

CIVIC ASSISTANCE COMMITTEE

REPORT

On the Status of Political Asylum in Russia

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Introductory Notes

On July 26, 1995, President of the Russian Federation Boris Yeltsin officially established the status of “political asylum”. Since then, the normative documents concerning this status have been updated several times, the Russian Ministry of Internal Affairs website offers instructions on how to request it, and academic papers have been written about it. However, the status of “political asylum” is a mystery, a phantom status, a status-paradox; after all, the only known case of it being granted dates back to 1992 (i.e. even before its official establishment!), and after that it has apparently not been granted to anyone! Moreover, as we will demonstrate below, although this status was not granted to those who asked for it, it was offered to those who did not need it and even to those who were compromised by the very offer.

The enigma of the “political asylum” status only increases if we consider its formal component. Thus, according to the normative documents, the grounds for granting this status were included in the grounds for receiving the status of “refugee” established two years earlier, in 1993. Moreover, “refugee” status generally grants even more rights than “political asylum” status, requirements for “refugee” status application are less complicated than for “political asylum” status, while, on the contrary, it is even easier for Russian authorities to deny the latter than the former. And what is even more surprising, unlike the “refugee” and “temporary asylum” statuses, the provision on the status of political asylum does not even guarantee to the person who has received this status not to be returned to the country of their departure! Consequently, the very meaning of the status of “political asylum” is unclear, and its proximity to the status of a “refugee” leads to terminological confusion, which should be pointed out from the very beginning.

Thus, the “refugee” status was established in 1993 as implementation of the provisions of the UN Convention relating to the Status of Refugees (ratified by the Russian Federation in 1992). According to the Federal Law “On Refugees”, which normatively established the status, authorities must recognize as refugees, *inter alia*, those who are persecuted in the country of origin for their political activities and/or beliefs. Therefore, the *status of “refugee”* (as well as the status of “temporary asylum”, which appeared in the amendment of the Federal Law “On Refugees” of 1997) includes the granting of *political asylum*. So when the news about the granting of *political asylum* to this or that person in Russia appears in the media, it usually turns out that the Russian authorities are talking about granting a person the status of *refugee* or “*temporary asylum*”. Indeed, according to formal grounds, granting any of the three statuses (“refugee” status, “temporary asylum” status, and “political asylum” status) if a person has a well-founded fear of being persecuted in the country of origin for his/her political activity and/or beliefs, means *political asylum*.

Furthermore, according to both common sense and UN explanations, a distinction should be made between the fact that a person is a refugee and the government's procedure for recognizing them as refugees. Thus, in Russia, as the Civic Assistance Committee constantly writes about, this procedure has many defects, and *refugees* regularly find themselves without “*refugee*” *status*. It would seem, at the same time, that a person granted “*political asylum*” *status* should be a refugee within the meaning of the UN Refugee Convention, but, as we will show below, this is not necessarily true even in the normative sense, since the head of state has given themselves the power to grant this status to anyone they wish. We specify all of these so that the reader can understand why we distinguish “*political asylum*” *status* from *political asylum*, and “*refugee*” *status* from *refugee*, although these designations are usually used as synonyms in the normative documents.

Below we will tell the history of the mysterious “*political asylum*” status, analyze the normative documents which mention it, compare it with the “*refugee*” status, tell about famous cases of requesting it, and equally famous cases when it was offered. Finally, we will give examples of court cases in which applicants tried unsuccessfully to appeal denials of its granting.

Our study was conducted with the key objective of attempting to answer the following questions: What are the origins of political asylum status? How and why did it appear? Why does no one ever get it? Why has it not yet been abolished? We suggest that this status bears the traces of the asylum approach that prevailed in the USSR. The Soviet authorities then officially granted asylum solely for doctrinal and propaganda purposes. In our opinion, “*political asylum*” status reflects an extremely dangerous claim that has been formalized in Russian law, which is the appropriation of unlimited and uncontrollable power by the head of state. We believe that political asylum was invented and still exists not in order to enable a refugee in need to request and receive it, but so that the head of state could grant it to anyone, or simply offer it for propaganda and geopolitical purposes to those who do not need it at all.

Section 1. History

Asylum in the late USSR

Soviet legislation did not recognize a normative division into different types of asylum. It referred simply to the “right of asylum”. In fact, it was *political* asylum that was meant, since the decision was made by the highest Soviet political leadership, while the formal grounds for granting asylum were exclusively persecution for pro-Soviet *political* activity.

As we will demonstrate below, in deciding whether or not to grant official asylum these *formal* grounds, although desirable for the Soviet leadership, were generally optional, and the real, *substantial* decision-making was based on whether this or that case was useful for Soviet *political* propaganda. We will concentrate mainly on the later period of Soviet history.

The Article 38 of the last **Constitution of the USSR** adopted in 1977 stipulated: “*The USSR shall grant the right of asylum to foreigners persecuted for defending the interests of workers and the cause of peace, for participation in the revolutionary and national liberation movement, for progressive socio-political, scientific or other creative activity.*” (see here: [»](#)). As one can see, the formal grounds for granting asylum in the USSR had a pronounced doctrinal character. Although Article 38 mentioned “...scientific or other creative activity...”, it was preceded by the word “progressive”, which in fact meant that these activities conformed to the Soviet political and doctrinal notion of what constituted “progress”. (See, for example, the definition of “progress” in: Philosophical Encyclopedic Dictionary, *Filosofsky Entsiklopedichesky Slovar’*. Moscow, Sovetskaya Entsiklopediya, 1983. p. 534–535).

This wording was copied from the USSR Constitution to the Article 36 of the **Constitution of the RSFSR** of 1978, except, of course, that the USSR was replaced by the RSFSR (see here: [»](#)).

Article 6 of the 1981 **Law “On the Legal Status of Foreign Nationals in the USSR”** listed the grounds for granting asylum mentioned in the USSR Constitution and added: “*The question of granting asylum is decided by the Presidium of the Supreme Soviet of the USSR or the Presidium of the Supreme Soviet of a Union Republic.*” (see here: [»](#)). Obviously, this decision-making mechanism did not imply a large number of applicants for asylum, which was granted in extremely rare cases. Thus, from 1977 to 1991 only two cases of official asylum in the USSR are reliably known (the Lockshin family and the Branch family). Sometimes in the media one can find memories of spies who worked for the Soviet Union only to find asylum there after being unmasked. But, as far as we know, all or almost all such spies were not granted official asylum, but were immediately given a residence permit or a Soviet passport. Glenn Michael Souther and, before 1977, Kim Philby and George Blake are prime examples. If there were exceptions to this rule, they were extremely rare. Of the more or less famous cases, only the spy Edward Lee Howard may have been granted asylum by the Soviets, rather than a regular passport (see here: [»](#)). In the case of real refugees, for example, from Afghanistan, it was extremely difficult for them to enter the USSR, and if they were still allowed to enter, the Soviet authorities issued them visas or residence permits.

The case of the **Lockshin family** was actively exploited in Soviet propaganda and, remarkably, has continued to appear in contemporary Russian propaganda. In May 2021, for example, the odious Life magazine published an article entitled *Fugitives from American Paradise: Why*

Singers, Engineers, and Scientists Were Leaving the United States for the USSR. Speaking of mythical thousands who fled from the U.S. to the USSR, the author cites only five stories:

1. **Dean Reed** (the “singers” in the title must mean to refer to him) was indeed a well-known singer, only he did not settle in the Soviet Union, but in the GDR, where he lived for the rest of his life. The author of Life probably wanted to put a world celebrity in the first place in her story (and there were no others) so much that she turned a blind eye to this detail;
2. **The Lockshin family** (probably accounting for the “scientists” from the title of the article), which will be discussed below;
3. **Lloyd Patterson** is presented as a victim of racism, which made it difficult for him to find work in the United States. It should be noted that Patterson decided to remain in the USSR when a) the Great Depression was raging in the United States; b) he was 21 or 22; c) the Soviets hired him to work in a propaganda film, *Black and White*, which portrayed the United States as a racist country; d) other African Americans were involved in the film and returned safely to the United States.

As a side note, Lloyd Patterson’s eldest son was used in the movie Circus, where he played a black boy who was subjected to racist persecution in the United States but who eventually found love and happiness in the USSR. In real life, this son of Patterson, along with his mother (Soviet painter, fashion designer and stage designer Vera Aralova) left for the United States in 1994 experiencing serious economic difficulties after the collapse of the USSR (see here: [>>](#));

4. **Joel Barr and Alfred Sarant** (probably accounting for the “engineers” from the title of the article). It should be said that they were not engineers in the first place, but active members of the Communist Party USA and Soviet spies. By the way, after their escape they first lived in Czechoslovakia for several years;

5. **Annabelle Bucar** was a professional intelligence officer and worked at the U.S. Embassy in Moscow. In 1947, she married Konstantin Lapshin, a soloist with the Moscow Operetta Theater, secretly from her superiors. Lapshin, according to some sources, collaborated with the Soviet intelligence services, which instructed him to get acquainted with young foreign women for the purpose of their possible recruitment. It is noteworthy that Lapshin and Bucar were even introduced by people from the MGB (the forerunner of the KGB). The young woman fell in love with the handsome artist and was immediately recruited. In the same 1947 the couple married, despite the fact that in February 1947 a decree of the Presidium of the USSR banned all marriages between Soviet citizens and foreigners, i.e. “*Lapshin could only marry Bucar by special permission*” (see here: [>>](#)). Although the Soviet secret service probably wanted the recruited woman to continue working at the U.S. Embassy, she fell deeply in love with Lapshin and wanted to be close to him. After waiting about a year after her secret wedding, Bucar announced to her superiors (the U.S. Ambassador) that she had married a Soviet citizen - and was quitting. Then the Soviets changed strategy. The young family received an apartment in the famous House on the Embankment (*Dom na Naberezhnoy*) and Bucar began working for the American editorial board at Moscow Radio, whose main goal was to create a positive image of the USSR in the United States. In addition, the newlyweds actively participated in propaganda trains around the country. Already in 1949 a book was published under the name of Bucar exposing U.S. diplomats, which, according to experts, was at least partly written by employees of the Soviet secret services (see here: [>>](#) and here: [>>](#)).

With the exception of the Lockshin family, it should be noted that the other listed cases of “flight” date between the 1930s and the early 1970s. It appears that the author of Life, while

claiming mythical thousands of refugees from the United States, could not find more cases from the history of the late Soviet Union. But even among the five cases cited for all of Soviet history, two concern Soviet spies, and another a singer who chose to settle in the small GDR rather than the huge USSR. The very title of the article, which refers to “fugitives”, is also, and probably deliberately, misleading, since three of the five cases did not concern “fugitives” but those who entered the USSR freely and without any persecution or, as in the case of Reed, the GDR, got financially settled there and then decided to stay. In fact, of those listed, only the Lockshin family actually *fled* directly from the United States to the USSR, although, as will be seen, there are some questions about the validity of their fear of persecution in their home country. We shall look at this story more closely.

