



Polska Rada
Ekumeniczna

Diakonie 
Deutschland

Seeking Protection in Europe

Refugees in Poland, the EU
and at the External Borders

14th European
Conference on Asylum

in Warsaw, 9th - 12th of October 2012



Contents



Introduction

Idea of the Conference	5
Church Expert Draws Attention to the Situation of Refugees at the Eastern Borders	7

Polish Asylum System I: The Integration Process

Mrs. Zula B., A Refugee from Chechnya	10
Integration into the Polish Labour Market: Polish Humanitarian Action - Refugee and Repatriates Counselling Center	11
Refugees - Your Neighbours	13

Networking Meeting with Polish NGOs & Exchanging Experiences

Integration into Society	16
Workshop Medical Treatment/ Psychological Help for Refugees	17
Poland's Amnesty on Undocumented Migrants	18

Polish Asylum System II: Legal Aspects

The Polish Asylum System	22
The Asylum Procedure from the Perspective of Different Stakeholders	27

Excursions

Open Center Targówek	34
Cultural Institute of Caucasus Nations and Refugee Self-Help Center Sintar	36
At the Dublin Unit of the Immigration Office	38
Impressions from Dom Dziecka, Youth Welfare Institution	40
Findings of a Visit in Warsaw Family Support Center for Integration of Foreigners	41

Access to the EU Asylum System - European External Borders

The Right to Access to International Protection	44
Recent Developments in Establishing the European Border Surveillance System (EUROSUR-Regulation)	45
The Situation of Transit - Refugees in the Ukraine	47
Przemysl Guarded Camp for Refugees	48
Hunger Strikes in Guarded Centers	50
Report: Migration Is Not a Crime	54
Deportation Prison Zhuravyci	56
At Frontex Headquarters: Immigration Control versus Refugee Protection	58



Discussions, Findings & Conclusions

Sharing the Recommendations for Common Standards of the European Asylum System	64
„Elemental Violation of Human Rights in EU Countries“ Diakonie and Churches Criticize Reception of Refugees	66

Appendix

Agenda of the Conference	74
Documents Available Online	75
Useful Links	76
Participants	77
Impressum	78
About Us	79



Idea of the Conference



At our conference we would like to bring together people from all over Europe working in the field of refugee protection and assistance in advocacy work, social assistance and legal aid. The first aim of the conference series is to gain insight into the asylum system of the host country in view of the stated goals of the EU and build the Common European Asylum System (CEAS) as outlined in the Stockholm Programme by 2012. We would like to discuss the best methods in the EU for accepting refugees and their integration into local society. The conference will include visits to institutions and reception centers to spark discussions about the real challenges and best methods in the field of asylum, both at the practical and legislative levels.

As the headquarters of Frontex is based in Warsaw, there will be a presentation by this organization, allowing us to address the topic of EU borders and human rights standards regarding Frontex operations in the controversial business of „immigration control“ and refugee protection. We would also like to highlight the situation of refugees in the Ukraine at the outer borders of the EU - asylum seekers trying to access the EU - as we did with those in northern Africa at the last conference in Palermo.

We strive to cooperate with all Polish NGOs involved in the procedures and government institutions with a vested interest in the topic, as well as our partner churches within the Polish Ecumenical Council and Diakonie's organizations in Poland. Caritas and Elos are also included in the planning.

The 14th European Conference on Asylum is based on the models of previous conferences in Casablanca (2007), Lesvos (2008), Malta (2009) and Palermo (2010). The estimated 50 participants are specialists in law and refugee work from various countries across Europe. The internationality of the participants (Belgium, Germany, France, Greece, the U.K., Italy, Malta, Morocco, Poland, Sweden, Spain, Turkey, Hungary and Ukraine) emphasizes the impact of the conference on human rights work in different contexts.

We are looking forward to an inspiring conference which shall enrich our vision to make Europe a better home for refugees and shall stimulate new ideas and discussions by interacting with people from all over Europe.

We invite you to participate and support our commitment to those seeking asylum in Europe.

Maria Loheide
Member of the Board for
Social Policy, Diakonie Deutschland

Prof. Dr. hab. Krzysztof Rączka,
Dean of the Faculty of Law
and Administration, University of Warsaw

Ireneusz Lukas
Director of the Polish
Ecumenical Council

„We would like to discuss best methods in the EU for accepting refugees and their integration into local society.“



Church Expert Draws Attention to the Situation of Refugees at the Eastern Borders



Warsaw / Karlsruhe.

Severely disabled refugees in Poland and Ukraine were the topic with which organisers kicked off the 14th European Asylum Conference in Warsaw on Tuesday. „More and more refugees seeking protection in Europe are sitting in prisons at the external borders of the European Union,“ says Jürgen Blechinger, lawyer and refugee expert of the Evangelical Lutheran Church in Baden.

Approximately 70 experts from NGOs, religious institutions and welfare organisations in 13 European countries - among them members of the Protestant churches and Diakonie agencies in Baden-Württemberg - are meeting until Friday to discuss the Polish asylum system, the situation at the borders of the EU, the role of the Warsaw-based European border protection agency Frontex, and current EU legislation.

A five-member delegation conducted a research trip six days prior to the conference in Ukraine's region bordering Poland, Hungary and Slovakia. „Apparently there is a policy of detention of asylum seekers in Ukraine. However, this is incompatible with a fair asylum policy,“ said Blechinger, summarizing the trip's findings.

According to his statement there are also cases of detention of persons who just entered the Polish side, e.g. in the “Guarded Center” Przemysl. As of October 2012, there 85 people in prison. In Poland, there are six detention centers funded by the EU for the reception of asylum seekers. Whoever is picked up by a Polish border guard must spend up to a year in jail, according to Blechinger, and the procedure for seeking asylum must be conducted in detention. This also applies to families with children.

Even more dramatic was the situation in Ukraine. There asylum seekers were also detained for a year – with no chance to apply for asylum. „There is also a completely intransparent asylum system, no access to professional advice and the problem of corruption,“ said Blechinger. In Uzhgorod, the delegation met refugees from Eritrea, which have been pushed back from Slovakia to Ukraine. The Slovak border officials did not accept their application for asylum.

Press Release
9.10.2012
Start of the 14th
European Asylum
Conference in
Warsaw





Polish Asylum System I: The Integration Process



Mrs Zula B.

