

UPR RUSSIAN FEDERATION

Submission to the United Nations Universal Periodic Review by PSCORE

44TH SESSION OF THE UPR WORKING GROUP, NOVEMBER 2023

April, 2023



People for Successful COrean REunification

Executive Summary

In this report, PSCORE outlines its four contemporary areas of concern regarding the current situation of North Koreans in the Russian Federation.

Chapter A: A review of the past UPR cycle, highlighting major issues that still exist until the present day.

Chapter B: Forced Labor of North Korean nationals in the Russian Federation.

Chapter C: The forced repatriation of North Korean asylum seekers.

Chapter D: Recommendations

A. Review of the last UPR session

1. As a response to the Report of the Working Group on the Universal Periodic Review during the 30th session of the 3rd UPR cycle, the Russian Federation announced that it accepted 91 of the recommendations and partially accepted 34 recommendations, rejecting the remaining 84. The Russian Federation affirmed it will keep taking measures to ensure the integration and adaptation of migrants, and has accepted the 3 related recommendations (147.304, 147.305 and 147.306), and 28 recommendations associated with the legislation and institutions, international cooperation and obligations regarding human rights.
2. During the last UPR session on the Russian Federation, ten recommendations concerning the right to life, liberty and security of person have been accepted, and three recommendations concerning migrants' rights have been accepted including the refugees' and asylum seekers' rights, and seven recommendations on the international obligations in the field of human rights were accepted which include the ratification and implementation of the "Convention on the Rights of All Migrant Workers and Members of Their Families." However, the Russian Federation has continuously violated its commitments for the past four years. Testimonies of North Korean defectors available to PSCORE prove the persistence of gross human rights violations.

B. Forced Labor of North Korean nationals in the Russian Federation.

3. The Russian Federation has not fulfilled its agreement with the United Nations, in which it promised not to provide work authorizations on its territory anymore. Adopted by the UN Security Council in 2017, Resolutions 2375 (1) and 2397 (2) prohibit member states from "providing work authorizations for DPRK nationals, other than those for which written contracts had been finalized prior to the adoption." Despite this, the cooperation between the DPRK government and the Russian

Federation has only strengthened as there are more than 500 North Korean workers still active on Russian territory, especially in the Vladivostok region (3). The agreement contradicts Russia's other commitments on several points;

3.1 The commitment of the Russian Federation to Resolution 2375 is in opposition to the increasing obtaining of a student or tourist-type visas, issued by the Russian Federation towards DPRK nationals, to mask forced labor on Russian territory. In 2019, the Russian government issued 16,613 tourist visas and 10,345 student visas. And in 2021, there is a total of 4,093 visas issued (4). If this number has significantly decreased, it is only due to the health situation that slows down the flow of workers. The defector Cheul-Jin Kim endorsed the argument by explaining: "The second time I went to Russia, in February 2019, I went out with a student visa. Young workers also got a visa as a university student but didn't even know where the university was." (5)

3.2 It is also a violation of UN Security Council Resolution 2397 (6), which the Russian Federation ratified in December 2017 and which obliges all member states to repatriate workers and inhabitants of DPRK to their territories if they "receive income within the jurisdiction of that member state." The resolution specifies that a time limit of 24 months is applicable from the adoption of the resolution for the deportation of DPRK nationals. However, the 2019 Trafficking in Persons Report (7), as well as the 2020 Trafficking in Persons Report and 2021 Trafficking in Persons Report (8), report that the flow of North Korean workers has not decreased, as the Russian Federation still has more than 500 DPRK workers on its territory. In addition, defector Young-Chul Choi recalls: "I was sent to the Russian territory with 40 other North Koreans in 2018. We all worked in Khabarovsk as construction workers to work on apartments, villas, and cottages." (9)

4. The Russian Federation violates several ratified treaties that guarantee the protection of the human rights of migrant workers on its territory. Although the country pledged its signature during the last session of UPR No. 39 (10), it still does not meet the requirements to comply with the agreement on the "International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families" (11), in which the International Labour Organization sets out the principles and standards that member and signatory states must establish in their jurisdiction. The Russian Federation fails to comply with the Convention on several points:

4.1 It is impossible to comply with the agreements made through the "Convention concerning Forced or Compulsory Labour (N 29)" (12) and "Convention concerning the Abolition of Forced Labour (N 105)" (13), which oblige the signatory countries, including the Russian Federation, to oppose a system in which an individual would work under any threat and without consent. The Russian government is complicit in the forced labor of North Korean nationals by employing them on its territory and perpetuating the forced labor camps.