The Lockshin family refers to **Arnold Lockshin**, his wife **Lauren Lockshin**, and their minor children (Jennifer, Jeffrey, and Michael) at the time of their flight. Notably, Arnold and Lauren are incorrectly referred to as biology scientists by both the author of Life and the Russian-language Wikipedia, even though only Arnold was a biology scientist. But in addition to his scientific activities, Arnold had been an active and public participant in the leftist movement since the 1950s. In the 1960s, he joined the Communist Party USA and organized its cells in Ohio and Southern California. Note that all this did not prevent him from graduating in 1960 from one of the best *public* universities (the University of California, Berkeley), then earning a master’s degree, then defending his dissertation, then getting a job at Harvard, and after a while taking a position in a laboratory in Houston (see here: [»](#)). That is, prior to his flight to the USSR, Arnold had spent 30 years first studying and then working at prestigious, sometimes *public* institutions, combining this with active and openly pro-Soviet political activity. In August 1986, Arnold was indeed fired from the laboratory, on the grounds of unsatisfactory work, although he himself claimed political persecution (see here: [»](#)).

As for Lauren, according to the book she co-authored with Arnold, she received a bachelor’s degree in American Culture from the University of Miami and then worked and simultaneously studied psychology at the same state University of California, Berkeley, where she met Arnold. Since the University of Miami, she was also an active member of leftist movements, and later a member of the Communist Party USA. In 1970 in Moscow, the XVI Congress of the Komsomol was held, and Lauren was there in person, representing the Ohio Young Workers Liberation League. In the mid-1970s, Lauren organized and headed the Marxist Research Institute of Los Angeles, but after the birth of her children she became involved in marketing for financial reasons (see: Lockshin A., Lockshin L. Silent Terror: One family’s history of political persecution in the United States. Novosti Press Agency Publishing House, 1988. P. 18–23).

Although Arnold claimed that his family had been persecuted in the United States for years, he did not seek asylum until September 1986, and only after he had been fired from the laboratory. Arnold applied for asylum at the Soviet consulate in Washington, D.C., and the information was then forwarded to Moscow, where the matter was discussed at the highest level. Interestingly, even before the Lockshins themselves were notified, Soviet Foreign Minister Eduard Shevardnadze announced at an international meeting that a family of U.S. scientists persecuted for their political stance would be granted asylum in the USSR (see: Kommersant Vlast magazine, 04.25.2016). According to Arnold, he was informed of his asylum status by a Soviet consular official on October 5, 1986, by a telephone call to the Lockshin apartment in Houston, although they insisted in their book and in subsequent interviews that their phones were tapped by the FBI. Arnold explained his choice of the USSR by the fact that his grandparents were from the Russian Empire, which they had left because of Jewish oppression. Arnold’s parents lived in

a Russian colony in China, which they later abandoned when they moved to the United States (see MK newspaper, April 17, 2017).

Arnold and Loren left the U.S. freely and arrived in Moscow in October 1986 and almost immediately went to the Kremlin, where they met with the Chair of the Presidium of the Supreme Soviet of the USSR, Andrei Gromyko. Afterwards, they gave a big press conference complaining about persecution in the U.S. and talking about their socialist beliefs (see here: [»](#)). In the years that followed, before the collapse of the USSR, Arnold and Lauren participated in a number of similar events, and also appeared in the famous telebridge between the USSR and the United States, in which Vladimir Posner spoke on behalf of the former and Phil Donahue spoke on behalf of the latter. In 1988, Novosti Press Agency, which was created in 1981 from Sovinformbureau with the aim of spreading Soviet foreign-policy propaganda, published in English the above-mentioned book by the Lockshins *Silent Terror: One Family's History of Political Persecution in the United States*. A Russian translation appeared only a year later. The book described how the FBI had allegedly been harassing the Lockshin family for years, citing as evidence strange phone calls, a stray dog attack, a couple of traffic incidents, Lauren's late paycheck when she was fired from her job, receiving a threatening letter, a conflict with a neighbor, what they thought was a school teacher's bias against their daughter, etc. (see: Lockshin A., Lockshin L. *Silent Terror: One family's history of political persecution in the United States*. Novosti Press Agency Publishing House, 1988. P. 20–61).

As for material security, the Lokshin family immediately received a four-room apartment in Moscow with two bathrooms and two loggias in one of the so-called Central Committee Houses, which was a luxury unavailable to ordinary Soviet citizens. Besides, Arnold was given a place in a prestigious scientific laboratory (see MK newspaper, April 17, 2017). At the same time, the Lokshins themselves remarked that Arnold earned a lot of money in the United States (\$52,000 a year), and their Soviet apartment was small compared to the one they previously had in Houston; in addition, in Moscow they had to use the metro instead of the usual car (see here: [»](#)). In an interview with MK in 2017, Arnold Lokshin noted that he still lived in the same four-room apartment with two bathrooms, but alone, without any relations with his children or wife, who, in his words, “*moved to the other side of the barricades*”, while he was the only one who remained loyal to his Communist beliefs (see MK newspaper, April 17, 2017).

The noise in the Soviet media about the **Branch family** was much quieter, as they were not scientists or other public figures. Still, they were a family from the USA who the Soviet authorities saw as the main ideological and geopolitical adversary. However, this media noise quickly subsided due to the specifics of this case. In November 1987, **Theodore and Cheryl Branch** traveled, as tourists, to the USSR, where they requested and, in two months, received asylum. The couple cited their difficult financial situation in the USA, which they attributed to the unfairness of the capitalist system. The USSR welcomed the Branch family with open arms and straight away gave them jobs at an English-language radio program, while TASS used their case for propaganda purposes criticizing capitalism (see here: [»](#)). But this did not last long and in October 1988 the couple returned to the USA, because, according to them, the State Department had promised them jobs, housing and insurance. After failing to receive all of that, the tireless couple came to the Soviet Embassy in Washington and once again, albeit unsuccessfully, requested entry to the USSR (see here: [»](#)).

We do not know of any other cases when asylum was officially granted in the USSR in the period from 1997 to 1991. Even if there were, there could not have been many of them, due to the complicated procedure. Besides, as the Lockshin and Branch families' stories show, the

Soviet authorities and media were inclined not to conceal, but rather to widely publicize such cases.

Thus, formally any official granting of asylum in the USSR was political, because it was granted for pro-Soviet political activity only. At the same time, the main criterion for the Soviet authorities was the usefulness of the specific case for the Soviet political propaganda. In the period from 1997 to 1991, there are only two known cases when asylum was officially granted, both concerning families from the USA. There is no reason to suggest that asylum was really granted to many more persons. To unofficially grant asylum to those who had spied for the USSR and had been unmasked, the Soviet authorities promptly granted them residence permits or citizenship, while, for real refugees, entering the USSR was quite a difficult task.

The first person to receive the political asylum status in the Russian Federation

On June 15, 1992, Boris Yeltsin signed an executive order granting political asylum to **Kim Myung-se**, a citizen of the Democratic People's Republic of Korea (see here a photocopy of the original text here: [»](#)). Some notable comments: 1) it concerned specifically “*political asylum*”; 2) there were no references to any regulatory documents; 3) the executive order was issued a day after the Federal Migration Service had been founded; 4) so far this is the only known case when this status was officially granted.

The executive order text contained no references to regulatory documents because it preceded the adoption of the Constitution of the Russian Federation, the ratification of the UN Convention on refugee status and formal establishment of the “political asylum” status. It should be assumed that when signing this document, Yeltsin was guided by the Constitution of the RSFSR, as well as the idea of his own powers, described in general terms in the law “On the President of the RSFSR” (see here: [»](#)). This is indicated by the comment of Vladimir Bolshakov, then deputy head of the citizenship department of Yeltsin administration: “*The president has granted asylum to Kim, guided by the Russian Constitution, considerations of humanism and the desire to save the life of a foreign citizen.*” Moreover, Bolshakov assured that the new asylum rules would differ from the Soviet ones and would be based on “considerations of humanism” (see *Kommersant Vlast* magazine No. 125 of 06.22.1992). As will be seen from the following, this was only an assurance of good intentions, but in reality the status of “political asylum”, both in formal and substantive aspects, turned out to be very close to the Soviet “right of asylum”.

However, at least in part, Yeltsin’s intentions accompanying this executive order seemed to have indeed been good and politically different from the Soviet line. The personality of the first holder of the “political asylum” status attracts attention. According to the *Kommersant Vlast* magazine, Kim Myung-se was about 30 at the time of granting political asylum and he was not a well-known figure. The essence of his case was that he was studying at Moscow State University, met a pastor from South Korea, became a Baptist and refused to return to the DPRK. Security services of this state, frozen in its totalitarianism, started searching for the “non-returnee”. Having found the man, they began to threaten him.

In May 1992 he asked for political asylum, and in mid-June Yeltsin signed the aforementioned executive order. In other words, political asylum a) was quickly granted b) to a citizen unknown to the public, c) who fled from a totalitarian and particularly cruel state, d) which had long-time and close ties with the USSR. It should be noted that after receiving asylum, but in the same year of 1992, Kim Myung-se, still fearing being kidnapped by the North Korean special services, left for Seoul (see: *Kommersant Vlast* magazine No. 125 dated 06.22.1992 and *Kommersant* newspaper dated 10.29.1992).

One should not underestimate this truly humane and, moreover, demonstrative act of Yeltsin, who thus publicly distanced himself from the extremely cruel North Korean regime. But it would be a mistake to conclude from the fact of granting asylum to one less-known DPRK citizen, that the treatment of refugees (even if just those from North Korea) in the newly emerged Russian Federation has fundamentally changed at all levels compared to what it was in the USSR.

As the same case indicates, DPRK special services felt at ease on Russian territory. In addition, when a few months later another North Korean refugee, Kim Sang-un, tried to obtain political asylum, Russian citizenship or a residence permit, neither Yeltsin nor his administration were in a hurry to provide him with any of this. The trial of Kim Sang-un dragged on for many months while he and his Russian girlfriend were terrorized by DPRK special services (see *Kommersant* newspaper of 02.09.1993, 02.18.1993 and 06.03.1993).

As noted in the 1996 Amnesty International report, the situation with the protection of the rights of North Korean workers and refugees in Russia in the early 1990s remained extremely difficult. Although the federal government has generally shown a tolerant attitude towards refugees, it has not made significant attempts to systematically defend their rights. Sometimes the federal government even made decisions that contradicted this attitude. For example, in 1995 the Prosecutor General of the Russian Federation decided to deport refugee Lee Yong-sung to the DPRK. Moreover, the federal government in fact did not control the actions of local authorities, many of which refused to recognize the problems with the rights of North Koreans, and offered to deport refugees (see pages 14-15 here: [>>](#)).

It does not seem accidental that the only currently known executive order on granting political asylum appeared a day after the executive order on the formation of the Federal Migration Service of Russia (hereinafter referred to as the “FMS”) (see a photocopy of the original text of the executive order “On the Federal Migration Service of Russia” here: [>>](#)), which, among other tasks, would be instructed to establish the institution of asylum in Russia. It is obvious that Yeltsin and his entourage wanted to demonstrate their attention to migration issues in general and to problems of refugee rights in particular.