A Refugee from Chechnya

Mrs B. holds a record: she is the first refugee to obtain citizenship in Poland.

Born in Chechnya, she became a physician and had two sons. In 2000, she decided to leave her country and moved to Poland, which was not yet a member state of the European Union. But it was the nearest safe country she could reach with her family.

She first stayed in two refugee centers and came up against a very complex asylum procedure. Soon she had to leave those centers and even lost

social assistance. But at those times, the high number of asylum seekers who got the refugee status in Poland gave her hope for recognition. For this reason she held tight: her dream was a better life, after the terrible situation she endured during the war in Chechnya.

First of all she wanted her qualification to be recognized: this was the first step to find a good job and become part of Polish

society. She started to familiarise herself with the Polish language and culture, which wasn't easy, particularly because of the contrasts posed by Christianity.

She and her family learned as much as possible about the new country and never said they came from Chechnya - they believed integrating into society was not the time for highlighting diversity.

However, the real problems started when she was finally granted refugee status and the right to work and rent a flat. The 12-month integration course for refugees she attended was absolutely insufficient and she had to face alone with her family huge problems: a lack of awareness in Polish society about employment opportunities for foreigners, a fear of hiring refugees among employers, and a high unemployment rate in the region, among other obstacles.

The most important role was played by the Polish families she met. Without their help, her integration would not have been possible.

Without help of Polish families, her integration would not have been possible.



Mrs Zula B, Mrs Agnieszka Kunicka and Mrs Agnieszka Kosowicz discussing the integration of refugees.

Integration into the Polish Labour Market

Polish Humanitarian Action

The Counselling Centre for Refugees and Repatriates



The Counselling Centre for Refugees and Repatriates aims to help clients adapt and integrate into Polish society, helping them to become independent in the legal labour market by working with both clients and employers. It offers free Polish language courses and an individual career counselling service. It provides information on how to have a good grasp of the labour market. As a first step, staff members identify the client's skills. They then offer workshops on career development, computer courses, and professional certification courses. At the Centre, everyone is offered help in preparing their CV, gaining access to job adverts (press, Internet, telephone). The counsellors also arrange the first contact with a potential employer and provide support in preparing for the job interview.

The counselling centre has the capacity to serve a wide range of clients with different nationalities and residence permit status. Its beneficiaries range from asylum seekers, persons with a refugee status or subsidiary protection; persons with a tolerated stay; persons granted amnesty as undocumented immigrants; or even undocumented immigrants themselves. Foreigners of Polish origin and families of repatriates are also clients of the Centre.

The right to work is open for asylum seekers after a half-year asylum procedure and after obtaining a work permit from the Immigration Office. Persons with a refugee status, subsidiary protection status or a tolerated stay status have access to the labour market.

But there are various obstacles on the way to employment and achieving self-sustenance; to start with, employers have reservations and fear "problems" with asylum seekers.

Also a major obstacle is the insufficient language knowledge of the immigrants, as well as their insufficient or utterly lacking professional qualifications. A study by EQUAL in 2007 on the educational and professional skills of asylum seekers at four reception centres revealed that 40.5% (81 persons) were without any profession, 20.5% (41 persons) had managerial or controlling

functions in their country of origin, 18.5% (37 persons) were white collar or professionally qualified workers, and 20.5% (41 persons) were manual labourers (craftsmen, farmers, etc).

Immigrants, especially refugees, sometimes suffer from psychological problems or untreated illness, which reduces their options on the labour market. Some of them have reached a stage of "learned helplessness" from lacking support during their complex and difficult adaptation to the new country. Furthermore, refugees in particular often face great barriers to social acceptance.

After the immigration process, professional and social degradation frequently results because of prolonged absence of experience and further training.

When immigrants live in an area with a high unemployment rate, finding a job is difficult. There is also a tendency among some Polish employers to offer junk contracts or to hire

Some of them have reached a stage of "learned helplessness" from lacking support during their complex and difficult adaptation to the new country.



immigrants with no work contract in order to avoid taxes or additional charges.



As of August 2012, the unemployment rate across Poland is 12.4%, with some variation across certain regions: 10.2% in the Mazovia Voivodship, 7.6% in the greater Warsaw area and 4.2% in Warsaw itself. In the Mazovia region around Warsaw, 0.4% are registered as unemployed foreigners (Central Statistics Office, Voivodship Labour Office).

The Centre was financed until 2006 by UNHCR. Since then it has relied on a mixed finance system of European Funds (EFS; EQUAL, Grundtvig), grants from the ministry of education FIO, the Voivodships and local governments. Also grants from other NGOs and sponsors have been raised.

Through the Centre, the Polish Humanitarian Action wants to raise awareness among employers about the integration of immigrants and has gathered several arguments for what an employer can gain by hiring an immigrant:

- A good and conscientious employee
- An employee, who can appreciate the opportunity he was given
- Respect and acceptance by colleagues, co-workers and civil servants
- A crew enriched by a person coming from another culture, having different experience and knowledge



For further information, visit:

www.pah.org.pl

www.refugee.pl

www.uchodzycydzskoly.pl

Refugees - Your Neighbours

Integration initiative for neighbourhoods hosting reception facilities for asylum seekers

The Polish Migration Forum Foundation (PFM) has been involved in various initiatives to support local communities around reception centers for asylum seekers for about four to five years. Until now, we have assisted 15 cities and villages, where such facilities functioned. The key thing we have learned is – no two of them were alike.

Our concept was developed primarily to help those neighbourhoods, where the center was just opened, but in 2012, in partnership with the Polish Immigration Office (the body responsible for asylum decisions, as well as for running the reception facilities), we have integration programmes in all of our reception facilities in Poland (11 cities and villages).

PFM would first visit the city or village and talk with as broad a circle of people as possible in order to determine the feelings or fears in the local community about the reception centre. An important element of this early stage of work was to find the local competence or identify the potential to work with immigrants. Each community was different. This is why our offer was always tailored to fit a particular situation.

As a second step, we would try to address thousands of fears and give the information necessary for the local community to feel comfortable, or more comfortable, with the asylum seekers around. Our key tool was communication.

Our concept involved a few elements, used differently in various locations:

Meetings and workshops – we talked to police officers, social workers, local administration, schools (teachers, pupils, parents), ticket controllers, security guards or just inhabitants of the neighbourhoods. Some of the meetings took the form of trainings and workshops on refugees, but they also addressed diversity, multiculturalism, minority rights, etc. In 2012, we ran a total

of 32 meetings and trainings for over 500 participants.

