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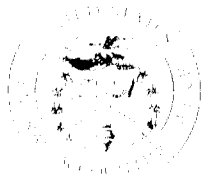
United States General Accounting Office

Report to the Chairmen, Senate and  
House Committees on the Judiciary,  
and the Honorable Frank R.  
Lautenberg, U.S. Senate

July 1991

# SOVIET REFUGEES

## Processing and Admittance to the United States Has Improved



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**National Security and  
International Affairs Division**

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July 11, 1991

The Honorable Joseph R. Biden, Jr.  
Chairman, Committee on the Judiciary  
United States Senate

The Honorable Frank R. Lautenberg  
United States Senate

The Honorable Jack Brooks  
Chairman, Committee on the Judiciary  
House of Representatives

The Foreign Operations Appropriations Act for fiscal year 1990 (P.L. 101-167), as amended, requires us to report on the implementation of section 599D, pertaining to the processing and admittance of Soviet refugee applicants to the United States. Section 599D, sometimes referred to as the Lautenberg Amendment, requires the executive branch to establish refugee processing categories<sup>1</sup> for Jews, Evangelical Christians, Ukrainian Catholics, and Ukrainian Orthodox Church members and gives members of these categories an enhanced opportunity to qualify for refugee status. The section also requires the executive branch to allocate 1,000 of the annual Soviet refugee admissions to the Ukrainian category, provide written justification for denying refugee status to category members, and reconsider category members who were previously denied refugee status.

We reported on the initial implementation of these requirements in May 1990.<sup>2</sup> This report updates information on refugee processing in Moscow, covering the period through May 1991, and specifically:

- evaluates Department of State and Immigration and Naturalization Service (INS) implementation of section 599D and whether the refugee processing procedures in Moscow and Washington, D.C., are effective;
- evaluates whether the INS adjudication process in Moscow is fairly and consistently applied and whether it conforms with INS implementation guidance;

<sup>1</sup>Within the context of the Refugee Act of 1980, the term "category" means that such groups are of special humanitarian interest to the United States because of a history of mistreatment or persecution in their home countries, and therefore warrant special consideration for refugee status.

<sup>2</sup>Soviet Refugees: Processing and Admittance to the United States (GAO/NSIAD-90-158, May 9, 1990).

- assesses whether the Soviet refugee admissions ceiling will be met for fiscal year 1991; and
- comments on the status of public interest parole offers being extended to Soviets denied refugee status.

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## Results in Brief

INS and the Department of State began implementing section 599D on February 1, 1990, applying the new adjudication standard to all category members, including retroactively to those previously denied refugee status. Between October 1, 1989, when Soviet refugee processing was centralized in Moscow, and April 1991, the most recent month for which adjudication statistics were available, INS adjudicated about 48,600 category members under section 599D criteria, approving almost 98 percent of them.

The system for processing Soviet refugees in Moscow, which includes the Washington Processing Center, appears to be working well. Refugee processing facilities at the U.S. embassy in Moscow have been renovated and enlarged, and the refugee processing unit has been adequately staffed. In fiscal year 1991, the International Organization for Migration began facilitating post-adjudication processing, travel arrangements, and medical screening. Also, the Washington Processing Center is now fully operational and has expanded its processing capabilities. We estimate that overseas processing costs for Soviet refugees will be about \$68.5 million less in fiscal year 1991 than the cost to process a similar number of refugees in fiscal year 1990 due to the centralization of processing in Moscow.

The INS process, and its basis for denying refugee status to category members, appeared to be consistently applied to all applicants. However, INS was not adjudicating category members' refugee claims in accordance with its implementation guidance. INS guidance requires that category applicants wishing to establish a credible basis for fear of persecution by asserting discriminatory or prejudicial actions taken against them personally must assert an accumulation of such actions. INS officers in Moscow, however, were granting refugee status to category members based on applicants' assertion of a single incident of discriminatory or prejudicial action any time in their lives. INS officers in Moscow expressed the opinion that the adjudication process under section 599D had become a "rubber-stamping" operation with few denials.