4.2 No conditions are also met to claim compliance with the "Migrant Workers Convention" (No. 143) (14). This convention obliges, particularly through

its Article 12, to "guarantee equality of treatment with regard to working conditions for all migrant workers [...] regardless of the particular conditions of their employment". Several reports have documented the deplorable conditions, including the lack of access to healthcare, food or a form of remuneration, under which North Korean workers are employed in Russia, specifically in the Far East. Defector Young-Chul Choi states, "I worked on constructions from 8 am to 8-9 pm every day. It depends on the site but there are places where they make you work until midnight. There are no wages. There is no promise that they will give however much per month. Originally, there aren't even any contracts about how much one will be paid. They just make you work." (15)

5. In addition to not respecting the human rights of North Korean nationals and workers on its territory, the Russian Federation feeds the system of the DPRK government which makes its inhabitants work in a forced manner without guaranteeing their remuneration or any working conditions. The Declaration of Human Rights (16) and the "International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families," which the country committed itself to sign and comply with at the last session of UPR No. 39, support the freedom of movement of every person. However, by supervising the workers who go to its territory, the Russian Federation participates in this harmful mechanism for these inhabitants, also joining in the control of the freedom of movement of these people. The defector Cheul-Jin Kim says: "There are people who have been working abroad for decades. You just get one set of clothes per year, and for the food, they don't even give out pork. The North Korean company is likely extorting funds by making North Korean people work in Russia." (17)

C. Forced Repatriation of North Korean defectors.

6. The Russian Federation is violating several treaties they signed by denying the legal protection North Korean defectors in Russia are entitled to. Ratified by Russia, the "Convention for the Protection of Human Rights and Fundamental Freedoms" (18) ensures that basic human rights, daily violated by the North Korean government, should be protected by the signatory States of the Convention. However, the Russian Federation cannot respect its commitments when they are also a signatory of the 2014 Deportation agreement where the Federation agrees to deport any illegal immigrants from North Korea. The agreement conflicts with Russia's other commitments on several points;

- 6.1 It is impossible to respect the commitments of the "Convention for the Protection of Human Rights and Fundamental Freedoms" which defends the respect of human rights in a context where Russia commits itself to send back the "illegal migrants" to the DPRK.

- 6.2 It is a violation of the United Nations Refugee Convention of 1951 that Russia ratified in 1992 and that defines a refugee as a person who is outside their country of origin or habitual residence and "who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion."(19) The Convention also

specifies that this definition applies to persons who are at risk of persecution in their country of habitual residence or origin. Additionally, the Convention outlines the rights and protections to be afforded to refugees, including the right to non-refoulement, which means that refugees should not be forcibly returned to their country of origin if there is a risk of persecution.

7. The Russian Federation does not guarantee access to an accessible and safe asylum procedure for North Korean defectors. This is a violation of article 14 of the Universal Declaration of Human Rights which state that “Everyone has the right to seek and to enjoy in other countries asylum from persecution”(20). Because of this, North Korean defectors have to seek asylum from other entities such as the UNHCR or the South Korean Embassy(21) to be able to benefit from protection and to see their refugee status recognized. Defectors testify that, because they have to hide from the Russian authorities and have to apply in a concealed way, the time of the procedure is slowed down and uncertain. Therefore, because of this denial of their right by the Russian government, defectors can be forced to choose other dangerous alternatives. Thus in 2018, PSCORE was able to record the case of a defector who, to be safe more quickly and avoid deportation, decided to cross the Mongolian border by foot which led to his death(22). Interviews with North Korean defectors show that this dangerous road is used by many defectors who prefer this solution to be safe sooner. By denying a safe and accessible procedure to seek asylum, the Russian Federation is therefore putting North Korean refugees in life-threatening positions.
8. More than denying their rights to asylum, the Russian Federation deport North Korean refugees back to the DPRK despite the defectors facing violations of their Human Rights as a punishment. Defectors who escaped Russia since 2018 have testified of the risk of being deported if they encounter the Russian authorities(23). Recent cases have shown that the Russian authorities have actively searched North Korean escapees to hand them over to the North Korean authorities(24).
9. It has been recognized by the UN that North Korean escapees face gross Human Right violation if deported back to the DPRK after defecting. Article 3 of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment(25) and Article 16 of the International Convention for the Protection of All Persons from Enforced Disappearance(26) “No State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” North Korean defectors are imprisoned in detention camps where torture, execution, sexual assault, degrading and inhuman treatment without a fair trial when deported back to the DPRK(27). This has been recognized by the international community(28) and the Russian Federation is also aware of this danger.

D. Recommendations.

- PSCORE notes that the Russian Federation violates the Resolution 2397 of the Security Council by employing North Korean nationals. PSCORE recommends that the Russian Federation check whether North Korean student visa holders are actual students or bypassed illegal workers.