Study visits – We organized two such visits, one for the local media and another for the local NGOs. The main point of those was to give the local experts a possibility of contact and exchange of experiences. The arrival of asylum seekers often results in misconceptions – local level NGOs and media are important to build local awareness of who asylum seekers really are.

Awareness campaign – In four cities we used public transport as a promotion/information tool about refugees. Trams and buses were emblazoned with big posters bearing the slogan, „Refugee - Your Neighbour“.

What we appreciated in this initiative was the local interest and readiness to do things pro-bono. Of course asylum seekers often provoke distrust or fear. Opening a new center somewhere almost often is met with objection from someone at the local level. Yet at the same time, we have found lots of openness, common sense, kindness. Our job was really to support the good will that was already there.

Our general approach to integration is to work with those who want to cooperate. We rarely battle with those who are aggressive or negative. What we try to do is to nurture and support any person, place or thing that is open and tolerant - to help it grow. Arriving to a neighbourhood as ‘parachuters’ we are not able to impose big changes. But, we are able to identify and strengthen the potential in that local community that is there already – and is there to stay. And this is what we have been trying to do.

For further information, visit:
<http://www.forummigracyjne.org/en/>



Trams and buses were emblazoned with big posters bearing the slogan “Refugee - Your Neighbour”.



Stowarzyszenie
Interwencji
Prawnej



Fundacja Edukacji i Twórczości

Networking Meeting

with Polish NGOs &
Exchanging Experiences

Integration into Society

Association for Legal Intervention/ Stowarzyszenie Interwencji Prawnej (SIP)

«Give me a roof over my head - then I can manage.»

Mrs A. Chrzanowska, SIP told us: They help in every day life problems (kindergarten, neighbourhood, etc). For the refugees it is quite difficult to be in hospital. Medical care is guaranteed by the state both for asylum seekers and recognized refugees, persons granted subsidiary protection and tolerated stay – the problem is time. There is a waiting period and a lack of funding (which means that many types of medical treatment are in fact not available to them). Additionally, everything is done in Polish. Many of the refugees/immigrants are from the northern and southern Caucasus. The interpreters are volunteers of NGOs. (In Poland, everyone must wait for medical care - even Polish citizens. Many people decide to go to Western Europe.)

A big barrier is the housing. During the asylum procedure, they are not homeless, but when it ends, they must leave within two months. The flats have waiting-lists that keep some applicants waiting for years. So in the meantime, they must look for housing themselves.

There is a 12-month integration programme, but the funds are inadequate to make them eligible job candidates on the free market. They cannot find work because they don't speak Polish. During the integration programme, their Polish lessons are paid for with the integration stipend they receive, which means they have less money left for the cost of living. And once it runs out, they have no means of funding their Polish lessons. It's a vicious cycle. In some places, there are NGOs where they can learn Polish free of charge. This is a circle of devil.

Women are normally more motivated than men to learn Polish. People who are traumatised often have great difficulties learning a foreign language.

After one year, there is again a high risk of becoming homeless. This is why they leave the country. What they earn for their work - legal or illegal - is insufficient to pay the rent. "Give me a roof over my head - then I can manage".

Foundation for Education and Creativity/ Fundacja Edukacji i Tworcosci

Mrs K. Potoniec talked about her work in the schools. She and her colleagues help teachers who face difficulties with children who cannot speak Polish. Although they are in the most ethnically diverse region, the teachers are unprepared to work with children from other cultures.

They have cultural assistants to help the children, for example to communicate with the teachers. They talk to the parents. More and more parents are interested in education for their children. There are four teacher assistants for six schools. They also organise intercultural workshops.

Children in Poland are required to attend school until they are 18. The day after arriving in Poland, they must begin school.

The assistants are hired by NGOs. They are flexible in that they can work with the children, parents or teachers, but their salaries are low.

People with tolerated stay have very limited access to the welfare system. This is a major fault in the system. For example, a single mother who cannot work because of her children has no access to any means of support.

Talks with

- Aleksandra Chrzanowska, Association for Legal Intervention/Stowarzyszenie Interwencji Prawnej (SIP)
<http://interwencjaprawna.pl/>
- Katarzyna Potoniec (Białystok), Foundation for Education and Creativity/Fundacja Edukacji i Tworcosci
<http://www.mentoring.pl/>

Workshops on Medical Treatment & Psychological Help for Refugees



Ocalenie Foundation

Besides the centre in Warsaw, there is also a subsidiary in Lomza. Eleven employees, among them psychologists, as well as fifteen volunteers, two assistants for refugees and five cross-cultural counselors (from Palestine, Kazakhstan, Georgia, Chechnya) are working for the foundation. Half of the employees are of immigrant background. Since 2005, specialists with immigrant background are hired specifically. In the year 2011, 400 patients were treated (including families, 1,000 people were reached). Twenty-five of them were long-term patients. The Foundation is financed by the city of Warsaw, other foundations and the EFF and EIF.

The Foundation's work includes:

assistance for refugees and immigrants within Poland

- supporting state institutions, for instance, through consultations, mediations and workshops
- co-operation with state institutions and non-governmental organizations acting in a field of assistance for refugees and immigrants
- participation in studies that monitor the situation of refugees and immigrants in Poland
- supporting Polish diasporas in the Caucasus
- supporting the repatriation of people of Polish descent from Georgia

They are also conducting workshops with the border police and are training the volunteers, who are working for the Foundation. The integration work is also in line with the social zones and includes the neighbourhoods. There is good contact with the hospitals. TPsycho-social counselling is available to those who have been exposed to violence, as well as those who have been traumatised. Exercise therapy is also offered and is useful for refugees, who can not (yet) address their trauma. Many clients have concrete requests: Where and how do I find accommodation and work, and where can my kids go to school?

Talks with

- Piotr Bystrianin, Ocalenie Foundation, Warsaw, piotr.bystrianin@ocalenie.org.pl
- Maria Ksiazak, International Humanitarian Initiative Foundation, Warsaw, maria.ksiazak@ihif.eu

International Humanitarian Initiative Foundation

There are 5 employees (3 psychologists, 1 psychiatrist, 1 nurse). Last year, they dealt with 50 patients. The focus lies on the detention center, where children are also being held. The following problems have been observed:

- Interpreters are missing.
- There is a lack of privacy, because the border police want to be present during the interviews.
- Sometimes there is not even enough funding to pay the fare to the detention center.
- As long as the detention is insecure and deportation is possible, therapy cannot begin because therapy in progress carries no guarantee of a residence permit. Apart from that the circumstances during detention are very difficult for therapy sessions, especially if the trauma was caused by imprisonment.

