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Testimony



138363

For release
on Delivery
Expected at
10:00 a.m. EST
Thursday
April 6, 1989

Processing Soviet Refugees

Statement of

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Before the Subcommittee on Immigration,
Refugees and International Law Committee
on the Judiciary House of Representatives



PROCESSING SOVIET REFUGEES

SUMMARY OF STATEMENT BY NANCY R. KINGSBURY, DIRECTOR FOREIGN ECONOMIC ASSISTANCE ISSUES NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION

The General Accounting Office has initiated a review of Soviet refugee applicants to identify U.S. policies toward Soviets applying for refugee status in the United States, and to examine the procedures for processing their applications. In addition to work at the State Department, Justice Department and the Immigration and Naturalization Service in Washington, we traveled to Rome, Vienna, and Moscow to obtain first-hand perspectives on processing procedures and conditions in Europe.

It has been longstanding U.S. policy to accept all Soviets wishing to emigrate to the United States. After fiscal year 1980, when over 28,000 Soviets entered the United States as refugees, the flow diminished until 1988, when over 20,000 gained admission. State Department officials expect 90,000 to 100,000 Soviets will apply for refugee status in fiscal year. About 50 percent are expected to be Jewish, with the remaining 50 percent Pentecostals, Armenians and others.

To accommodate this increased flow, the Administration is preparing requests for \$85 million in supplemental budget authority and 18,500 admissions. The later allocations, if approved, coupled with the 25,000 already approved will provide for 43,500 Soviet refugee admissions during fiscal year 1989.

We found that until 1988, INS' processing of Soviets' applications resulted in virtually automatic approval. However, in 1988 processing procedures changed. As a result, not all Soviets seeking admission to the United States as refugees will be successful. A total of 4,919 of the 18,487 applicants interviewed as of March 31, 1989 have been denied refugee status.

While the denied applicants have been offered humanitarian parole, relatively few have been either willing or able to accept it. Only 482 of the 4,919 Soviets offered parole have accepted the offers.

During our work in Rome and Moscow, we found various inconsistencies in the manner in which individual refugee cases were adjudicated. Several factors contribute to these inconsistencies. First, guidance provided INS officers changed as INS phased in case-by-adjudications, with resulting stricter interpretation of refugee eligibility. Also, we found a lack of knowledge among some INS officers about Soviet country conditions and the treatment of specific ethnic and religious groups in the Soviet Union. We also noted differing interview approaches, which affected the quality and type of available information upon which

to base adjudications. The tremendous volume of refugee applicants is also a contributing factor.

INS and consular officials, both in Europe and Washington agreed that cases were not being adjudicated consistently. INS has taken a number of actions, including training programs for its interviewing officers, to bring greater consistency to the adjudication process.

INTRODUCTION

Mr. Chairman, Members of the Subcommittee:

It is a pleasure to be here today to summarize the preliminary results of GAO's review of the processing of Soviet refugee applicants.

The objectives of this review were to identify U.S. policies toward Soviets applying for refugee status in the United States, and to examine the procedures for processing their applications. The scope of our work included reviews of pertinent legislation, regulations, and files pertaining to refugees, as well as indepth interviews with State Department, Justice Department and Immigration and Naturalization Service officials, and representatives of voluntary agencies working with Soviet refugee applicants.

To obtain first-hand perspectives on processing procedures and conditions in Europe we visited Rome, Vienna and Moscow during February to observe refugee processing. We worked approximately 8 to 10 days in each location and met with officials and representatives of all U.S. and voluntary agencies involved in Soviet refugee processing. We observed the process from arrival through departure to the United States, including monitoring INS interviews with refugee applicants in both Rome and Moscow.

Soviet Refugee Applications
Have Grown Dramatically

The last major Soviet emigration to the United States occurred almost 10 years ago when, in fiscal year 1980, approximately 28,400 Soviets entered the United States as refugees. For the following seven years, fiscal years 1981 through 1987, relatively few Soviets were permitted to emigrate. However, according to State Department officials the success of U.S. and world community efforts to encourage more open Soviet emigration and changing circumstances in the Soviet Union, an increasing number of Soviets have been granted permission to emigrate since late 1987. In fiscal year 1988, over 20,400 Soviet refugees were admitted to the United States, an almost six-fold increase over 1987 admissions, and the Department of State estimates that 90,000 to 100,000 Soviets may apply for refugee status during fiscal year 1989.