Thus, the first and so far the only known case of granting “political asylum” status in the Russian Federation occurred before the adoption of specific regulations establishing this status and the procedure for granting it, as well as the day after the executive order on the formation of the Federal Migration Service. All this suggests that the executive order on granting asylum to Kim Myung-se was symbolic in nature, whereby Yeltsin a) highlighted his personal power, b) distanced himself from the totalitarian regime of the DPRK with ties to the USSR and c) demonstrated concern about the rights of refugees.

Asylum framework emergence

On November 13, 1992, in accordance with a resolution of the Supreme Council, the Russian Federation joined the UN Convention on the Status of Refugees and its 1967 supplementary Protocol. The Protocol removed the focus on events that occurred before January 1, 1951, i.e. made the Convention and its provisions indefinite. The Convention defines a refugee as follows: “*Any person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it*” (see here: [»](#)).

On **February 19, 1993**, Yeltsin signed the Federal Law “On Refugees” (see here: [»](#)), which, although not fully, implemented the provisions of the UN Convention (for a detailed comparative analysis, see here: [»](#)). The definition of a refugee almost completely repeated the definition given in the Convention. Thus, according to Article 1 of the law: “*A refugee is a person who is not a citizen of the Russian Federation and who, due to well-founded fears of becoming a victim of persecution on the basis of race, religion, citizenship, nationality, belonging to a certain social group or political beliefs, is outside the country of his citizenship and cannot enjoy the protection of this the country or does not want to use such protection due to such concerns; or, not having a certain nationality and being outside the country of his former habitual residence as a result of such events, he cannot or does not want to return to it due to such fears.*”

It should be noted that both in the Convention and in the Federal Law, among the grounds that distinguish a refugee, there is a fear of persecution on the basis of political beliefs. In other words, the refugee category includes political refugees.

On **December 12, 1993**, a referendum adopted the Constitution of the Russian Federation. Article 63 of the Constitution of the Russian Federation reads: “*The Russian Federation grants political asylum to foreign citizens and stateless persons in accordance with generally recognized norms of international law.*” This article also prohibits the extradition “*to other states of persons persecuted for political beliefs, as well as for actions (or inaction) that are not recognized as a crime in the Russian Federation*” (see here: [»](#)). Article 89 stipulates that the President of the Russian Federation shall “*solve the issues of citizenship of the Russian Federation and of granting political asylum*” (see here: [»](#)).

These articles create some dangerous ambiguity since the phrase “Russian Federation” is basically used to mean “President of the Russian Federation”. As will be seen from the following, the same ambiguity was introduced into the regulatory documents which established the status of “political asylum”.

In addition, Articles 63 and 89 of the Constitution of the Russian Federation are puzzling since it remains unclear why they refer not simply to asylum, but to political asylum? What does the phrase “solve the issues” mean? What does the phrase “political asylum” ultimately mean? The available comments to the Constitution do not answer these questions, but rather further complicate the understanding of the meaning of Articles 63 and 89 (see, for example, here: [»](#)).

There are four possible answers to the last question, which do not always exclude, but rather often complement each other. So, the phrase “political asylum” can be understood to refer to:

1. *the formal procedure* of granting asylum. Since asylum is granted by the political authorities of the country, then *any* asylum in terms of the mechanism of its provision is political, but in this sense it is political *in form*, not in substance;
2. *the formal grounds* for granting asylum. In this sense, political asylum is a type of asylum that is granted to those persons who are at risk of persecution for their political views and/or activities, regardless of what kind of views and activities they are, unless the latter contradict recognized international norms;
3. *the doctrinal grounds* for granting asylum. In this case, political asylum is granted only if the person who requests it has engaged in such political activities that are recognized as ideologically correct in the state in which he/she is seeking asylum. In the USSR this approach was legally established;
4. *the substantive grounds* for granting asylum. In this sense, political asylum is an asylum that is granted subject to the political situation and political interests of the person who decides to grant such asylum. In the USSR the phrase “right to asylum” had primarily this meaning.

In our opinion, in the Constitution of the Russian Federation, the status of “political asylum” initially had the first meaning, but the authorities of the Russian Federation basically apply it using the third and fourth meaning, which prevailed in the USSR in relation to the “right to asylum”.

Thus, the unfortunate wording in the Constitution of the Russian Federation has led to the fact that the expression “political asylum” in Articles 63 and 89, is not used by the Russian authorities to refer to the status of “refugee”, actually created in accordance with international law and accompanied by a procedure that allows it to be obtained by a large number of people in need, but exclusively to the status of “political asylum”, which, both in meaning and, as will be seen from the following, formally, was separated from international law, and obtaining which for a real political refugee is an almost impossible task.

Regulatory framework of the “political asylum” status

On July 26, 1995, Yeltsin signed Executive Order No. 763 “On Approval of the Regulations on the Procedure for Granting Political Asylum in the Russian Federation” (hereinafter referred to as the 1995 Executive Order and the 1995 Regulations) (see a photocopy of the original text here: [>>](#)). As its basis, he only makes a reference to the two mentioned articles of the Constitution, but does not mention either the UN Convention on the Status of Refugees or the Federal Law “On Refugees”. This leads to the assumption that it was done deliberately in order to bring the status of “political asylum”, as well as the actions of the head of state granting it, outside their scope.

Thus, the text of the 1995 Executive Order had two serious defects: it did not subordinate the status of “political asylum” to international law and presented the situation in such a way as though the above-mentioned articles of the Constitution do not refer to asylum in general, but specifically to the status of “political asylum”.

Two years later, namely on July 21, 1997, Yeltsin signed Executive Order No. 746 “On approval of the Regulations on the Procedure for Granting Political Asylum by the Russian Federation” (hereinafter – the 1997 Executive Order and the 1997 Regulations) (see the original text here: [>>](#), the current text with amendments see here: [>>](#)). By this Executive Order, he declared the 1995 Executive Order invalid and established a new order. The purpose of doing this is not completely clear, since the 1997 Regulations largely repeat the 1995 Regulations; they also consist of three parts, contain 17 sections, the content of these sections either completely copies the previously established order, or differs only in details.

At the same time, it is noteworthy that the 1997 Executive Order does not mention even the Constitution of the Russian Federation as its basis. As a result, it does not refer to any basis at all, instead a ridiculous phrase is introduced: *“In order to improve the legislation of the Russian Federation on the granting of political asylum by the Russian Federation.”* But what legislation are we talking about? There was no law establishing the status of “political asylum” at that time and there still is none (only the bill drafted recently by the Ministry of Internal Affairs, where this status appears, which will be mentioned below). In addition, how can something be improved if there is no regulatory basis? One can only guess at the meaning of this phrase, as well as why the entire 1995 Regulations were abolished and the reference to the Constitution disappeared.

All this, apparently, explains why the status of “political asylum” is not mentioned in the memo of the Office of the High Commissioner for Refugees on how to obtain asylum in Russia (see here: [>>](#)), and also is not included in the statistics collected by this UN agency (see here: [>>](#)).

On December 5, 2007, the Federal Migration Service adopted the Administrative Regulations on Granting Political Asylum to Foreign Citizens and Stateless Persons (hereinafter referred to as the Regulations) (see here: [>>](#)), which, mainly repeating the 1997 Regulations, supplements it with practical explanations. For example, the Regulations stipulated the need for air conditioning, a changing room and a toilet in the territorial bodies of the Federal Migration Service, where applicants can apply, as well as the fact that answers to Internet questions concerning the status of “political asylum” must be given within five working days. The Regulations also described in stages the procedure for granting and considering an application for the status of “political asylum” at the FMS. These Regulations were abolished in 2018 by an order of the Ministry of Internal Affairs of Russia, which also approved new forms of a) certificate issued to someone whose application for the status of “political asylum” was accepted, b) application, c) certificate of granting this status (see here: [>>](#)). **On June 14, 2019**, by Order of the Ministry of Internal Affairs of Russia No. 392 “Issues of organizing the activities of the internal affairs bodies of the Russian Federation to ensure the execution of decisions on granting political asylum, its loss or cancellation”, new regulations were actually established, largely repeating the previous ones. At the same time, we do not know whether there were or are similar regulations in the Ministry of Foreign Affairs, the Federal Security Service and the Commission for Citizenship Issues under the President of the Russian Federation.

Thus, in both executive orders and regulations on the status of “political asylum” approved by them, there are no references to the UN Convention on the Status of Refugees and the Federal Law “On Refugees”. The absence of a direct link between the status of “political asylum” and international law is reflected in the fact that it is not mentioned in the main documents of the Office of the United Nations High Commissioner for Refugees in Russia. In addition, the 1997 Executive Order does not mention any regulatory basis for its adoption, which makes this status arbitrary even at the level of national legislation.

Section 2. Comparison and analysis

Comparison of the 1995 Regulations and the 1997 Regulations

The text of the 1997 Regulations contained three significant modifications compared to the 1995 Regulations, which may explain the publication of a new executive order instead of making amendments to the old one:

1. Whereas Paragraph 1 of the 1995 Regulations began as follows: "*Political asylum in the Russian Federation is granted to foreign citizens and stateless persons (hereinafter referred to as persons)...*", in the 1997 Regulations this phrase is changed to: "*Political asylum is granted by the Russian Federation to foreign citizens and stateless persons (hereinafter referred to as persons) ...*" (see here: [≥](#)). It should be particularly noted that a similar change occurred in the text of the 1997 Executive Order itself. At first glance, it may seem that there is not much of a difference, since, according to international law, official asylum in the Russian Federation is granted only by the Russian authorities, and asylum granted by the Russian Federation naturally implies asylum not in China or Nicaragua, but in the Russian Federation. But we believe that what is important here is that the emphasis shifted from the *result of the action*, which is actually important to a refugee who is concerned about obtaining asylum in the country and not to those who grant this asylum, to the *one who makes this decision*. In addition, according to the 1997 Regulations, "political asylum" is granted by executive order of the President of the Russian Federation, so as a result "Russian Federation" is actually used in the quoted phrase as a synonym for "President of the Russian Federation". Of course, the text of the 1995 Regulations also referred in several places to "granting political asylum by the Russian Federation", but a) this was not included in the text of the 1995 Executive Order, b) the text of the 1995 Regulations did not begin with this, c) Paragraph 1 of the text of the 1995 Regulations did not contain the important reservation that appeared in the text of the 1997 Regulations and without which the first modification would not have been so significant;
2. Thus, Paragraph 1 of the 1995 Regulations continues as follows: "... *on the basis of generally recognized principles and norms of international law and in accordance with the Constitution of the Russian Federation and these Regulations,*" while, in the 1997 Regulations, a reservation is made, which we believe is very important, and the text changes to: "... ***taking into account the state interests of the Russian Federation, on the basis of generally recognized principles and norms of international law in accordance with the Constitution of the Russian Federation and these Regulations.***"

Whereas previously, according to the letter and spirit of what was written, the President of the Russian Federation was obliged to grant political asylum to any political refugee, guided by international law and the Constitution of the Russian Federation, following the reservation made in the new Regulations, the President may refuse to grant it if they believe that it does not align with the interests of the Russian Federation. If we combine this with the first part of the phrase, where "Russian Federation" is used as a synonym for "President of the Russian Federation", then a completely unsightly picture emerges, according to which the President of the Russian Federation is free to grant or not to grant political asylum, depending on *their* interests. But even if what is implied are not the interests of the head of state, but rather the *state* interests, it is obvious that the meaning of these cannot be clearly defined and differs not just from politician to

politician, but also depending on the same politician's, e.g. Yeltsin, stage in life. In other words, this phrase introduces an additional element of arbitrariness and subordinates the right of asylum to the head of state's understanding of state interests, despite the absence of legal control of their actions. In a context where *interests* prevail over *right*, there surely exists no *right* to asylum.