As long as the detention is insecure and a deportation possible, therapy cannot begin ...

The Immigration Office also employs psychologists, a practice that draws criticism from Mrs Ksiazak due to the conflict of interest. In her experience, the refugees do not open up to them. The public is being told that refugees have access to psychologists during detention. There are also psychologists working in detention centres, but they are mainly there to support the prison staff. They are also not certified to deal with cases of trauma. The Foundation is offering courses, but they are not being made use of.

Refugees, who are being deported in line with Dublin II, often require profound expertise. Most are being passed on to psychiatrists without a proper diagnosis or any review of a foreign professional opinion.

When the Polish official liaison to the BAMF inquired about this, he was told that there is psychological support available in Poland. This is not the case at all, Mrs Ksiazak states.

Poland's Amnesty for Undocumented Migrants

On the 1st of January 2012, a new act of amnesty for foreigners came into effect in Poland. Many immigrants residing in the territory of Poland without legal status were supposed to be granted the opportunity to legalize their stay. The amnesty law applies to foreigners

Moreover, TV spots were broadcast on public television, in order not only to encourage foreigners to take part in amnesty, but also to change attitude of Polish citizens towards the migrants.

who have lived in Poland continuously since at least the 20th December 2007 or since the 1st of January 2010, if their request for refugee status was denied. Foreigners were requested to submit an application within the first six months of 2012.

The law was welcomed by most organizations and activists dealing with the issue of migration. They claimed that it enabled immigrants to gain jobs legally and participate freely in the activities of broader society. Irregular foreigners are often victims of various criminal activities, as they find themselves in particularly vulnerable situations.

However, it must be noted, that this is not the first abolition measure enacted in the country. Two attempts to encourage foreigners to legalize their stay took place in 2003 and

2007. Their impact was far less than expected – only approximately 5,300 applied for legal status outlined in both abolition acts. Of the 3,500 immigrants applying for amnesty in 2003, approximately 2,700 were granted permission for temporary stay in Poland. In 2007, the number of those submitting applications decreased to approximately 2,000, of which approximately 1,350 were approved. This time, more than 8,500 irregular immigrants took advantage of the amnesty offer. 2,300 of them already received a two-year residence permit.

The reasons for the relative failure of the previous abolition acts were complex. The requirements posed by the law were initially quite strict. In 2003, foreigners had to prove they had remained within Poland since at least 1997. This condition was impossible to meet for those without documents, who constitute a large percentage of irregular residents in Poland. The requirements of the act from the year 2007 were even stricter – applicants were supposed to obtain the promise of employment or a work permit, or to indicate sufficient resources to finance one year of residence and medical care. Only a small number of undocumented immigrants could fulfill such severe conditions.



In contrast, the requirements under the current abolition act are less strict. Applicants are not required to prove their continued stay in Poland - it is assumed that their residence in Poland is permanent, unless there are any documents indicating otherwise. Since the information campaign assisting the previous amnesty programs was not carried out sufficiently, the current amnesty is accompanied by a broad-sweeping information campaign. A website containing detailed information about the conditions of the abolition act was created and promoted. Moreover, TV spots were broadcast on public television, in order not only to encourage foreigners to take part in amnesty action, but also to change the attitude of Polish citizens towards the migrants.

It should be noted that the legal status of applicants is not permanent - after two years, applicants are required to renew their legal status.

In general, the new amnesty act should be seen as a positive, important step towards the integration of some categories of migrants into the broader Polish society. Nevertheless, the impact of the law is difficult to predict.

NGOs have also pointed out that differences in interpretations of the law and its implementation remain. NGOs expressed confusion because the requirements of the law evaluated seemed to conflict with the spirit of the law. For example, most difficulties are faced by immigrants without passports. But a passport was made one of the obligatory conditions for amnesty under the law. There were reports of consulates (e.g. Belarus) threatening immigrants who were attempting to obtain passports. Foreigners with no diplomatic representation in Poland could not apply for amnesty. Immigrants were often helpless without external support to deal with administrative requirements.

Moderator:
Dr. Pawel Dabrowski



Katarzyna Rzesos-Radzka, Immigration Office/Urząd do Spraw Cudzoziemców



Ksenia Naranovich, Foundation for Development /Fundacja Rozwoju Oprócz Granic (FROG)



Ewa Ostaszewska, Helsinki Foundation for Human Rights/ Helsinska Fundacja Praw Człowieka







The Polish Asylum System II: Legal Aspects

The Polish Asylum System

Poland introduced the Aliens Law¹ and the Aliens Protection Law² in 2003. Although the Aliens Protections Law has been amended in 2008 and in 2006, an act on the entry into and residence in the Republic of Poland for citizens of other EU member states has been added, the basic principles of Polish immigration laws, as laid down in the three acts and the constitution from 1997, have stayed the same.

This conference binder will try to give you a basic understanding about the laws and regulations concerning refugees, a short overview of the agencies and organizations that work with these laws and some of important issues that emerged during the years.

The different presentations, panels and reports from excursions during the conference will then provide you with a more in-depth look into the various parts of the Polish asylum system and the European refugee protection framework within.

1. Legislation and Authorities

As mentioned in the introduction, the basic legislation of international protection consists of the Polish constitution of 2 April 1997, Article 56,

- a. Foreigners shall have a the right to asylum in the Republic of Poland in accordance with principles specified by statute.
- b. Foreigners, who seek protection from persecution in the Republic of Poland, may be granted the status of a refugee in accordance with international agreements to which the Republic of Poland is a party.

The **Aliens Act of June 2003** on granting protection to aliens in the territory of the Republic of Poland (modified by the **Amendment of 29 May 2008**). This law covers specific protections for asylum seekers and is also known as **'Aliens Protection Law'**. The 'Aliens Law', which co-

vers a broad range of issues concerning all categories of non-citizens who enter or stay in Poland, and the Act of 14 July 2006 on the entry into and residence in the territory of the Republic of Poland by citizens of the EU member states and their families.