Currently, 25,000 refugee admissions have been allocated for fiscal year 1989. These allocations will not be sufficient for the anticipated number of refugees and, as a result, the Administration is preparing a supplemental budget request for \$85 million and a request for 18,500 additional admissions.

The dramatic increase in the number of Soviets applying to emigrate and changes in U.S. practices for processing the applications have raised concerns and resulted in the introduction of legislation, such as the Soviet Refugee Emergency Act of 1989 and the Emergency Refugee Act of 1989.

U.S. Policy Toward Soviet Emigrants

It has been a long-standing United States policy to accept all Soviets wishing to emigrate to the United States. Historically this policy objective has been carried out through various practices, such as providing sufficient allocations to the Soviets to accommodate the expected emigration levels, supporting Soviet Jews' freedom of choice in selecting their resettlement country, and according nearly automatic refugee status to Soviet applicants. In addition, the United States has been providing funds for the care and maintenance of the Soviet refugee applicants while they are being processed for admittance to the United States.

These practices, some of which are also extended to other nationalities, have essentially accorded preferential treatment for Soviet refugee applicants vis-a-vis non-Soviet applicants for admittance into the United States. The result has been that almost all Soviets not otherwise ineligible or inadmissible have been admitted as refugees.

During the past year, several changes have been made in the processing of Soviet refugee applicants, including discontinuing the practice of granting presumptive refugee status to Soviets and limiting the period of time the United States will reimburse

voluntary agencies for the care and maintenance of Soviets awaiting admission into the United States.

Practice of Presumptive Refugee Status Ended

The most significant and controversial change has been the decision to discontinue the practice of according presumptive refugee status to all Soviets. In August 1988, based on policy guidance from the Attorney General, INS began to move toward case-by-case adjudications for Soviets in accordance with worldwide adjudication standards. As a result, Soviets are being denied refugee status. A total of 4,919 Soviets have been denied refugee status from October 1989 through March 31, 1989. Initially, guidance provided that adjudications continue to be "as generous as possible" for Soviets but subsequent guidance emphasized the importance of uniformly applying worldwide standards. Although every Soviet denied refugee status is offered humanitarian parole into the United States, most are unable or unwilling to accept the offer. Thus, not all Soviets desiring to resettle in the United States will be able to do so. Refugee status requires that the applicant demonstrate that he or she has suffered persecution, or has a well-founded fear of persecution, while parole status is granted as a humanitarian offer and does not require a demonstration of persecution.

Impetus for Change in Adjudication Practice

Mr. Chairman, Committee staff have asked us to determine the impetus for the change in INS refugee processing procedures. State Department and INS officials informed us that when attention became focused on the increasing flow of Soviet emigres, the issue of the applicants' qualifications for refugee status surfaced and it was determined that changes had to be made to bring the Soviet refugee admissions program into conformance with the requirements established in the Refugee Act of 1980. According to INS officials, INS officers historically had expressed concerns about not adjudicating Soviet refugee applicants in the same manner as non-Soviet applicants, and that these concerns were heightened as it became easier for Soviets to emigrate toward the end of 1987.

These concerns were particularly relevant to the Soviet Armenians who, according to INS and consular officials, were being granted refugee status although many were making no claims of persecution. INS and consular officials reported that many Armenians seeking to emigrate were economic rather than political refugees.

According to INS and State Department officials, the Refugee Act requires INS to make refugee determinations based on an applicant's ability to establish that he or she, as an individual, is a victim of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or

has "a well-founded fear of (such) persecution" if he or she remains in, or returns to, the country of origin.