It is unlikely that the fiscal year 1991 Soviet refugee admission ceiling of 50,000 will be met; a shortfall of between 10,000 and 15,000 refugees

is expected. The shortfall is primarily due to problems refugees are experiencing in obtaining Soviet government exit permission. A State Department official said that travel plans of as many as 50 percent of those approved for refugee status have been either delayed or denied by Soviet authorities. Soviet emigration legislation enacted in May 1991, and a bilateral arrangement being pursued with the Soviet Union, may eventually reduce most emigration problems, but not in this fiscal year.

Offering public interest parole to Soviets denied refugee status was intended to be a temporary measure when it was announced in August 1988. We found that although the circumstances that prompted the use of parole have changed, most Soviets denied refugee status were still being offered public interest parole as a means of emigrating to the United States.

## Background

Processing Soviet refugee applicants in Moscow began in August 1988. Prior to that, most Soviets were processed by INS in Rome, Italy. Jews, and increasingly Evangelical Christians, departed the Soviet Union on the basis of Soviet government permission to emigrate to Israel. However, rather than traveling to Israel, they traveled to Vienna, and then declared their intent to emigrate to the United States. Soviets with their government's permission to emigrate directly to the United States—mostly Armenians—would initiate refugee processing at the U.S. embassy in Moscow and then travel to Rome.

During most of the 1980s, the number of Soviet refugee applicants was relatively small. However, as a result of political changes within the Soviet Union, the number grew—from fewer than 4,000 in fiscal year 1987 to over 100,000 in fiscal year 1989.

In 1988, the State and Justice Departments made a major change to the Soviet refugee program. In August 1988, INS started adjudicating Soviet refugee claims at the U.S. embassy in Moscow, thereby eliminating the need for Soviets with permission to emigrate to the United States to travel to Rome. Also, in August 1988, INS began to adjudicate Soviet refugee claims on a case-by-case basis, in accordance with the worldwide adjudication standard established by the Refugee Act of 1980. Until that time, the United States almost automatically granted refugee status to Soviet citizens wishing to emigrate. In anticipation that some Soviet citizens would be denied refugee status under the new adjudication practice, the Attorney General extended an offer of public interest parole to Soviets found ineligible for refugee status. Parole status entitles a

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denied Soviet refugee applicant to enter the United States but does not provide U.S. government financial aid for resettlement.<sup>3</sup>

In September 1989, the State Department and INS announced the phase-out of Soviet refugee processing in Rome.<sup>4</sup> In October 1989, the Washington Processing Center was established in Rosslyn, Virginia. The Center is responsible for the administrative aspects of refugee processing.

In November 1989, the Congress enacted section 599D of the Foreign Operations Appropriation Act for 1990 requiring the executive branch to establish four refugee processing categories for Soviet applicants. The legislation also required implementation of certain adjudication criteria that make it easier for category members to qualify for refugee status. Public Law 101-513 extended the adjudication criteria through fiscal year 1992.

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## Implementation of Section 599D

INS began implementing section 599D on February 1, 1990, and retroactively applied the new adjudication standard to all category members who had previously been denied refugee status. INS adjudicated 66,749 refugee applicants in Moscow between October 1989 and April 1991, 48,590 (73 percent) of whom were category members. Most of the category applicants were Jews—36,840—followed by 11,141 Evangelical Christians and 609 Ukrainians. The refugee approval rate was about 38 percent for noncategory members and about 98 percent for category members: 97 percent for Jews, 99 percent for Evangelical Christians, and 90 percent for Ukrainian Catholics and Orthodox. Of the 12,360 Soviets denied refugee status, all but 39 were offered public interest parole. The latter were denied entry to the United States, primarily because they had committed serious crimes.

INS' decisions to deny refugee status to applicants appeared to be consistently applied, and adjudicating officers were documenting the reasons for denying refugee status to category members. The supervising INS officer reviewed the recommended category denials before a final decision was made, and the interviewing officer completed a separate denial worksheet justifying the denial decision.