The authorities directly involved in the Polish asylum procedure are the border guards³, who detain the refugees and collect their personal data, the Immigration Office (UdSC)⁴, which decides about the applications, the Refugee Board⁵, which is the first where asylum seekers can appeal if their application is denied by the Immigration Office, and the Supreme Administrative Court⁶, which is the last place for an appeal, after all other possibilities have been exhausted.

2. Different forms of protection

Basically there are five forms of possible protection that can be granted to a foreigner asking for asylum in Poland:

1. **Asylum**, which is different from refugee status insofar as an alien may be granted asylum upon request, if it is necessary to provide him with protection and if it is in great interest to the Republic of Poland as defined in the constitution. Additionally the alien shall be granted the permission to settle if he has successfully applied for asylum.
2. **Refugee status⁷**, based on the definition of the term "refugee" as specified in the Geneva Convention of 1951
3. **Subsidiary protection** (ochrona uzupełniająca), which is given to person who were refused to be given the refugee status but who if returned to the country of their origin, could face a real risk of suffering serious harm - i.e., execution, torture, inhumane or degrading treatment, serious threats to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

³ Straz Graniczna

⁴ Urząd Do Spraw Cudzoziemców

⁵ Rada do Spraw Uchodźców

⁶ Naczelny Sąd Administracyjny

⁷ status uchodźczy

¹ ustawa O cudzoziemcach

² Ustawa o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej



4. **Temporary protection**, which is given in the event of a mass influx.
5. **Tolerated stay permit⁸**, which can be granted to a foreigner, if an expulsion would result in a threat to his/her life, freedom or personal safety; if it would violate the right for family life as defined by the Convention on Human Rights and Fundamental Freedoms or if an expulsion would be unenforceable due to reasons beyond the control of the authority executing the decision on expulsion and beyond the control of the alien in question (i.e., the alien is stateless or his/her identity cannot be confirmed).

- The right to travel abroad – persons with refugee status are given a Geneva Passport, a travel document allowing entry into the countries that signed the European agreement of April 20, 1959 without any additional visa; and persons given the Subsidiary protection are allowed to enter the Schengen countries without any additional visa.
- Persons who are given the refugee status or the Subsidiary protection are allowed to apply for the permit to settle after 5 years of continuous stay in Poland. After three more years they can then apply for Polish citizenship.

The most important social rights of refugees and persons given subsidiary protection are:

- The right to reside in Poland – a refugee cannot be expelled from Poland, except for in extenuating circumstances mentioned in Articles 32 and 33 of the Geneva Convention. The 3-year residence permit card is issued for a foreigner who was given the refugee status and the 2-year residence permit card to a person under the subsidiary protection;
- The right to work – a foreigner is entitled to equal work conditions as a Polish citizen (does not need any special work permit)
- The right to economic activity based on the same regulations as a Polish citizen
- The right to use public care services being granted child and sickness benefits as well as maternity and paternity leave
- The right to health insurance: a foreigner is allowed to register in any chosen branch of the National Health Fund⁹ or falls within the obligation of health insurance because of an employment contract; additionally, a foreigner may be provided with health insurance if registered as an unemployed
- The right to integrational support
- The right to education in schools at any level (primary, lower-secondary, secondary schools and higher education) based on the same regulations as a Polish citizen;

3. The Asylum request

In Poland, an asylum request has to be submitted through the border guard officer to the Head of the Immigration Office. Any asylum seekers entering Poland illegally have to apply for asylum as soon as possible at the border or at the airport. An asylum application made within the territory has to be submitted through the border guard division in Warsaw. In case of detention, the request has to be submitted through the border guard division covering the territory where the detention centre is located. The asylum seeker should clearly express their intention to request asylum (status uchodźcy, azyl). In theory, the border guard cannot refuse to register the asylum request. The border guard then has to pass the asylum application to the Immigration Office within 48 hours from the moment of submitting the application by the asylum seeker. When the request is registered, the border guard conducts a short interview concerning the personal data and basic information on the reasons for applying for asylum. During this interview the asylum seeker is entitled to use his own language; an interpreter should be present.

The importance of this short interview should not be underestimated, as the statements will be compared with the statements given during the interview at the Immigration Office.

Preliminary check: Dublin II regulation

According to the refugee status procedure, the Immigration Office will first check if Poland is the

⁸ Zgoda na pobyt tolerowany

⁹ Narodowy Fundusz Zdrowia



state responsible for reviewing the asylum application under the Dublin Regulation. Now there are two possibilities:

1. Poland is the responsible state for reviewing the application and the asylum seeker is transferred to Poland. This, for example is the case, if the asylum seeker applied for asylum in Poland, but then left and went to another EU country or if he entered Poland illegally, went to another EU county and applied for asylum there. So an asylum seeker who is transferred back to Poland, will be handed over to the border guard, which can apply to the court within 48 hours, to place the asylum seeker in a detention centre because he or she crossed the border illegally. The border guard is not obliged to apply to the court, which gives the impression of an arbitrary decision. It is confirmed by Polish NGOs that sometimes women with minor children are not detained but are directed to the Immigration Office, where they can apply for a re-opening of their case and for social assistance. The re-opening of the case is not automatic - the asylum seeker needs to apply for it.
2. Another EU Member State is the responsible state. When the asylum seeker is present in Poland, the Dublin division of the Immigration Office will check if another EU member state (or Iceland, Norway or Switzerland) is responsible because:
 - a. A Eurodac hit indicates that the fingerprints of the asylum seeker were found in another state that is part of the Dublin system
 - b. The asylum seeker has a valid visa or a valid residence permit for any of the countries participating in the Dublin system
 - c. The asylum seeker declares that he/she crossed any of these countries when travelling to Poland
 - d. Other elements, like public transport tickets, receipts etc. are an indication that the asylum seeker was in another participating country

Poland will request that the applicant be sent to the country considered by Poland to be respon-

sible for reviewing the request for the asylum. The Dublin procedure can take several weeks or months because it takes time to get an official answer from the state the request was made to. If Poland turns out to be the responsible country, the asylum procedure will now focus on the reasons why the applicant left the country of origin or habitual residence. If another country is responsible for the examination of the asylum application, Poland will transfer the person to that country based on the transfer decision. An appeal to suspend can be lodged within 14 days with the Council for Refugees.