As your staff requested, we have reviewed the Refugee Act of 1980 and a 1981 Justice Department Office of Legal Counsel interpretation of the law. As we read the Act, it requires that a finding be made in each individual case that the applicant is either a victim of persecution on the basis of race, religion, nationality, social group or political opinion, or has a well founded fear of such persecution. We find nothing in the Act, however, that would prohibit INS, in making such determinations on individual applicants, from recognizing that there may be special circumstances when certain groups as a whole are the targets of persecution. And, in fact, the 1981 interpretation of the Act states that, while applications for refugee status should normally be considered on a individual basis, it suggests that the law allows considerable discretion in the means by which these determinations are made and does not foreclose application of commonly known circumstances to people falling within particular groups. As an example, the Opinion stated that when it has been shown that a particular country persecutes all individuals with particular political views, it would not seem necessary to require that fact to be proved individually in each and every case.

Denial Rates

Table 1 shows the number of Soviet applicants processed during the first 6 months of fiscal year 1989 and the overall denial rates by location. The first refugee denials in Rome, where most Soviet Jews and Pentecostals are adjudicated, occurred in late October 1988. The denial rate has fluctuated monthly as seen in the two charts attached to our testimony. In Rome, the denial rate was over 11 percent in January, 19 percent in February, and almost 36 percent in March 1989. There have been fluctuations in Moscow as well, where the majority of the cases processed to date have been Armenians. In January the Moscow refugee denial rate was 45 percent, up to 71 percent in February and was 85 percent by the end of March.

Table 1: Soviet Refugee Processing During Fiscal Year 1989 Through March 1989

<u>Location</u>	<u>Interviews</u>	<u>Approvals</u>	<u>Denied</u>	<u>Denial Rate</u>
Vienna/Rome	13,856	11,783	2,073	15%
Moscow	<u>4,631</u>	<u>1,785</u>	<u>2,846</u>	61%
Totals	<u>18,487</u>	<u>13,568</u>	<u>4,919</u>	

Inconsistent Refugee Adjudications

During our work in Rome and Moscow, we found various inconsistencies in the manner in which individual refugee cases were adjudicated. As discussed above, the changes in the adjudication procedures since August 1988 have resulted in more stringent adjudications. As a result, denial rates have increased

steadily since the beginning of fiscal year 1989. Also during fiscal year 1989, there have been a significant number of cases in Rome where INS officials' initial determinations were reversed upon reconsideration, suggesting that many cases were either not thoroughly or correctly processed. (A total of 208 of 415 cases have been reversed as of March 31, 1989) We also found inconsistencies in the depth of interviews and types of questions asked by the INS interviewers. Finally, we were told that INS in Rome is reexamining its denial decisions on all Pentecostals' applications to determine if the decisions were appropriate, because an unexpectedly high denial rate as of January for this group could not be adequately explained in view of the widely held belief that many Pentecostals are persecuted in the Soviet Union.

Several factors appear to contribute to the inconsistent adjudications. First, guidance provided INS officers has changed as INS has phased in case-by-case adjudications. INS initially recommended that INS officials be "as generous as possible" in their applications of the refugee definition. Subsequent guidance has encouraged that Soviet refugee determinations be adjudicated under uniformly applied worldwide standards. This has resulted in stricter interpretation of refugee eligibility for Soviets.

Second, we found a lack of knowledge among some INS officers about Soviet country conditions generally, and the treatment of specific ethnic and religious groups in the Soviet Union. We also noted

differing interview approaches which affected the quality and type of available information upon which to base the adjudication. We believe that additional INS officer training and increased sharing of information on country conditions between State and INS would help alleviate this problem.

The tremendous volume of refugee applicants, which is taxing voluntary agencies' and INS' ability to properly prepare and adjudicate cases expeditiously is also a contributing factor. This is a resource problem caused by a shortage of staff and limited physical capacity to process refugee applicants.

INS and consular officials, both in Europe and Washington, agreed that cases were not being adjudicated in a consistent manner. In fact, during our visit in Rome, INS held a training program aimed partly at achieving greater consistency. Subsequent to our visit, INS held a seminar on Soviet Pentecostals and, we were told, they have scheduled a similar session on Soviet Jews to increase INS officers' knowledge of Soviet country conditions. We were also told that meetings have been held recently in Washington among INS, Justice, and State Department officials to see what further can be done to bring about greater consistency in the adjudication process.