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<sup>3</sup>Public Law 101-167, section 599D, provided Soviet parolees the opportunity to adjust their status in the United States to that of lawful permanent resident status 1 year after their arrival.

<sup>4</sup>Processing in Rome was essentially completed by June 1990, with almost 46,500 refugees traveling to the United States from Rome in fiscal year 1990.

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## INS Was Not Complying With Its Implementation Guidelines

Although the adjudication process was consistent, section 599D was not being implemented in compliance with INS guidance. Section 599D permits category members to qualify for refugee status by asserting a fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion, and asserting a credible basis for such fear. INS implementation guidance states that applicants may establish a "credible basis for concern" in various ways, including the assertion of: (1) actual past persecution or discriminatory or prejudicial actions taken against the individual personally, (2) acts of persecution committed against similarly situated individuals in the applicant's geographical locale, or (3) instances of mistreatment or prejudicial actions based on the individual's request to depart the Soviet Union. In the case of applicants citing discriminatory or prejudicial actions taken against them personally, INS guidance requires the applicant to assert an accumulation of such actions.

INS adjudicating officers in Moscow said that the process had become a "rubber-stamping" operation because refugee applicants were being allowed to qualify for refugee status by citing a single incident of discriminatory or prejudicial action taken against them. For example, in one interview we observed, the applicant stated that he had not experienced any problems associated with his nationality but was fearful of the future. The INS officer asked specifically about education, employment, and his ability to practice his religion. After several questions, the applicant recalled that he had not been accepted to the university of his choice 20 years earlier. Based on this single incident, he was granted refugee status. The INS officer in charge in Moscow said that the interpretation of the INS implementation guidance had been modified in response to INS headquarters' instructions on individual refugee cases. INS headquarters officials were not aware until April 1991 that official guidance was not being followed in Moscow.

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## Centralized Moscow Processing Is Working Well

Improvements and changes have been made in the Soviet refugee processing and adjudication system since we reported on these matters in May 1990. At that time we reported that some INS officers' notes did not explain the rationale for denying the application, and we recommended that the INS Commissioner direct INS supervisors to review denied category cases and certify that the documentation was sufficient to support the decision. INS implemented our recommendation in July 1990. During this review, we examined 50 denied cases and found adequate documentation in 43 of them.

The Washington Processing Center has expanded its capabilities, thereby minimizing the work load at the U.S. embassy in Moscow. Since its inception it has received preliminary questionnaires<sup>5</sup> representing about 650,000 individuals as of April 1991. Increased automation and computer links to various organizations have enhanced the Center's ability to provide timely reporting on all aspects of the process, and if needed, to significantly increase its processing work load. For example, the Center recently began using electronic imagery to speed the input of questionnaire information into its system, thus permitting quick response to inquiries about the status of particular questionnaires. Nonetheless, due to the volume of those registering, and the annual refugee admission ceiling of 50,000, Soviets—category and noncategory members—applying today for refugee status can expect to wait from 2 to 7 years for an interview, depending on whether they have relatives or other ties to the United States.

In Moscow, the U.S. embassy completed the renovation and expansion of the refugee processing area in March 1991, although the space is 30 percent smaller than originally anticipated. A March 28, 1991, fire at the embassy did not destroy the renovated area, and the refugee interviewing process was interrupted for only 2 days.

In May 1990, we also reported that most INS refugee processing positions were temporary duty assignments requiring unaccompanied tours and hotel living and that INS staffing shortages had restricted interview levels in some months. These problems have been largely resolved. All INS officers and support staff are now housed in apartments, and INS has been able to meet its interview requirements, including when the interview rate increased from 96 cases daily in February to 132 in March 1991. INS has minimized staff size fluctuations by filling most INS adjudicator positions with either permanent or long-term temporary staff. Moreover, the INS officers are generally fluent in Russian, knowledgeable of country conditions, and adequately trained to adjudicate Soviet refugee claims.

INS officials stated that the temporary status of INS staff in Moscow continues to be an impediment in recruiting and retaining staff for its

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<sup>5</sup>Since October 1, 1989, Soviets interested in applying for refugee status have been required to submit preliminary questionnaires to the Washington Processing Center. Preliminary questionnaires are considered to be registrations for interviews rather than applications for refugee status.