Once the Dublin procedure is finished, the application of asylum will be examined by the above-mentioned administrative bodies and courts on the merits of the case. The main three forms of protection will be examined in one procedure (refugee status, subsidiary protection status and tolerated stay permit). A crucial phase in the procedure is the hearing, during which the applicant is questioned about his/her situation in the country of origin and travel route. The summons is sent by a letter by post or by fax. Therefore, it is important to keep the asylum services informed about the correct contact information. During the interview, the asylum seeker is entitled to help from an interpreter if necessary. NGOs advise that the officer conducting the interview inform the applicant of this right straight away. The assistance of a lawyer during the interview is also recommended by the NGOs. The credibility of the statements will be assessed by the authorities, so detailed and non-conflicting statements are of crucial importance. The officer, interpreters, lawyers and social workers are bound by a duty of professional confidentiality.

After the interview, the applicant is entitled to receive a copy of the hearing (in Polish) after she has signed the minutes (thereby stating she agrees to its contents). The contents of the report are considered to be translated orally to the applicant in an understandable language before signature. Documents and other evidence may be presented at any stage of the proceedings



(before, during or after the interview) before the authority takes the decision. The authorities require original documents, but the asylum seekers can keep the originals and submit copies of the originals presented. There is no obligation to provide for a translation. According to Polish law, the initial proceedings should not last more than six months. In practice, the regular proceedings usually take longer. If the instances did not come to a decision within six months, the applicant is entitled to work legally in Poland for a definite period of time.

4. Stages of Appeal

The asylum procedure has one of four possible results:

The application is rejected or discontinued

The rejection of the Asylum application according to figures of the UDSC (**Immigration Office**)¹⁰, is the result of the application procedure in most cases. If the asylum seeker does not agree with the rejection (or the subsidiary protection or the tolerated stay permit), he can appeal within 14 days after receiving the decision from the UDSC to the **Refugee Board**¹¹ through the Immigration Office. Asylum seekers have the right to legal assistance, but only in exceptional cases are asylum seekers assisted by a lawyer during their procedure. In Poland, legal assistance in most asylum cases is provided by specialized NGOs. Those organizations are based in urban centers, whereas reception centres are mostly located in rural areas. This seriously limits the possibilities of asylum seekers to access legal assistance. Financial constraints on the side of NGOs reduce the number of visits to the centers they can fund. When an asylum seeker has appealed to the Refugee Board, the Board can grant refugee status, subsidiary protection or a tolerated stay permit, cancel the decision by the Immigration Office, and order Immigration to reconsider the case, reject the appeal or confirm the decision.

This decision is the end of the administrative proceedings, which means that the decision given to the applicant contains the decision on expulsion (unless such a deportation decision was already given before the applicant introduced his/her request for asylum). The person then has 30 days to leave the country. For a complaint to be filed against the decision, it is necessary to appeal to the court to withhold the deportation until the end of the proceedings. One can file a complaint to the Regional Administrative Court in Warsaw¹² within 30 days of the decision by the Council for Refugees. This court wields the power to review the legality of the administrative acts in light of their compliance with the law. A cassation appeal against the court's ruling can be made to the Supreme Administrative Court. This complaint must be prepared by a professional lawyer.

The applicant is granted refugee status

Refugee status is granted for an indefinite time (except in the case of withdrawal). But the identity card¹³ is only valid for three years. The refugee travel document is only valid for two years. Both documents are issued by the Immigration Office. After five years of uninterrupted stay since the introduction of the asylum request, the refugee can apply for a permit to settle. After two more years of stay on the basis of the permit to settle, the person can apply for Polish citizenship.

The applicant is granted subsidiary protection

The subsidiary protection status (SP) is also granted for an indefinite time. The identity document¹⁴ is only valid for two years and the Polish travel document for a foreigner with SP is only valid for one year. As for the refugee status, an uninterrupted stay of five years is required before the person can apply for a permit to settle and two more years based on the permit of settle are requested before a person can apply for citizenship.

¹⁰ Urząd Do Spraw Cudzoziemców

¹¹ Rada do Spraw Uchodźców

¹² Wojewódzki Sąd Administracyjny w Warszawie

¹³ karta pobytu

¹⁴ Also called karta pobytu



In both situations (refugee status or SP), foreigners have the right to assistance to support their integration for maximum one year, and they have the right to work and study on the same terms as Polish citizens.

The applicant is granted a tolerated stay permit

While the tolerated stay permit is granted for an indefinite time, the validity of the identity card¹⁵ is limited to one year. The only temporary travel document that can be issued to those with a tolerated stay permit is limited to a maximum of seven days. A person with a tolerated stay permit can only apply for a permit to settle after ten years of uninterrupted stay - another two years' stay on the basis of the permit to settle are needed before the person can apply for citizenship. These rights are only granted to those with a tolerated stay permit based on the possible risk of violati-

on of Articles 2 (right to life), 3 (prohibition of torture), 4 (prohibition of slavery and forced labour), 5 (right to liberty and security), 6 (right to fair trial) or 8 (right to family life) of the Convention on Human Rights and Fundamental Freedoms, or if the expulsion would violate the Convention on the Rights of the Child. If on the other hand, the tolerated stay permit was granted for the sole reason that the expulsion cannot be enforced due to reasons beyond the control of the authorities and beyond the control of the person in question, then said person has no possibility of applying for a permit to remain and only in extenuating circumstances may they apply for citizenship.¹⁶

¹⁵ Also called karta pobytu

¹⁶ Source of a.) to d.): Polish Asylum procedure Report 2010, S. 1-13, <http://www.unhcr.org/refworld/publisher,ECRE,,4e2b872,0.html>



The Asylum Procedure from the Perspective of Different Stakeholders



Karolina Marcjanik,
Immigration Office

First Karolina Marcjanik from the **Immigration Office** gave a presentation on the Polish Refugee Status Determination Procedure (RSDP), current trends and

the link to the Common European Asylum System (CEAS). She explained that the Immigration Office was established in 2001 and is supervised by the Ministry of the Interior. In her opinion, Poland is still a country for those in-transit. Most migrants move on to other destinations.

The legal framework for the RSDP is provided by the Act on Foreigners of 13 June 2003 which underwent two important amendments: First, thanks to the Qualification Directive, subsidiary protection was introduced. and Second, in 2008, the concepts of relocation and resettlement were incorporated.