3. Paragraph 5 of both documents listed cases where the status of "political asylum" is not granted, but there are two significant and strange amendments to the 1997 Regulations. Thus, apart from cases listed in the 1995 Regulations, the status of "political asylum" is not granted if a) "*the person came from a country with developed and well-established democratic institutions in the field of human rights protection*", as well as if b) "*the person came from a country with which the Russian Federation has an agreement on visa-free border crossing, without prejudice to the right of this person to asylum in accordance with the Federal Law "On Refugees"*". To implement the first amendment, Paragraph 8 of the 1997 Regulations notes that the Russian Ministry of Foreign Affairs "*annually compiles a list of countries with developed and well-established democratic institutions in the field of human rights protection and submits it to the Commission for Citizenship Issues under the President of the Russian Federation and the Federal Migration Service of Russia.*"

Obviously, in some countries the institutions for the protection of human rights are more advanced, while in others they are less developed, or, for example, as in the DPRK, hardly exist at all. But the assertion made in the 1997 Regulations, that the legal institutions of some countries completely eliminate the possibility of existence of even one political refugee, is incorrect.

The second amendment demonstrates once again subordination of the status of "political asylum" to some peculiar state, i.e. *political*, interests, since it is obvious that the agreement on visa-free regime facilitates the arrival in Russia of persons in need of political asylum, rather than prevents or reduces it. Here, given the reservation "*without prejudice to the right of this person to asylum*", it is completely unclear what purpose the introduction of this provision had, as well as what kind of effect it was supposed to have in practice. As an example, see below a court's decision in which the collegium of the Supreme Court of the Russian Federation directly indicates that the applicant came from a visa-free country, and therefore had no grounds to apply for the status of "political asylum". In addition, in another court case, it is indicated that in 2016 employees of the Federal Migration Service for Murmansk region "*refused to accept an application for political asylum*" from an Uzbek citizen on the basis of this amendment (see the ruling of the judicial board for civil cases of the Murmansk Regional Court of 02.28.2019 in case No. 33a-659/2019). But at the same time, the statistics of the Federal Migration Service from 2007 to 2014 show that applications for the status of "political asylum" were submitted by citizens of a number of countries with which Russia at that time had a visa-free regime (citizens of Azerbaijan, Kazakhstan, Kyrgyzstan and Ukraine) (see here: [>>](#) and here: [>>](#)).

At first glance, it may seem that these amendments, imposing restrictions on the head of state, contradict the arbitrary spirit of the 1997 Regulations, which manifested itself in Paragraph 1. But if you think about it, it becomes obvious that in fact they only emphasize its arbitrariness. The amendments demonstrate the opportunistic nature of the status itself, as well as Yeltsin's and his entourage's lack of a clear understanding of the state interests. Thus, on the one hand, he sought to bring Russia closer to Western democratic countries, while, on the other hand, trying to

maintain close and trusting relationships with a number of authoritarian regimes with which a visa-free regime was established. Therefore, Yeltsin and his entourage did not come up with anything better than, in addition to asserting their uncontrolled power to grant or not to grant the status of “political asylum,” to make the two mentioned arbitrary and ridiculous amendments, thereby demonstrating their two contradictory priorities in foreign policy.

By the way, we should not overestimate the restrictions allegedly imposed on the power of the head of state by these amendments. As already mentioned, regarding refugees from visa-free countries, a strange and incomprehensible reservation is made that the refusal to grant asylum should not prejudice the right of this person to asylum. As for the “*list of countries with developed and well-established democratic institutions in the field of human rights protection*”, not only has it never been published in open sources, but it is not even clear how many countries were in it (zero, two, thirty or one hundred and eighty), as well as by what specific criteria and through what procedure it was compiled. It should only be noted that, according to the statistics of the Federal Migration Service of Russia from 2007 to 2014, the status of “political asylum” was requested by a) a Danish citizen (in 2011), i.e. a country that has for many years been among the top states on all respectable indices assessing the level of human rights protection, b) a citizen of Lithuania (in 2014), which also has a high degree of development of human rights institutions, and c) two immigrants from the United States (in 2012 and 2014) (see here: [>>](#) and here: [>>](#)). The latter is particularly noteworthy, since below we cite a 2012 court case, where the court found justified the refusal to consider the merits of the application of a US citizen for the status of “political asylum” in Russia, referring specifically to this secret list!

The analyzed amendments demonstrate that the status of “political asylum” was conceived not as a legal mechanism for protecting those who are persecuted for political reasons, but as a kind of political tool subordinate to the current political situation and illustrating the power of the head of state. As will be seen from the next paragraph, when this situation changed, the Russian authorities changed the text of the 1997 Regulations.

Analysis of subsequent amendments

The text of 1997 Regulations was repeatedly amended, namely on December 1, 2003, July 27, 2007, July 12, 2012, December 7, 2016 and December 19, 2018. Mostly these amendments were connected with renaming of government bodies mentioned in the Regulations following their transformation (often with significant delay). Later, some of these amendments were also amended. For example, the amendments of December 1, 2003 were related to the fact that the FMS had been abolished several years previously (see here [>>](#)). That was why in the text it was replaced by the MIA (Ministry of Internal Affairs). The amendments of July 27, 2007 were due to the revival of the FMS (see here [>>](#)). The need for amendments of December 7, 2016 was caused by the repeated abolishing of the FMS and the transfer of its functions to the MIA (see Paragraph 4 here [>>](#)).

We are not going to dwell on these formal nuances and will only describe the most important substantive amendments.

Thus, Vladimir Putin's Executive Order of July 12, 2012 No. 978 "On amendments to the Regulations on the procedure of granting political asylum by the Russian Federation approved by Executive Order of the President of the Russian Federation of July 21, 1997 No. 746" (see here: [»](#)), amended Section 8 prohibiting electronic submission of applications for the "political asylum" status, as well as issuance of electronic certificates of review of these applications. The purpose of this prohibition, which also covered submission of applications for the "refugee" status and the "temporary asylum" status, is unclear. On the one hand, this prohibition hinders electronic document management, even though the Russian authorities have always stressed and continue to stress the importance of its development. On the other hand, the original version of the 1997 Regulations already required that applicants contact the territorial migration division *in person* when requesting the "political asylum" status, so as to prevent potential abuse of the right of asylum through sending numerous unfounded or false applications via the Internet.

Vladimir Putin's Executive Order of December 19, 2018 No. 731 "On the invalidation of certain provisions of the acts of the President of the Russian Federation" (see here: [»](#)) removed from the 1997 Regulations the entire Section 5, where the grounds for refusal to grant the political asylum status were listed. As mentioned above, some grounds were clearly unnecessary, but it was completely wrong to remove *all* the grounds listed. For example, the original version correctly stated that asylum should not be granted, if the person applying for the political asylum was guilty of "*committing acts contrary to the purposes and principles of the United Nations*", or "*provided knowingly false information*", or "*is a citizen of a third country where he/she is not persecuted*". We believe that removal of the entire list of grounds for refusal to grant the "political asylum" status does not remedy the deficiencies in the 1997 Regulations, but rather multiplies them, bringing the arbitrariness of the "political asylum" status to a new level bordering on absolute. As a result, on the one hand, even if a political refugee fulfills all the extremely difficult conditions of the procedure for granting this status, they may still get a refusal from the Russian authorities with reference to some state interests. On the other hand, if the head of the state wants to grant this status, then, according to the new version of the 1997 Regulations, they may grant it to any person, including, for example, someone who has committed serious criminal offenses, or is guilty of war crimes and/or crimes against humanity, or has lied about having a well-founded fear of being persecuted.

In addition, such removal of all grounds for refusal to grant the "political asylum" status further distances it from the standards of the UN Convention relating to the Status of Refugees, which states, among other things, that its provisions shall not apply to persons who have committed serious crimes or are "*guilty of acts contrary to the purposes and principles of the United Nations*" (see here: [»](#)).

Thus, the prohibition of electronic submission of applications makes it more difficult to obtain the "political asylum" status. The removal of *all* grounds for refusal to grant this status makes it even more arbitrary, since the person holding the office of the President of the Russian Federation has the power to grant it without any legal limitations.

Comparison with the "refugee" status

As mentioned above, in addition to the "political asylum" status, Russia also has the "refugee" and "temporary asylum" statuses. Moreover, the "refugee" status was introduced before Boris Yelstin formally established the "political asylum" status and, most importantly, it is granted,

inter alia, to persons persecuted for political reasons. It has also already been mentioned that, while the “refugee” status in general conforms with the UN Convention relating to the Status of Refugees, the “political asylum” status, which was barely connected to the Convention initially, in course of the amendments became completely separated from the Convention and even contradicted it in some aspects.

As for the rights and obligations of the person with the “political asylum” status, the 1997 Regulations only state that: “*The person granted political asylum enjoys, in the territory of the Russian Federation, the same rights and freedoms and bears the same obligations as the citizens of the Russian Federation, except in the cases set forth for foreign citizens and stateless persons in a federal law or an international treaty of the Russian Federation*” (Section 4).

In other words, with some nuances described below, the “political asylum” status grants the same rights as the “refugee” status.

What is then the difference between the “political asylum” status and the “refugee” status, apart from the fact that, as mentioned above, the former is granted “*taking into account the state interests*” and does not have any prescribed *substantive* grounds for refusal? There are seven important differences, all but one of which are **not in favor of the “political asylum” status**:

1. Form and place of application. According to Section 8 of the 1997 Regulations, an application may be filed only *in person* and only “*with the territorial division of the Ministry of Internal Affairs of the Russian Federation in the region of the Russian Federation, where the applicant is staying*”.

Under Article 4 of the Federal Law “On Refugees”, an application for refugee status may be filed *in person* or *through a representative* with (a) “*a diplomatic mission or a consular office of the Russian Federation outside the state of the applicant’s citizenship (former habitual residence)*”, or (b) “*a border authority of the Federal Security Service*”, or (c) “*a territorial division of the federal executive body in the field of internal affairs*”.