Moscow operation. In June 1991, only 3 of the 11 INS officer positions<sup>6</sup> were permanent. The remaining positions were unaccompanied long and short term temporary duty positions. A State Department official explained that at the time refugee processing was centralized in Moscow, the United States did not negotiate with the Soviets to raise the number of permanent embassy positions to accommodate the increased staffing. He said that in July 1991, five more permanent positions at the embassy will be allocated for INS staff, bringing the total to eight permanent positions. It is not known when the remaining 3 INS officer positions will be added, and the State Department has no plans to make the 16 INS support staff positions permanent.

The major processing change since fiscal year 1990 is the creation of the Migrant Processing Center in Moscow which is expected to cost about \$4.5 million in fiscal year 1991. This office, operating under arrangement between the International Organization for Migration and a U.S.-Soviet joint venture, Soviet-PanAm Travel Effort, commonly known as SPATE, facilitates post-adjudication processing, travel arrangements, and medical screening. The medical screening is conducted by Sana Hospital, a French-Soviet joint venture. Also new in fiscal year 1991 is the availability of U.S.-funded transportation loans, about \$971 per refugee, and discounted tickets for refugees departing Moscow. About 63 percent of the refugees admitted to the United States from October 1990 through March 1991 used either the transportation loan or the discounted tickets.

### Cost of Operating the Soviet Refugee Program Has Declined

Significant cost savings are accruing from processing Soviet refugees in Moscow rather than in Rome, primarily because the Moscow processing does not involve federally funded care and maintenance expenses or voluntary agencies' administrative and processing assistance. Although an exact comparison is difficult to make because fiscal year 1990 refugee processing involved processing in Rome, Vienna, and Moscow, overall federal expenditures will be less in fiscal year 1991, as shown in table 1. Our analysis shows that the federal government spent about \$84.6 million in fiscal year 1990 but will spend only about \$16.1 million in fiscal year 1991 for the overseas processing of Soviet refugees for admission to the United States. The transportation loans and the initial reception and placement grants provided refugees upon their arrival in

<sup>6</sup>The INS staff plan in Moscow calls for 27 positions (11 INS officer positions, including a 3-person management team, and 16 support staff). However, as of June 1991, only 25 positions had been provided for under the embassy staffing ceiling.

the United States were excluded from this comparison because they are based on the actual number of refugees admitted each year. However, State Department officials expect Moscow processing to reduce transportation loan costs because, unlike in Rome, some refugees departing Moscow are able to purchase their own tickets.

**Table 1: Comparison of Overseas Soviet Refugee Processing Costs**

Dollars in thousands

Location	Fiscal year		
	Actual 1990	Estimated 1991	Projected 1992
Moscow	\$3,556	\$8,874	\$9,486
Rome/Vienna	74,918	0	0
Washington, D.C., Washington Processing Center	5,837	7,211	6,394
INS headquarters	332	0	0
<b>Total</b>	<b>\$84,643</b>	<b>\$16,085</b>	<b>\$15,880</b>

Note: Includes costs incurred primarily by the State Department and INS for interviewing and processing refugees for admission to the United States.

## Fiscal Year 1991 Soviet Refugee Admission Ceiling May Not Be Met

A State Department official estimates that there may be a 10,000 to 15,000 shortfall in the number of Soviet refugee admissions in fiscal year 1991. The United States based its interviewing goals on the assumption that 50,000 Soviet refugees would and could travel within 4 to 6 months following their INS interview. This assumption proved to be incorrect. In fiscal year 1991, refugees admitted as of April traveled 10 or more months after their INS interview. Thus, although the United States will have processed about 65,000 for possible fiscal year 1991 admission, only about 35,000 to 40,000 are expected to arrive. For fiscal year 1991, as of April, only 15,195 Soviet refugees had been admitted to the United States.