Five different forms of protection exist: refugee status, subsidiary protection (since 2008), tolerated stay (e.g. for Georgian citizens), temporary protection (implementation of the 2001 directive) and asylum. The latter is a separate form of protection with the following definition: 1. Need for protection 2. Need based on the interests of the Republic of Poland. As the second prerequisite requires the political will to act this instrument is scarcely used. Nobody has received asylum yet in Poland.

The Single Refugee Status Procedure is the sole procedure, and is conducted at the Immigration Office. If the legal requirements are not fulfilled, the prerequisites of a subsidiary protection status are checked. If they are not fulfilled, a temporary stay is foreseen. If no requirement is given, expulsion will be carried out.

There are three types of procedure:

1. Standard procedure: 6 months, can be extended, 14 days to appeal against the decision at the Council for Refugees
2. Fast procedure (manifestly unfounded applications, 30 days, 5 days to appeal)

3. Special procedure (applies to unaccompanied minors, disabled persons, etc.)

The following authorities are involved in the asylum proceedings:

1. Border guards: receive the application and submit it to the Immigration Office (within 48 hours if the person is detained)
2. The Immigration Office is the first authority; right to appeal to Refugee Board
3. Voivodship Administrative Court

She also presented information on the rights of the applicants which differ according to the form of protection. Refugees and beneficiaries of subsidiary protection receive support for integration.

Refugees receive a card to stay for three years, beneficiaries of subsidiary protection get a residence card for two years. If only a tolerated stay was granted, the card is valid for one year. The cards can be renewed.

Concerning the CEAS, she emphasized that the recast of the Qualification Directive is implemented into the Polish system, but that problems occur due to the approximation of rights and benefits for beneficiaries of refugee status and subsidiary protection and with regard to the validity of residence card.

With regard to the amendments to the reception conditions directive (RCD), she emphasized that there were some problems concerning the conditions for detention, access to the labour market and the mandatory detention procedures.

Anna Lubońska-Rutkiewicz,
Refugee Board



Anna Lubońska-Rutkiewicz, member of the **Refugee Board** explained that Poland was not prepared in 1991 to comply with the Geneva Convention, as the issue of refugees prior to that year had not existed. She described Poland as a closed country with a predominantly Catholic population. In the past, the climate was not very



welcoming to foreigners and therefore no one felt compelled to remain. Only in the post-Soviet era have people from the CIS begun to feel more at home in Poland.

At the time the Convention went into effect in Poland, the procedures for asylum were not specified. Consequently, procedures were often ambiguous and the appeals process could take forever. In the beginning, the application required 18-20 pages of detailed justification, citing all parties involved, leaving little space for the relevant facts. Moreover, the country still had little experience dealing with victims of human trafficking and with migrants in general.

Jacek Chlebny, Judge at the Supreme Administrative Court



Jacek Chlebny, **Judge at the Supreme Administrative Court and President of the regional administrative Court** gave an overview on the judicial protection of asylum seekers in Poland.

The procedure in administrative matters comprised four tiers: two administrative and two judicial ones. The two judicial tiers were the 16 Regional Administrative Courts (RAC) and the Supreme Administrative Court.

While the 1st instance has full control of facts and law, the 2nd instance is a cassation court which focuses on application and interpretation of law by the 1st instance (procedural and substantive), this may concern the fact finding process.

There is no automatic suspensive effect of the complaint filed with the Court. Generally an individual claim can be brought to the Constitutional Tribunal, but not when asylum cases are concerned.

In asylum cases there is an exclusive competence of the RAC in Warsaw. The fact finding process is entrusted to the administrative authority. Only documents may be admitted as evidence by the court. The judge reported that the case Potoc-

ka and Others v. Poland (judgement 4 October 2001) decided by the European Court on Human Rights (ECtHR) recognized the sufficient scope of the review exercised by Polish Supreme Administrative Court to comply with Article 6 § 1 of the European Convention on Human Rights (HCHR). He came to the conclusion that the Polish system was in line with the relevant legal standards (Art. 39 of the Asylum Procedures Directive: right to an effective remedy).

The judge explained the admission of evidence that the “final administrative decision” equals the decision made by the second instance administrative authority and it falls under judicial review. Evidence that is related to the facts that existed prior to the time of issuing the final decision can be taken into account at the judicial review. It includes evidence that existed before the final decision. But fresh evidence concerning new facts that occurred after the final decision has been issued cannot be considered by the Court of 2nd instance. When it comes to weighing the evidence, the judge decides based on the files and is merely verifying whether the investigation has been conducted correctly. He is not investigating the case himself. The role of the judge of the first instance is therefore only to examine ex officio if relevant facts have been properly established by the administrative authority in line with the procedural norms. There are two main sources of evidence in practice: the interview with the asylum seeker and the country of origin information.

He came to the following conclusions:

1. The Court is limited in its powers as the credibility of an applicant's claim and the assessment of the evidence used in the case are primarily assessed by the administrative authority. However, all these elements fall within the review exercised by the judges.
2. Only the factual situation that existed at the time of the final decision is relevant before the Polish court which might be in violation of Art. 3 ECHR

If an applicant has not yet been extradited or deported when the Strasbourg Court examines the case, the relevant time will be that of the proceedings before the Court. A full and ex nunc assessment is called for as the situation in a coun-

try of destination may change over the course of time.

3. No suspensive effect of the appeal is brought to the Polish court.

Grzegorz Wilga,
Association for Legal Intervention



Grzegorz Wilga from the **Association for Legal intervention** is a proxy for administrative proceedings at the RAC. He confirmed Mrs. Lubońska-Rutkiewicz's criticism concerning the lengthy justifications which have to be prepared by the

Refugee Board. He agreed that a focus on the significant aspects of the individual case would be preferable. He further drew the audience's attention to the fact that, as there is no suspensive effect, foreigners may be expelled from Poland before their case is decided in court. The filing of a complaint to the RAC can take 4 to 6 months. So everything depends on the good will of the border guards. Generally, the practice has thus far been to the asylum seekers' favor - if the border guards were aware that a complaint had been filed, no expulsion order was issued.

Nevertheless, there were some cases of expulsions carried out before the RAC had come to a decision, which meant that asylum seekers were deprived of their right to appeal. He informed the audience that the ECHR was now committed to ensure that no expulsion be carried out before the court has decided, but only after all legal remedies at the state-level have been exhausted, which is not easy to prove. He concluded that it was difficult to come up with a consistent solution.