Conclusion: there are more options to apply for the “refugee” status, both in terms of form and place of filing an application, which can be done through a representative, from outside Russia, as well as when crossing the border, while the “political asylum” status can be requested only in person and only while being present in Russia.

2. Application deadline. Under Section 8 of the 1997 Regulations, a person wishing to obtain political asylum in the Russian Federation must file an application “*within seven days upon arrival to the Russian Federation or upon the moment of occurrence of the circumstances preventing such person from returning to the country of their citizenship or the country of their habitual residence*”.

In the Federal Law “On Refugees”, a deadline for filing an application is set forth only for cases of illegal border crossing and equals one day. However, even for such cases there is a stipulation, which provides that, “*if the circumstances beyond that person’s control prevent them from timely filing an application, the deadline for filing the application may be more than one day*” (Article 4).

Conclusion: in terms of the deadline for filing an application, the requirements for the “political asylum” status application are much stricter than those for the “refugee” status application.

3. Review procedure. An application for the “political asylum” status is filed with a territorial division of the Directorate for Migration (DM) of the Ministry of Internal Affairs (MIA) of Russia (formerly the Federal Migration Service of Russia), which either refuses to review it straight away or transmits it to the Main Directorate for Migration (MDM) of the MIA of Russia, which requests the opinions of the Ministry of Foreign Affairs (MFA) of Russia and the Federal Security Service (FSS) of Russia, and then either rejects the application or sends the materials to the Commission for Citizenship Issues of the President of the Russian Federation, which presents its opinion *“on the possibility and advisability of granting a person political asylum in the Russian Federation”*. Only after all this is done, the President of the Russian Federation makes a decision on the application (Sections 8, 10, 11 and 12 of the 1997 Regulations).

Depending on the place of filing, preliminary review of the application for the “refugee” status is conducted either by a diplomatic mission (or a consular office) of the MFA of Russia or by a territorial division of the DM of the MIA of Russia. Substantive review is conducted either by the same territorial division of the DM of the MIA of Russia or, if the application is filed through a diplomatic mission, by the MDM of the MIA of Russia (Articles 4, 5 and 7 of the Federal Law “On Refugees”).

Conclusion: while an application for the “refugee” status is reviewed by *one or at most two bodies* (either by a territorial division of the DM of the MIA of Russia alone or by a diplomatic (consular) authority of the MFA of Russia and the MDM of the MIA of Russia), an application for the “political asylum” status is reviewed by *four bodies*, with special opinions of *two more agencies*, which naturally cannot but complicate this procedure and reduce the applicant’s chances for success.

4. Application review period. In accordance with Section 12 of the 1997 Regulations, the review period of an application for the “political asylum” status by the MIA, MFA and FSS *“shall not exceed one month in each of these bodies”*, however, the period of subsequent review of the application by the Commission for Citizenship Issues and the President of the Russian Federation is not stipulated anywhere.

The review period of an application for the “refugee” status must not exceed three months, and in some cases, may be extended by no more than three months (Article 7, Part 1, Section 2 of the Federal Law “On Refugees”).

Conclusion: since some stages of the procedure are not regulated, the review period of an application for the “political asylum” status can be much longer than the review period of an application for the “refugee” status. Moreover, there is no time limit for the “political asylum” application review.

5. Form of decision-making. The “political asylum” status is granted by an executive order of the President of the Russian Federation (Section 3 of the 1997 Regulations).

The decision to grant the “refugee” status is made by the authorities of the MIA of Russia, which does not require any special executive orders.

Conclusion: in case of an application for the “refugee” status, the form of decision-making is simpler, which cannot but increase the chances that the status will be granted, in comparison with the chances of being granted the “political asylum” status.

6. Protections against expulsion. The 1997 Regulations do not contain any protections against expulsion of a person who has applied for or even obtained the “political asylum” status.

Part 1, Article 10 of the Federal Law “On Refugees” states: “*A person who is applying for the refugee status or has been granted the refugee status, or a person, whose refugee status was lost or canceled, shall not be returned against their will to the state of their citizenship (their former habitual residence), if in such state the circumstances, set forth in subsection 1, section 1, article 1 of this Federal Law, still remain*”.

Conclusion: in contrast to the “refugee” status, the “political asylum” status formally provides a person applying for such status or holding such status no legal protections against expulsion to the country, where this person is in danger of being persecuted. This contradicts both common sense and international law.

7. Additional status, rights and obligations. A person with “political asylum” status is also granted an additional status by the MIA authorities, specifically a residence permit (Section 16 of the 1997 Regulations). In many ways, the residence permit and the “refugee” status give similar rights and social protections (mandatory medical insurance policy, right to work, right to buy real estate, etc.). However, the former is more beneficial in the sense that its holder, if he/she wishes to, may, subject to fulfillment of certain conditions, apply for Russian citizenship, while the “refugee” status does not give such opportunity.

A person granted “refugee” status by the Russian authorities is not granted any additional status. However, the “refugee” status, if compared to the “political asylum” status and residence permit, gives a number of additional rights, specifically the rights to (a) assistance in arranging travel and carriage of luggage to the place of stay; (b) a one-time payment (although currently the minimum amount is 100 roubles for each family member, which is so little, that it usually costs more to request this payment); (c) free stay at the temporary accommodation center; (d) vocational training at the temporary accommodation center or employment assistance (Article 6 of the Federal Law “On Refugees”).

In addition, the Russian law does not answer the following question: does the “political asylum” status holder have to pass the comprehensive examination and fulfill other requirements, which apply to those wishing to obtain a residence permit? This lack of regulation is probably explained by the fact that the “political asylum” status has not been granted to anyone since 1992, which is why the Russian authorities have never had to address this question in practice.

Conclusion: the “political asylum” status holders additionally receive residence permits, which allows them to apply for Russian citizenship, while the “refugee” status gives in theory (in practice, however, far from always) a number of rights, which neither the “political asylum” status nor the residence permit do.

Based on the results of comparison of the “political asylum” status to the “refugee” status, it should be concluded that the “political asylum” status (a) is granted on the same grounds as those for granting the “refugee” status; (b) in a number of aspects (form and place of application, application deadline, review procedure, review period, form of decision-making), is much harder to request and to obtain than the “refugee” status; (c) does not protect the applicant against expulsion to the country, where they are in danger of being persecuted, which is one of the most important protections for any refugee; (d) although supplemented by a residence permit allowing to apply for Russian citizenship,

does not give a number of additional rights, which the “refugee” status gives. It is thus unclear why anyone should apply for the “political asylum” status, which is in almost all respects inferior to the “refugee” status.

The “political asylum” status as set forth in the draft law “On granting asylum in the territory of the Russian Federation”

In **January 2022**, the MIA of Russia submitted for public discussion the draft law “On granting asylum in the territory of the Russian Federation”, which proposed to establish four types of asylum: (1) refugee, (2) temporary asylum, (3) political asylum, (4) temporary protection (see here: [>>](#)). The draft law has many flaws and worsens the situation with the rights of refugees in Russia (see the comment given by the Chair of the Civic Assistance Committee Svetlana Gannushkina to *Miloserdie* portal here: [>>](#)). In this paper, we would like to add just a couple of remarks to the criticism already voiced.

For example, Chapter 4 “Applying for asylum and decision-making”, specifically Part 3, Article 17 of this draft law, states that a person, who has entered Russia and wishes to obtain any kind of asylum, *“shall file an application for asylum with the territorial division of the federal executive body in the field of internal affairs not later than seven business days upon the day of entry to the territory of the Russian Federation”*. Part 6 of the same article stipulates that *“a foreign citizen staying in the territory of the Russian Federation shall file an application for asylum with the territorial division of the federal executive body in the field of internal affairs not later than seven business days upon the day, when they become aware of the circumstances preventing them from returning to the country of their citizenship”*. Surprisingly, this is almost a verbatim, albeit more detailed, repetition of Part 8 of the 1997 Regulations, which apply *only* to the “political asylum” status. It should be stressed that the expansion of this seven-day application deadline to cover all types of asylum can create additional difficulties for the refugees staying in Russia. As shown by the examples of judicial practice on appeals against migration authorities refusing to review applications for the “political asylum” status (see below), the Russian courts upheld these refusals with references to applicants’ failures to fulfill these unfounded and ridiculous procedural requirements.

As for the “political asylum” status itself, the draft law regulates it in Article 7, consisting of three parts. Let us briefly review each of them:

“1. Political asylum is granted to a foreign citizen, seeking protection from persecution or real threat of being persecuted in the country of their citizenship (former habitual residence) for social and political activity and beliefs, which do not contradict the Constitution of the Russian Federation, norms and principles of international law”.

This part is a compilation of Sections 1 and 2 of the 1997 Regulations, with one important amendment. Section 2 of the 1997 Regulations states, that political asylum is granted *“for social and political activity and beliefs, which do not contradict the democratic principles recognized by the global community, norms of international law”*. The draft law puts the 2020 “modified” Constitution of the Russian Federation first. Thereby, the authorities actually highlight the rejection of the priority of international law.

“2. The procedure of granting political asylum in the Russian Federation, including its loss and cancellation, is determined by the President of the Russian Federation”.

This part means that, according to the authors of the draft law, the procedure of granting the “political asylum” status will still be governed by the 1997 Regulations. Also, in this part, the words “President of the Russian Federation” are once again used as a synonym for the words “Russian Federation”. This is another repetition of the provision, which, in our view, is extremely dangerous, that the President of the Russian Federation has the power not only to grant the “political asylum” status, but also to determine what this status means and the criteria for granting this status or the absence of such criteria.

“3. The provisions of this Federal Law apply to persons, who are applying for political asylum, and persons, who have been granted political asylum, in the part not regulated by section 2 of this article”.

This means that the flaws of the 1997 Regulations are supplemented by a number of deficiencies in the new draft law. It should be noted that the authors of the draft law did not even bother to list specific articles and parts, which complement the 1997 Regulations, or those covering aspects already regulated by it. In this connection, as an example, we will ask just one question. Does this mean that, if the draft law is adopted, a person applying for the “political asylum” status in Russia will be allowed to file an application not only with the territorial divisions of the MIA, but also abroad and when crossing the border? The draft law does not answer this question, and the text allows for a double, that is, arbitrary interpretation.

With rare exceptions, the draft law “On granting asylum in the territory of the Russian Federation”, as it was submitted for public discussion, changes the legal framework of the asylum institution for the worse in many aspects. As for the “political asylum” status, the draft law (a) reflects that the Russian authorities actually rejected the priority of international law a long time ago, (b) leaves the 1997 Regulations’ arbitrariness intact, (c) does not make it clear, which parts of the new draft law complement the Regulations.