Although several factors may be contributing to the shortfall, including personal preferences of refugees on when to travel and lack of knowledge about the transportation loans, State Department officials believe the principal factor impeding refugee travel is Soviet emigration procedures. The restrictive Soviet emigration law, coupled with the significant increase in requests for exit permission, has delayed or denied the travel of up to 50 percent of the refugees. Currently, Soviet law permits Soviets to emigrate only at the invitation of close relatives abroad, or, in the case of Jews, to Israel. Although the Soviet Union passed a new emigration law on May 20, 1991, intended to liberalize emigration, the new provisions are not expected to be fully implemented until January 1993.

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State Department and Soviet officials currently are discussing alternative arrangements that would permit a greater number of refugees to qualify for Soviet exit permission, but a State Department official said such an agreement would not significantly impact fiscal year 1991 refugee admissions.

Section 599D requires that 1,000 Soviet refugee admissions be allocated to Ukrainian category members. No Ukrainian category refugees were admitted to the United States in fiscal year 1990, and fewer than 500 are expected in fiscal year 1991. The principal factors affecting the flow of Ukrainian category refugees are: (1) relatively few Ukrainians apply for refugee status, only about 2,700 between October 1989 and April 1991, and 91 percent of them have no ties to the United States; (2) not all Ukrainian Catholics and Orthodox members meet the category membership criteria, which requires that they must be current members of the church and demonstrate public, active, and continuous participation (or attempted participation) in its religious activities; and (3) 10 percent of those deemed to be Ukrainian category members do not meet section 599D requirements for refugee status.

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## **Soviets Denied Refugee Status Continue to Be Offered Parole**

In August 1988, when the Attorney General announced that INS would begin to adjudicate Soviet refugee claims on a case-by-case basis, he also authorized public interest parole for most Soviets denied refugee status. At that time, he stated that parole should not be used for an extended period or for significant numbers of people. As of April 1991, almost 24,000 Soviets interviewed in Moscow had been offered parole. During the first 6 months of fiscal year 1991, about 400 offers were made monthly, primarily to Armenians.

According to State Department and INS officials, the initial decision to offer public interest parole was based primarily on (1) a desire not to end the longstanding U.S. policy to accept all Soviets wishing to emigrate to the United States and (2) concern about the consequences of denying refugee status to Soviets who had already entered the refugee processing system. Such Soviets already had taken steps to end their ties to the Soviet Union, believing that the United States would continue to accept all who were able to leave the Soviet Union. Without parole, those denied refugee status in Rome would have been stranded in Italy, and many of those denied in Moscow would have been left homeless and unemployed because they had applied for exit permission before their INS interview. However, refugee processing changes implemented since August 1988 have diminished these consequences. Soviets are no longer

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processed in Rome and those processed in Moscow are instructed not to apply for Soviet exit permission before the INS interview. Moreover, since August 1988, INS and the State Department have been informing Soviets interested in applying for refugee status that unless they have relatives or other ties to the United States, they may never be scheduled for an INS interview.

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## Recommendations

Because INS officers in Moscow were not adjudicating category members' refugee claims in accordance with current INS guidance, we recommend that the INS Commissioner ensure that the adjudication process in Moscow conforms with INS guidance by either (1) requiring that INS officers in Moscow comply with existing guidance or (2) modifying the guidance criteria to more nearly reflect actual practice while remaining consistent with section 599D.

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## Scope and Methodology

We reviewed pertinent legislation, regulations, and files on Soviet refugees and interviewed officials in the State Department, the Washington Processing Center, and INS. Interviews were also conducted with personnel from the International Organization for Migration, the Soviet-PanAm Travel Effort, and a Jewish organization in Moscow working with refugee applicants. During March 1991, we visited Moscow and Rome to observe refugee processing, interview INS adjudicating officers, and review refugee processing procedures.

We did not obtain agency comments on this report, but we discussed its contents with State Department and INS officials and have incorporated their comments where appropriate. We performed our work between January 1991 and May 1991 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the Secretary of State; the Commissioner, Immigration and Naturalization Service; and other interested parties upon request.

Please contact me at (202) 275-5790 if you or your staff have any questions concerning this report. Other major contributors to this report are

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