- PSCORE recommends that the Russian Federation ratify the Convention on the Rights of All Migrant Workers and Members of their Families.
- PSCORE recommends that the Russian Federation implement programs to ensure compliance with the standards of the Forced Labor Convention (No. 29), especially article 2, which states that migrant workers should be protected against abusive and corrupt recruitment and employment processes.
- PSCORE recommends that the Russian Federation respect the norms of the Abolition of Forced Labor Convention (No. 105). As noted in article 2, the Russian Federation should take immediate and serious measures to abolish all such forms of forced or compulsory labor.
- PSCORE noted that North Korean escapees face the risk of being deported to the DPRK by the Russian authorities who violate international conventions. Therefore, PSCORE supports the UNHCR last year's recommendation and also recommends the Russian Federation "ensure unhindered access to its territory and to asylum procedures for all asylum seekers, without discrimination, including from detention centers and transit zones; and adhere to the principle of non-penalization for illegal entry or presence for asylum seekers, with adequate safeguards against arbitrary detention and deportation before an application for asylum has been officially registered and adjudicated on."
- PSCORE notes that North Korean defectors in the Russian Federation cannot benefit from the rights and protection to which the Russian state has committed itself through several treaties. Therefore, PSCORE recommends that the Russian Federation ensure a safe and accessible procedure for asylum seekers.
- PSCORE note that the Russian Federation does not respect the principle of "non-refoulement" in North Korean escapees' case and recommends that the Russian Federation stop extraditing people from other state where there are substantial grounds for believing that he would be in danger of being subjected to torture.
- PSCORE recommends that the Russian Federation recognize North Korean escapees as refugees and stop immediately to extradite defectors to the DPRK.

End notes;

- (1) United Nations Security Council, Resolution 2375, S/RES/2375 (2017), 11 September 2017,
- (2) United Nations Security Council, Resolution 2397, S/RES/2397 (2017), 22 December 2017,
- (3) U.S. Department of State, “2019 Trafficking in Persons Report”, *Office to Monitor and Combat Trafficking in Persons*, 2019; U.S. Department of State, “2020 Trafficking in Persons Report”, *Office to Monitor and Combat Trafficking in Persons*, 2020; U.S. Department of State, “2021 Trafficking in Persons Report”, *Office to Monitor and Combat Trafficking in Persons*, 2021.
- (4) Ibid.
- (5) Cheul-Jin Kim, Interview by *PSCORE*, 25th of September 2022.
- (6) United Nations Security Council, Resolution 2397, S/RES/2397 (2017), 22 December 2017,
- (7) U.S. Department of State, “2019 Trafficking in Persons Report”, *Office to Monitor and Combat Trafficking in Persons*, 2019.
- (8) U.S. Department of State, “2021 Trafficking in Persons Report”, *Office to Monitor and Combat Trafficking in Persons*, 2021.
- (9) Young-Chul Choi, Interview by *PSCORE*, 15th May 2022.
- (10) United Nations Human Rights Council, “Universal Periodic Review n°39 - Russian Federation”, 14 May 2018.
- (11) United Nations Human Rights Council, “International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families”, *General Assembly resolution 45/158*, 18 December 1990.
- (12) International Labour Organization, “Convention concerning Forced or Compulsory Labour (N° 29)”, *14th ILC Session*, 28 June 1930.
- (13) International Labour Organization, “Abolition of Forced Labour Convention (N°105)”, 1957.
- (14) International Labour Organization, “Migrant Workers Convention (N°143)”, *60th ILC Session*, 24 June 1975.
- (15) Young-Chul Choi, Interview by *PSCORE*, 15th May 2022.
- (16) United Nations, “The Universal Declaration of Human Rights”, *UN General Assembly Resolution 217 A*, 10 December 1948.
- (17) Cheul-Jin Kim, Interview by *PSCORE*, 25th of September 2022.
- (18) Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 1950
- (19) United Nations, “Convention relating to the Status of Refugees (1951)”, *UN General Assembly Resolution 429*, Geneva, 1951, Introductory note by the Office of the United Nations High Commissioner for Refugees (UNHCR)
- (20) United Nations, “The Universal Declaration of Human Rights”, *UN General Assembly Resolution 217 A*, 10 December 1948, article 14.
- (21) Young-Chul Choi, Interview by *PSCORE*, 3rd July 2022; Cheul-Jin Kim, Interview by *PSCORE*, 3rd September 2022
- (22) Young-Chul Choi, Interview by *PSCORE*, 3rd July 2022

(23) Young-Chul Choi, Interview by *PSCORE*, 3rd July 2022; Cheul-Jin Kim, Interview by *PSCORE*, 3rd September 2022

(24) Yoon L., « North Koreans Face Repatriation from Russia », *Human Rights Watch*, February 2022,

(25) United Nations, “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, *UN General Assembly Resolution 39/46*, December 1984

(26) United Nations, “International Convention for the Protection of All Persons from Enforced Disappearance”, *UN General Assembly Resolution 47/133*, December 2010.

(27) *PSCORE*, “Human Rights in the DPRK: 10 years after the COI”, November 2022

(28) Human Rights Council, “Report of the commission of inquiry on human rights in the Democratic People’s Republic of Korea”, Twenty-fifth session, February 2014.