The “political asylum” status and acquisition of Russian citizenship

The above-mentioned Article 89 of the Constitution of the Russian Federation, which states that the President of the Russian Federation *“shall solve the issues of citizenship of the Russian Federation and of granting political asylum”*, gives reasons to compare granting the “political asylum” status to acquisition of Russian citizenship. In addition, it may also be recalled that, under Section 11 of the 1997 Regulations, *“The Commission for Citizenship Issues of the President of the Russian Federation reviews applications and supplementary materials, and submits its proposals with respect to each application to the President of the Russian Federation, who makes the relevant decisions”*. It is striking that the applications for the “political asylum” status are not reviewed by an institution called “Commission for Political Asylum Issues” or even “Commission for Citizenship and Political Asylum Issues”, but rather by the “Commission for Citizenship Issues”.

In accordance with the Regulations of the Commission for Citizenship Issues of the President of the Russian Federation, approved by Putin’s Executive Order of November 14, 2002 (see here: [>>](#)), it is this commission that, on the one hand, prepares proposals to improve legislation regulating citizenship and “political asylum” status and, on the other hand, *“conducts preliminary review of applications for granting Russian citizenship, restoration of Russian*

citizenship, termination of Russian citizenship, granting political asylum in the Russian Federation and prepares relevant proposals for the President of the Russian Federation”. In other words, the procedures of granting the “political asylum” status and acquisition of Russian citizenship turn out to be closely connected in a formal and procedural sense. But is this the only connection?

The Federal Law “On the Citizenship of the Russian Federation” grants the President of the Russian Federation enormous powers, including the right to give out Russian passports to basically any person (Part 3, Article 13), and from the end of 2018, also to any group of persons (Part 1.1, Article 29) (see here: [»»](#)). At the same time, when Putin gave out Russian passports by his executive orders, they did not contain a reference even to this law, they only referred to that same Article 89 of the Constitution of the Russian Federation. This was how Russian passports were obtained by some eccentric celebrities, including “citizen of the world” Gérard Depardieu (in 2013), boxer Roy Jones Jr. (in 2015) and actor Steven Seagal (in 2016).

The latest world-famous celebrity, who acquired Russian citizenship, was Uruguayan singer and actress Natalia Oreiro (Putin’s Executive Order No. 603 of October 25, 2021, see here: [»»](#)). It is worth noting that (a) she admitted, that the request for a Russian passport at the show of Ivan Urgant was a joke, but when the Russian diplomats contacted her and made her a serious offer of citizenship, she agreed “as a sign of gratitude to Russian fans”; (b) she did not and does not intend to live in Russia; (c) for some reason, Russian citizenship was also granted to her nine-year-old son; (d) apart from Uruguayan citizenship, she also has a Spanish passport; (e) she has lived in Argentina since the age of 17, and considers it her homeland; (f) despite the fact, that she has been trying to acquire Argentinian citizenship since 2010, as far as we know, she has not succeeded; (g) the request for a Russian passport was filed and the passport was obtained not in Russia, but at the Russian Embassy in Buenos Aires (see here: [»»](#), here: [»»](#), here: [»»](#)).

All these cases were widely publicized in state-owned and state-affiliated media, which, in the same vein as the above-mentioned odious Life article, spoke about the numerous Western celebrities’ interest in Russian citizenship, while in reality, there was just a handful of cases and none of the celebrities, who obtained Russian passports, moved to Russia.

With reference to Part 1.1, Article 29 of the Federal Law “On the Citizenship of the Russian Federation”, Putin issued Executive Order No. 183 of April 24, 2019 initiating mass issuance of Russian passports to Ukrainian citizens residing in the territories of Luhansk and Donetsk regions (see here: [»»](#)).

The procedure of granting the “political asylum” status has some similarities with the special powers of the head of the state in the field of granting Russian citizenship. Just as the President can issue a Russian passport to anyone, including those who are not connected with Russia and do not intend to live there, the President also has the power to grant the “political asylum” status to anyone, including those who, under international law, are not refugees. The question is why anyone would need the “political asylum” status. A Russian passport has a number of advantages over any other Russian status (“political asylum” status, “refugee” status, residence permit, etc.), that is why its acquisition without having to fulfill standard conditions may be of interest for some people. The “political asylum” status, however, not just lacks any legal advantages over Russian citizenship, but is also far inferior to the “refugee” status.

Section 3. Practice

Statistics

Unfortunately, detailed statistics, which would make clear the situation with the “political asylum” status, are not available publicly or included in the reports of the government agencies. Thus, it is unknown how many people, since 1992 or at least 1995, applied for this status, how many applications were reviewed and how many people, if any, were granted this status. For lack of anything better, we have to rely on the data announced by the relevant officials, as well as the data for the period from 2007 to 2014, when the Federal Migration Service (FMS) published application statistics.

In **October 1997**, Yuri Arkhipov, Deputy Head of the Immigration Control Directorate of the FMS, noted that, although there were hundreds of applications, the “political asylum” status was not granted to anyone after Kim Myung-se. This was confirmed by V. Kuznetsov, Deputy Head of Yeltsin’s Executive Office’s Division Supporting the Commission for Citizenship Issues (see *Kommersant* newspaper issue of October 9, 1997).

In early 2008, infamous then-head of the FMS press office Konstantin Poltoranin, probably referring to the period from 1995, said: “*To be completely honest, Russia has never granted political asylum*” (see here: [≥≥](#)).

From 2007 to 2014, the FMS published statistics according to which, in these eight years, 20 people managed to file an application for the “political asylum” status. To be more precise, there were 17 people, since three more were apparently minor family members. For such a small number, the group was geographically quite diverse. Thus, the political asylum status was requested by persons from the following countries: Azerbaijan, Denmark, Georgia, Kyrgyzstan, Lithuania, Syria, Ukraine (one person from each country), USA (two persons), Kazakhstan (four persons) and Uzbekistan (four persons) (see here: [≥≥](#) and here: [≥≥](#)).

According to the investigation of *Meduza* news website, designated by the Russian authorities as a foreign agent, “*As of January 1, 2019, no people with political asylum status were registered with the MIA. In 2019-2021, 11 people tried to obtain this status. However, no applications were even formally accepted for review*” (see here: [≥≥](#)).

Thus, the available statistics, investigative journalism, and statements of Russian officials allow us to confidently assert that, in almost 30 years, that is, from June 16, 1992 until the end of 2021, the “political asylum” status was not granted a single time.

Famous cases

Due to the fact that, as mentioned above, formally the “refugee” status, the “temporary asylum” status and the “political asylum” status in some cases may be called “political asylum”, Russian media often write about various persons requesting or being granted “political asylum”. However, on closer inspection, it turns out that what they meant was the “refugee” status or the “temporary asylum” status. This way, for example, a lot of news media outlets wrote about

granting Edward Snowden a political asylum in Russia, however he had been granted the status of “temporary asylum”. Listed below are the cases that got more or less wide media coverage, where the issues concerned namely the requests for granting the “*political asylum*” status. Nevertheless, an important caveat should be made: as a matter of fact, it turns out to be impossible to reconstruct the actual details of every case and, presumably, it was rarely if ever that, when applying for granting the status of “political asylum”, all of the extremely tough requirements, listed in the 1997 Regulations, were met. Therefore listed below are the well-known cases, when the applications of political asylum status were formally and/or publically addressed to the Head of State or, as it was in the cases of Snowden and Yanukovich, it is known for a fact, that he personally took a decision whether to grant an official asylum or not. At the same time, it should be mentioned that the major part of claims for political asylum cannot be called well-known. Some of them will be mentioned in the subsection “Court appeals against rejections”.

In 1992, the year, when there was only one case of granting the status of “political asylum” known, it was also claimed by the ousted president of Azerbaijan **Ayaz Niyazi oglu Mutalibov** (see *Kommersant* newspaper, 11.14.1992). He got rejected, but he claimed it **again in 1996** (see *Kommersant* newspaper, 05.14.1996 and *Kommersant Vlast* magazine, 04.01.1997). Some media outlets said he had been finally granted the status, however this presumably failed to comply with the facts, as Mutalibov himself said in an interview to *Nezavisimaya gazeta* that he had got the refugee certificate in 1999, and “*before that had been residing with 45-day certificates*”, which is why he had been detained repeatedly, being accused of violating the migration law (see *Nezavisimaya gazeta*, 06.29.2005).

On November 4, 1998, Yeltsin’s administration received a request to grant political asylum, signed by the leader of Kurdistan Workers’ Party **Abdullah Öcalan**, who had arrived in Moscow two weeks earlier. The request was submitted with the appeal of the State Duma members supporting the claim. Yeltsin’s administration and the Government of the Russian Federation at that time did not want to trouble the relations with Turkey, so they suggested Öcalan would leave Russia, and this is what he did soon after, being afraid of arrest and extradition. Besides, the mass media claimed that the decision to reject the political asylum was taken not so much by Yeltsin, but by Prime Minister E. M. Primakov. Öcalan left for Italy, where he was first arrested, then released, but nevertheless rejected asylum. On January 16 of the following year, Öcalan headed for Russia again, where he stayed for two weeks more, but then again was unambiguously hinted he had been unwelcome, after that he left again. Having traveled the world for one more month, Öcalan was caught in Kenya by Turkish intelligence services and forcibly sent to Istanbul (see *Kommersant* newspaper, 11.05.1998, *Kommersant Vlast* magazine, 11.24.1998, and *Kommersant Vlast* magazine, 02.23.1999).

In 2004, the conflict arose between the republican government of Georgia and the authorities of the Autonomous Republic of Adjara. In order to regain control in the region, M. N. Saakashvili promised personal inviolability to the rogue head of administration **Aslan Ibragimovich Abashidze**, if he resigns and leaves Georgia (see here: [>>](#)). According to the information on the Georgian side, Saakashvili personally asked Putin to grant political asylum to Abashidze, however the Ministry of Foreign Affairs of the Russian Federation did not confirm the information. On May 5 of the same year, in Batumi, where Abashidze stayed, a plane landed carrying the Secretary of the Security Council of the Russian Federation I. S. Ivanov. Abashidze stated he was not going neither to resign, nor to leave the territory of Georgia. However, having met Ivanov on the same day, he changed his mind, agreed to resign, and left for Russia (see here: [>>](#)). It is not known for certain which migration status Abashidze was granted, as well as the

details of his further life in Russia, except for the fact that in 2017 the 78-year old former Head of the Autonomous Republic of Adjara had a son born.

In May of 2006, the status of “political asylum” was requested by the French psychiatrist **Jeannot André Hoareau** based in Russia. Shortly before that he had been detained in Moscow at the request of the French government who had been looking for him over allegations of raping his female patients during hypnosis sessions. The psychiatrist himself blamed the criminal suit on the communist ideas he and his family were following (see here: [>>](#) and here: [>>](#)). It is unknown whether the claim to grant the status of “political asylum” was considered on the merits, and furthermore, whether it was granted, however soon, by decision of the Russian Prosecutor’s Office, Hoareau was released from the pretrial detention center (see here: [>>](#)). Besides, in 2009, he founded the *European Centre of Psychic Development*, and at least until recent times has been practicing in Moscow (there are testimonials about his sessions dated 2019, see here [>>](#)), sometimes presenting himself as **Jeannot Lebeau**, and sometimes as **Lebeau Jeannot Andreyevich**. He is also registered under the latter name as a founder of two organizations in Moscow founded in 2007 and 2016 (see here: [>>](#)), which indicates he had obtained Russian citizenship.