Most Denied Soviets Do Not Accept Parole

All Soviets denied refugee status are offered humanitarian parole into the United States. However, because parole status does not include resettlement assistance, an affidavit of support from a relative or sponsoring organization in the United States must be filed with the INS to show that the parolee will not become a public charge. Also, parole status is not as attractive as refugee status. Although parolees can remain in the United States indefinitely, they are not permitted to apply for citizenship or any financial assistance from the Federal government for migration or resettlement programs.

We found that most Soviet applicants in Rome and Moscow who were offered parole were either unwilling or unable to accept. For fiscal year 1989 through March 31, 1989, only 22 (1 percent) of 2,073 applicants denied refugee status in Rome had accepted parole. In Moscow, as of March 31, 1989, only 460 of the 2,846 (16 percent) denied refugee status had accepted the parole offer. While we were in Rome, some voluntary organizations were advising denied applicants against accepting parole in the hope that their status would be reversed. In Moscow and Rome, many could not obtain affidavits of support because they had no relatives in the United States, or those relatives they had were not financially willing or able to support them. A U.S. official in Moscow estimates that only 50 percent of the Soviets denied refugee status in Moscow will be able to accept the parole offer.

GAO Comments on Proposed Legislation

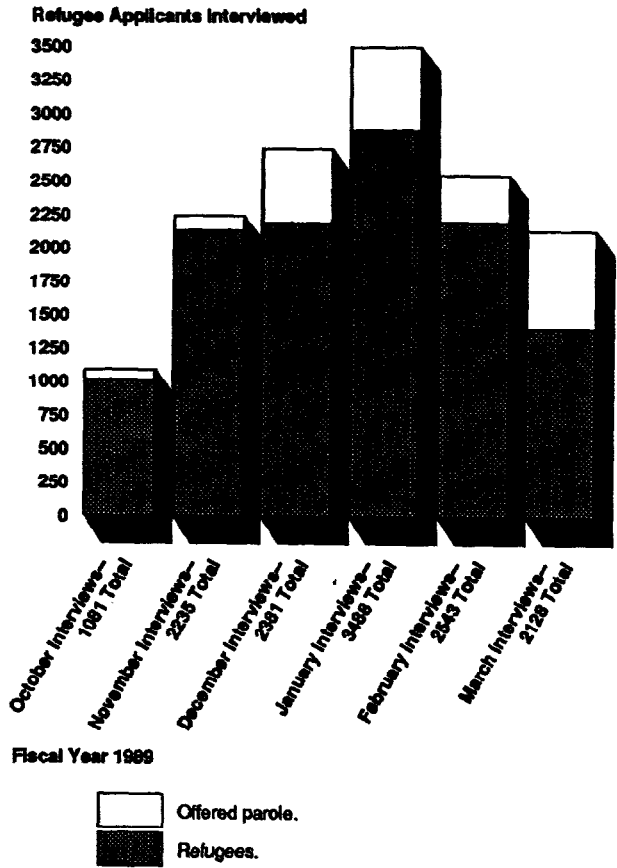
Two bills have been introduced in this Committee, the "Soviet Refugee Emergency Act of 1989" and the "Emergency Refugee Act of 1989." Although both bills would provide for additional Soviet refugee admissions, there are differences between them with respect to their funding and to whom the admissions apply.

The "Soviet Refugee Emergency Act of 1989" reinstates the policy of presumptive refugee status for Soviet Jews and Pentecostals and establishes admission ceilings for fiscal years 1989 and 1990. The Emergency Act of 1989 will leave current law unchanged concerning the adjudication of refugee status, but would provide additional refugee admissions for Soviets.

Granting presumptive refugee status significantly raises the expectations of U.S. resettlement for a large number of Soviets. Estimates indicate that as many as 2 million Jews and 600,000 Pentecostals live in the Soviet Union. We believe it is important that the full federal, state, and local cost implications of these bills be considered so that the levels of admissions anticipated in the legislation will not be curtailed by budgetary limitations.

Thank you again for the opportunity to share our observations with you. This concludes my prepared remarks, and I will be happy to answer any questions you may have.

**SOVIET REFUGEE APPLICANTS
PROCESSED IN VIENNA AND ROME --
FISCAL YEAR 1989 THROUGH MARCH**



**SOVIET REFUGEE APPLICANTS
PROCESSED IN MOSCOW - FISCAL
YEAR 1989 THROUGH MARCH**

