006
18. UNHCR 11.4.2006
19. Radio Free Europe 6.4.2006
20. Voice of America 30 March 2006
21. Institute for War and Peace Reporting 9.3.2006
22. Radio Free Europe 7.3.2006
23. Institute for War and Peace Reporting 3.3.2006
24. Amnesty International report 27 February 2006
25. Radio Free Europe 24.2.2006
26. UNHCR 24 February 2006
27. HJT Research 23.2.2006
28. Prague Watchdog 7.2.2006
29. International Rescue Committee 31.1.2006
30. Amnesty International 27.1.2006
31. Radio Free Europe 25.1.2006
32. Caucasian Knot 24.1.2006
33. UNHCR Reports of 27.3.2006 and 7.3.2006
34. Council of Europe report of 15.3.2006.
35. Human Rights Centre report for July 2005-February 2006.
36. Faxes between Home Office and FCO in January-February 2006
37. CIPU report of April 2003
38. CIPU OGN of October 2005
39. COIS Bulletin of December 2005
40. CIPU OGN of May 2006
41. US State Department report for 2005 released in March 2006