In January of 2013, Putin was addressed a letter with a claim to grant the political asylum to the Head of Dnepropetrovsk human rights union “Help the Children” (“Pomozhem detyam”) **Nikolay Nikolayevich Kozhushko**, who left for Russia after an attempt on his life. He was not granted asylum, but the Ukrainian Prosecutor’s Office launched a criminal investigation into the attempt on his life. In April of the same year, Kozhushko returned to Ukraine (see here: [>>](#)). Moreover, in 2019, he took under his personal guarantee a Chechen named A. D. Ivlaev and asked the Kharkiv Court not to extradite the man to Russia (see here: [>>](#)).

It was as early as two weeks before the arrival of **Edward Snowden** in Russia that Putin’s Press Secretary D. S. Peskov declared determination to consider his claim of political asylum (see *Kommersant* newspaper, issue 99, 06.11.2013). Having arrived in Russia on **June 30, 2013**, Edward Snowden asked for “political asylum” status, but staying in the airport he violated the procedure, as he did not do apply personally, but through his representative, who on top of it took the claim to a department of the Ministry of Foreign Affairs instead of applying to a territorial authority of the Federal Migration Service (see *Kommersant* issue of 07.01.2013). Judging by the statistics of the Federal Migration Service, in 2013, nobody applied for the status of “political asylum” not only from the USA, but from anywhere else (see here: [>>](#)), therefore Snowden’s claim was not considered. Having left Sheremetyevo airport, Snowden sent in an application to the Federal Migration Service, but this time he applied for the status of “temporary asylum”, which he was finally granted by the Russian authorities. In 2014, Snowden obtained a temporary residence permit, then a residence permit, and in 2020 he applied for granting him Russian citizenship (see here: [>>](#)).

In February of 2014 former president of Ukraine **Viktor Fedorovich Yanukovich** fled to Russia. It was only in October 2016, that he was reported to be residing in Russia on the basis of “temporary asylum” status (e.g. see here: [>>](#)). The press media mentioned that the status had been prolonged several times, the last one terminating on October 26, 2020. It remains unknown what was the basis for Yanukovich to stay in Russia before the autumn of 2016, as well as after October 26, 2020. Probably, he initially claimed for “temporary asylum”, while he was never granted the “political asylum” status, and not even claimed for it. However, if this is true, then it is obvious that the decision to grant him a temporary asylum was taken by Putin personally,

therefore, as it had been mentioned above, it is appropriate to mention Yanukovich in the list of well-known cases concerning the “political asylum” status.

In March of 2017, at the request of the Belarusian Investigative Committee, a Belarusian **Yuriy Vladimirovich Baranchik** was detained in Moscow. He had actively worked for the pro-Kremlin press media, engaged in propaganda of the idea of the “Russian world”, and rejecting the right of Belarus as well as Ukraine being sovereign. Right in the Department of Internal Affairs at Dorogomilovo, where Baranchik was kept awaiting results of the trial, he wrote an appeal to Putin claiming for granting him political asylum. The court decided not to arrest him, but released him immediately under recognisance not to leave the country. However, Putin’s Press Secretary Peskov said the Kremlin had not received Baranchik’s claim (e.g. see here: [>>](#)). It is unknown what status he was granted, but he was not extradited to the authorities of Belarus, and continued to write in his style.

In autumn of 2018, Milan Knezevic and Andrija Mandic, who – together with some citizens of Serbia and Russia – were accused of coup d’etat attempt by the authorities of Montenegro, addressed politicians of several countries (Putin among them) with an appeal to grant them asylum. There is no information on whether the Kremlin answered their appeal, but it is known that in 2019 they were convicted for five years (see *Kommersant* of 11.05.2018 and here: [>>](#)). Nevertheless, even if there had been no answer, it was probably determined not by the lack of sympathy to the two criminals, but more by the fact that they were in the hands of justice of Montenegro. For instance, another active and well-known participant of the events Ananie Nikic, put on the international wanted list, avoided detention and escaped the investigation in Russia, where he obtained the status of “refugee” (see *Kommersant*, 11.01.2017).

On March 7, 2021, Turkmen political activist **Rozgeldy Choliev**, having arrived from Turkey, published a video appeal to Putin that contained his claim to help him obtain asylum in Russia. Even though Choliev initially asked to grant him the status of “refugee”, the inaction of the migration authorities forced him to address Putin directly. The activist was known in Turkmenistan for his videos containing the criticism of the totalitarian authorities in power, which put him into an extremely dangerous situation. Appeal to Putin did not help him. At first, the Russian authorities did not want to accept the application for refugee status from Choliev stuck in Sheremetyevo, then under the pressure of public opinion conducted an interview, but only to reject considering the merits of the application in several days, and not giving him time for lodging a complaint, to deport the activist to Turkey (see here: [>>](#) and here: [>>](#)).

On April 21, 2022, Putin was asked for asylum by a notorious Ukrainian politician **Illia Volodymyrovych Kyva**, who is widely known for his peculiar career. For example, he got into politics as a participant of Euromaidan and a teammate of D. A. Yarosh, having headed the regional chapter of the “Right Sector” in 2014. In August of 2014 became the commander of Ukrainian volunteer battalion “Poltavshchina”. It was in a few months that after a series of scandals Kyva left the post, and the Minister of Internal Affairs of Ukraine A. B. Avakov appointed him as a Deputy Head of Administration of the Ministry of Internal Affairs in the Donetsk region. For the next two years or so he devoted himself mostly to activities in the structures of the Ministry of Internal Affairs of Ukraine. In July of 2017 Kyva restarted his political activity, suddenly announcing he had headed a pro-Kremlin Socialist party of Ukraine. As a result of a series of crises and scandals, in which Kyva was taking an immediate part, the party split into several parts, while Kyva was removed from the post in 2019. Later on in the same year, he shifted to a so called “Opposition Platform – For Life” (hereinafter referred to as OPFL), with which he was immediately elected to Verkhovna Rada. As compared to Kyva’s

rhetoric of the previous years, it has changed drastically and became straightforwardly pro-Kremlin. Shortly before February 24, 2022, Kyva left his country and turned up in Moscow declaring that he was not going to return (see here: [>>](#)).

Out of the 10 cases listed above, as far as we know, nobody was granted “political asylum” status, however everybody, except for Öcalan as well as Choliev, who wanted to stay in Russia, obtained permissions to stay in Russia on other grounds. That said, the case of Öcalan dates back to the time of Yeltsin, while Choliev, on the one hand, did not hold a pro-Kremlin position, and on the other hand, was little known outside his motherland. Moreover, the case became well-known only due to human rights organizations and independent press media. Therefore, it is conceivable that usually for the Russian authorities to grant “refugee” status or “temporary asylum” status it is sufficient for the person to be widely known and/or have a clearly demonstrated pro-Kremlin position, but these are not enough to grant this person status of “political asylum”.

Offers of “political asylum” status

The actual meaning of “political asylum” status is revealed most clearly not as much at the review of cases when it was claimed for, but not obtained in the end, but at investigation of cases when it was offered while not being claimed for.

On May 22, 2006, in the time of aggravated relations between the official Tbilisi and the Kremlin, – which resulted in mass deportation of Georgians from Russia, that took place with extreme violations of human rights (see the judgment of the European Court of Human Rights here: [>>](#)), – Deputy Prosecutor General of the Russian Federation V. I. Kolesnikov (probably, it was for the reason that he was born and grew up in Georgia) made a public statement promising to grant political asylum to former senior official of USSR KGB and former Minister of State Security of Georgia **Igor Panteleymonovich Giorgadze**. It is notable, that granting asylum is by no chance related to the authorities of the prosecutors, and besides that, by that time Giorgadze had been living in Russia since 1995 (other sources say since 1998), however it is unclear what were his grounds for migration. Being an emigrant, apparently in Moscow, in mid-2000s, Giorgadze was actively campaigning against Saakashvili and being a remote leader of Georgian party “Justice” (“Samartlianoba”). Kolesnikov’s promise was caused by the fact that after many years the Russian authorities had not been officially confirming the information about Giorgadze being in Russia, in the time of conflict between the official Tbilisi and the Kremlin, Giorgadze was allowed to speak publicly and give a press conference in Moscow (see *Kommersant* newspaper, issue No. 109 of 07.12.1997 and *Kommersant* newspaper, issue No. 91 of 05.24.2006). Giorgadze started the press conference with thanking Russia and Kolesnikov personally for offering him political asylum, which he, nevertheless, refused. Also, Giorgadze mentioned that he was very grateful to the Prosecutor for the refusal to extradite him to Georgia in 1995. In the main part of his speech Giorgadze criticized Saakashvili’s policy, requested recall elections, and threatened to make a “nettle revolution” in Georgia (see: *Kommersant* newspaper, issue No. 92 of 05.25.2006). In 2007, the Georgian authorities won over Giorgadze’s party by a landslide, and after that the interest of mass media to the person decreased significantly, however he continued to give interviews in Russia, and also headed the movement “Georgia Abroad”. As far as the migration status is concerned, in 2016, Giorgadze said in an interview that he lives with the “refugee” status (see here: [>>](#)). Once again his name roared in 2018 in relation to a press conference in Moscow where he released false narratives about the Georgian Lugar Research Center conducting supposed lethal experiments on people. Later on, the

misinformation was circulating in all pro-Kremlin press media, the Russian Ministry of Foreign Affairs, and by the national security, defense and law enforcement agencies. (see here: [»](#)).

In April 2013, in view of Germany and several other countries planning to discontinue the usage of nuclear power, Putin talked to scientist **Helmut Dosch** after the meeting of the Council for Science. This famous German physicist spoke very critically of the plans of the German government to close all nuclear power plants, considering this decision to be incorrect from the scientific, economic, and technological points of view. As a response to the criticism, Putin expressed confidence in the safety of the nuclear power plants, and offered Dosch political asylum (see *Moskovskij Komsomolets* newspaper, 04.30.2013).

On January 19, 2016, in the time of the migration crisis raging in Europe, caused by the war in Syria, in which the Russian troops were already taking an active part at that moment, Putin was receiving in the Kremlin the executive members of the so-called **European Jewish Congress**. It should be mentioned that the Congress has been at all times headed by oligarch V. V. Kantor, who is close to the Kremlin, was born and made his fortune in Russia. Having listened to Kantor's tales about the Jewish supposedly facing persistent antisemitism in Europe, Putin suggested all the European Jewish would seek asylum in Russia (see *Kommersant*, 01.19.2016).

On June 16, 2017, in Moscow during his live broadcast call-in show, in view of US investigation of probable connection between Donald Trump and the Kremlin, Putin offered political asylum to former Head of FBI James Comey, dismissed by Trump. Putin also compared the deeds of Snowden and Comey, classifying them as human rights activities.

At the beginning of **February 2022**, in the time of growing number of Russian troops at the border with Ukraine, Putin offered political asylum to **Petro Alekseevich Poroshenko**, who had an arising conflict with Ukrainian authorities in power, including the President of Ukraine Volodymyr Alexandrovich Zelensky. Poroshenko determinately rejected the offer (see here: [»](#)), which probably did not imply accepting, but was connected with Putin's desire to split the Ukrainian elites.

Apparently, the “political asylum” status has been repeatedly used by the highest levels of the Russian authorities as a political instrument and not as a legal one; among other things, it was used to create publicity opportunities and demonstrate political patronage to those who never needed neither the patronage, nor the status.

Judicial appeals against rejections

We do not know of any court decision, in which, when considering the question of granting the status of “political asylum”, the judge would take the side of the complainant, defending his/her right to the status. In their rejections the judges usually pleaded that the application was filed to a wrong address (for example, the application was filed to judicial bodies), or the seven-day term for filing the application was infringed. Nevertheless, apart from these justifications or together with them, the Russian courts sometimes put other reasons.

As the court decisions show, the applications for granting the status of “political asylum” have also been submitted by people unknown to the public. Unfortunately, a more or less comprehensive digital database of the judicial acts started to be gathered only at the beginning of 2010s, which seriously limits studies of the Russian judicial practice. Listed below are several typical cases dating back to these years, and also one found court decision dated 2005.

On December 13, 2005, the Judicial Chamber on Criminal Cases of the Supreme Court of the Russian Federation (case No. 18-005-70) dismissed a complaint of a citizen of Georgia, appealing against the decision of the Prosecutor's Office of the Russian Federation on his extradition to the Georgian authorities. The latter accused the complainant of an attempted murder and infliction of serious bodily assault with a knife, which had taken place in the city of Gori in 1998. The complainant claimed he had not committed the assault, but was prosecuted in Georgia for political motives, which is why he addressed the Russian authorities with an appeal to grant political asylum. The Judicial Chamber, pleading the edition of 1997 Regulations which was in force at that time, namely, that the status of "political asylum" is not granted "*if the person is being prosecuted for actions (or inactions), that are considered a crime in the Russian Federation*" (see the text of the court decision here: [>>](#)), decided to extradite the complainant in Georgia.

On March 30, 2012, the judge of Transbaikal territorial court T. I. Vasilyeva (case No. 7-12-41-12) refused to reverse the decision of the trial court, which ordered to expel a North Korean for infringing the legal term of stay in Russia. The latter right in the courtroom asked to grant him political asylum, but the judge, pleading that it does not comply with the procedure described in the 1997 Regulations, stated that this application "*cannot be allowed within the proceedings on the case of administrative violation*" and expelled the North Korean to his motherland, where probably prison and tortures were awaiting him.

On June 14, 2012, the Judicial Chamber on Civil Cases of Irkutsk regional court (case No. 33-4837/2012) dismissed a complaint of a citizen of the USA John Earl Weiss, appealing against the actions of Administration of the Federal Migration Service of Irkutsk region, namely: rejection to grant him the status of "refugee", not considering his application for granting him the status of "temporary asylum", not informing him on the results of considering his application to grant him the status of "political asylum". In 2009, in his motherland Weiss was charged with an attempted luring of a child and put under house arrest, but fled. Having traveled in various countries, he entered Russia with an educational visa, where he was detained, and in the end, sent to the USA (see here: [>>](#)). While considering the complaint of Weiss, concerning not considering his application to grant the status of "political asylum", the Judicial Chamber pleaded that he infringed the procedure of filing an application, which he addressed directly to the administration of D. A. Medvedev, and not to a local Administration of the Federal Migration Service, and also that "*according to the information from the Ministry of Foreign Affairs of the Russian Federation as of 09.20.2011, the USA is included in the list of countries with developed and well-established democratic human rights institutions, which – in line with clause 5 of the Regulations – impedes considering the application of Weiss, John Earl from the USA to grant him political asylum in the territory of the Russian Federation*".

On November 10, 2016, the Supreme Court of the Russian Federation dismissed the appeal petition of a citizen of Tajikistan A. A. Gulomov against the decision of the Deputy Prosecutor General of the Russian Federation to extradite him to Tajikistan. The authorities of the country accused Gulomov of document forgery and illegally crossing the border. Gulomov himself claimed that his prosecution was caused by his refusal to enter the ruling party of Tajikistan, when he worked as a senior specialist in the administration of the Supreme Court of Tajikistan. While considering the issue of Gulomov's application to grant the status of "political asylum" the Judicial Chamber of the Supreme Court of the Russian Federation noted that he had filed the relevant application for granting the status of "political asylum" to Saratov court, which was not a "competent authority" to consider it. Besides, the Judicial Chamber, pleading the 1997 Regulations, added that "*such asylum is not granted if the person arrived from a country, with*

which Russia has an agreement on visa-free border crossing, and the person is being prosecuted for actions (or inactions) that are considered a crime in the Russian Federation”.

On November 14, 2020, Leninsky regional court of Penza granted in part the claim of a citizen of Ethiopia Z. Z. Wolde, who requested to consider unlawful the ban from entering Russia, annulation of his permanent residency, and rejection to consider on the merits his application to grant the status of “political asylum”. The first two parts of the claim were granted on the basis of Wolde being married to a citizen of Russia. The rejection to consider on the merits of his application to grant the status of “political asylum” was found lawful by the court, pleading that the complainant did not apply for the status within the seven-day term prescribed by the 1997 Regulations.

On June 22, 2021, Sovetsky regional court of Bryansk (case No. 2a-760/2021) dismissed the complaint of a citizen of Tajikistan A. A. Akhmadaliev, who appealed against the rejection of the Regional Office of the Ministry of Internal Affairs of the Russian Federation in Bryansk region to consider his application for granting political asylum. As grounds for the decision the judge again used the standard statement, saying that the complainant infringed the seven-day term for filing an application, as it is described in the 1997 Regulations, and moreover, he filed the application only after his detention at the request of Tajik authorities.

The analysis of court decisions demonstrates that the judges, when dismissing the petitions of the complainants, gave various reasons and did not lack the grounds for dismissals. Moreover, in all the decisions we know the cases concerned claims against the refusals of territorial migration bodies to consider the applications on merits or the refusals of the trial courts to accept such applications. This indicates that the majority of the applications to grant the status of “political asylum” is being rejected at the first stage, while for obtaining the status after passing the migration service, the applicant has to gain support of a whole large number of administrations.

Conclusion

The “political asylum” status is a mystery, a phantom, a paradox, as there is only one known executive order granting it, which had been issued even before the status was legally established. There had been no published legal act after which and based on which the “political asylum” status started to be granted. Nor had there been any previous practice of granting the “political asylum” status, which was then enshrined in a legal act. No, first there was a single case of granting this status, then the procedure was legally regulated, after which, it seems, the status has not been granted to anyone.

It is theoretically possible that the “political asylum” status was granted, but without making it public, and the relevant executive orders were classified. However, in our opinion, there is nothing to confirm this. Besides, such secrecy would contradict the very essence of this status. As history shows, the offers of political asylum in the Russian Federation were of demonstrative and propagandistic nature. Moreover, to protect secrecy, Russian authorities would likely prefer to use the “refugee” and “temporary asylum” status, which can be requested and granted using much fewer procedures and involving fewer agencies and does not require a separate executive order, which means that it is easier to conceal when such statuses are granted, as opposed to the “political asylum” status. This is confirmed by analysis of known cases. For example, when Russian authorities gave shelter to a number of formerly very influential figures from Serbia (the

wife and son of Slobodan Milošević, oligarch Bogoljub Karić with close ties to Milošević, etc.), they granted them the “refugee” and “temporary asylum” statuses, not the “political asylum” status, wishing to avoid undesirable tensions with Serbian authorities, who had put those persons on the international wanted list.

The results of our research show that the act of granting political asylum to North Korean citizen Kim Myung-se in 1992 was fundamentally different from the establishment of the “political asylum” status in 1995 and 1997. While the former was an example of how the asylum institution should function, whereby the head of the state promptly grants asylum to all political refugees or simply for humanitarian reasons, the latter had a completely opposite effect making it almost impossible to obtain the “political asylum” status and dependent on political considerations. Among other things, the Executive Orders of 1995 and 1997 were a blow to the Constitution of the Russian Federation, as its Articles 63 and 89 were interpreted as referring to the “political asylum” status separate from the international law framework and, therefore, as having no direct connection to the “refugee” and “temporary asylum” statuses, which, in contrast, were introduced as part of the obligations to implement the UN Convention relating to the Status of Refugees.

In view of the above, it is clear why the “political asylum” status has not been granted to anyone in almost 30 years. For this to happen, two main circumstances must coincide: 1) Russian authorities must *want* to grant it, and 2) a person must *want* to request and obtain it. As we have seen above, these two circumstances never coincided.

- 1) Russian authorities did not see the point in granting the “political asylum” status to such figures as Mutallibov, Öcalan, Abashidze and Yanukovych, who were famous but controversial and, most importantly, had lost politically in their homelands. Even less sense Russian authorities saw in granting this status to actual but little-known refugees;
- 2) Persons seeking asylum in Russia usually do not see the point in requesting the “political asylum” status, as it is easier to request the “refugee” status or the “temporary asylum” status. Meanwhile, the rare famous and powerful figures who for some reason wish to tie their lives to Russia, would prefer to obtain a Russian passport straight away, rather than a strange and unfamiliar status that gives fewer rights than the “refugee” status.

Elena Burtina, the Civic Assistance Committee officer who co-authored a large report called “Russia as a country of asylum” in 2015, calls the “political asylum” status and institution “virtually non-functioning” (see here: [»](#)). This is indeed true, if one sees this institution’s purpose as granting asylum to political refugees. However, having reviewed the “right to asylum” in late USSR, examined the history of the “political asylum” status, compared it to the “refugee” status, studied the practice of applying for such status, we have confirmed our assumption that the reason why this status was created and continues to exist is not to grant asylum in Russia to refugees persecuted in their countries of origin on political grounds, but, unfortunately, it is to highlight the scope of authority of the Russian head of state, which is beyond the legal control and international law. As a result, the “political asylum” status was legally regulated in such a way as to allow the head of state to grant it to anyone or to offer it, for propagandistic and geopolitical purposes, to those who have not requested it or clearly do not need it. In our opinion, the history and regulation of the “political asylum” status have, from the start, reflected the dangerous trend prevalent in the Russian Federation, whereby the head of state is brought beyond the scope of legal regulation applicable to their activities into the zone of

arbitrary and unchecked decision-making. This has not lead to wide-spread practice of granting political asylum in accordance with international norms, but to establishment of a regime which, failing to provide decent asylum to those who have a right to it, creates flows of emigrants and refugees from its territory, using the phantom status as a tool of media propaganda and imitation of a legal institution that is practically non-existent.