Discussion

In the discussion the moderator stressed that the role of the RAC cannot be underestimated. It was explained that a motion for the suspension triggers a fee. The best way forward at the moment would be for the border guards to suspend



Dr. Martin Rozumek, Participant



Svetlana Djackova, Participant



Anna Lubońska-Rutkiewicz and Moderator Dr. Agnieszka Gutkowska

expulsions until the law has been amended. One question focused on the role of the Refugee Board and the selection of the members. Mrs. Lubońska-Rutkiewicz explained that the Board consisted of 12 people, half of whom are required to have an educational background in law. The members are nominated by the Minister of Foreign Affairs and the Minister of the Interior, finally the Prime Minister selects. One term in office lasts five years. She said the board members were independent, there was no contract of employment. The Prime Minister's Chancellery provided the funding.

Another question related to the number of decisions which have been changed by the Refugee Board. In 2011, 1005 applications were submitted to the first instance. In 88 cases, the appeals were dismissed. In 50 cases, the Refugee Board revoked the decision and returned the cases to the first instance. Furthermore, there were 21 cases for tolerated stay and 5 cases for resumption. Five cases among the appeals to the second instance were considered. In total, 1203 cases were handled. 151 decisions were invalid.

In 2010, 28% of the persons who received decisions from the head of the Immigration Office appealed. In 2011, 11% of appeals were considered by the Board. In 2012, 16% appealed the decision by the head of the Immigration Office and 10% of the appeals were considered by the Board. The biggest number of cases are redirected to the 1st instance in order to supplement evidence.

Regarding the question as to whether there was a refugee lottery in Poland, the representative from the first instance stressed that they did their

utmost to ensure a well-functioning system. She pointed out that it was important the refugees receive sufficient information about the asylum procedure from the border guards. As Poland did not provide for free legal aid in the 1st instance, the NGOs were needed, but their support was indeed accessible. In many cases, Polish law does not need to change in order for the new EU directives to be implemented. Nevertheless, there are gaps that need to be closed.

The Refugee Board representative said that she and her colleagues tried to determine whether the asylum seeker was telling the truth, while remaining both respectful and kind.

The judge stated that it was difficult for him to judge his own system, but he agreed that the role of NGOs was very important, because there is not much money in asylum law.

The NGO representative said that the predictability was a problem. So far standards had been developed by state organizations, the courts and the NGOs in the case of persons from Chechnya, but there were other countries of origin where they lacked precedents. In such cases there was in fact a lottery when these cases were sent to the Refugee Board. Many foreigners disappeared during the court procedures, as they had no right to work, to social or medical benefits. This was a problem.

The moderator added that the problem was a shortage of funds for the integration of asylum seekers. These people could not afford staying in Poland and moved on for that reason. The judge added that the asylum procedure directive did not guarantee a stay during the appeal procedure and only set minimum standards.





Refugee camp in Targówek,
directly behind a cement plant



Excursions



Open Centre Targówek

The Open Centre Targówek is the only center for asylum seekers in Warsaw. It's managed by the Immigration Office and located in an industrial area at the outskirts of Warsaw. People are coming and going, so it's indeed an open center.



In front of the entrance, our group ran into two women from Georgia and Chechnya, who were going for shopping. They said everything is fine in the center. They are happy with how the centre works. However, they were concerned about the amount of pocket money they were given. One of

them wanted some dental work done, but money for the operation was not provided.

The center itself is mainly designed for single females and their family members, including boys until they are 18. Male guests need an entry permit. As it is an open center, the women can go out and visit others outside.

Around 140 people live there which is a fairly crowded situation. The families have one room

for their own, they share bathrooms and kitchens. Quite a few places were newly equipped - the centre is two years old. The women stay there for anywhere between one night and two years.

There is not much interaction with the locals, no organized volunteering. The girls and boys attend local public schools. The primary school is in ten minutes walking distance, the upper primary school ten minutes by bus.





We had a discussion with the director Agnieszka Fiedosewicz who has been working with asylum seekers for ten years. The question that remained unresolved was to what extent those living there are involved in running the place, for example in the kitchen or outside in the garden. Either the question was not fully understood or there are just not many activities undertaken. We were under the impression that there is no physical space for it, but this was a misunderstanding. Apparently, there are no means of financing it.





Cultural Institute of Caucasus Nations and Refugee Self-Help Center Sintar

As the name implies, the focus of this center is to enable refugees to become independent and really start a life in Poland. The idea is to build a base around the idea of the homeland, which in this case is the connection to Chechnya, as the project was initiated by Issa Adajew, one of the leaders of the Chechen diaspora in Poland. So Sintar is the base where refugees go and find help where to live and how to make their living. These two questions are the main issues refugees struggle with when they arrive in Poland. However, the center is not officially dealing with these problems. Helping find accommodation is mostly a private matter, according to Narmina Hebanouska, who showed us around the centre. She by the way came to Poland from Azerbaijan nine years ago and works as an administrator at the center. This is what is unique about the center: Sintar also employs refugees.



When accommodations are found, there is a wide variety of courses offered: language classes, dancing, painting, sewing. Most of the offers are for free. Sintar is financed by subsidies from the European Fund for Refugees, grants from the Ministry of Education and the City of Warsaw. Religion plays a role in the center, but they emphasized that it is not a mosque: "It's a non-political and non-religious place".

The goal is to build an international community - for example, the teacher of the video class is African. Half of the people working or volunteering there are Polish like Janina, who teaches Polish and English and comes there three times a week to help the children and adults to learn the language. She is also the teacher of Meihdi, a nine year old boy from Chechnya. He is a special case as his situation seemed to be hopeless. He came with his mother and four brothers and sisters from Chechnya to Poland two years ago. They didn't have any knowledge of Polish. Meih-



di's former teacher said: No chance! It doesn't make any sense to teach him anything.

Others might have given up on him, but at the center he had one-on-one courses and finally learnt to speak and write in Polish and he really improved at school. Janina characterized him as a now cheerful boy. We also met his mother who appreciates the friendly atmosphere at Sin-

tar. She is glad about the positive development of her son. She also learnt Polish at the center. Now, the family is trying to stay but doesn't know yet about their status.

More information:
<http://sintar.pl/en/index.html>

The idea is to build a base around the idea of the homeland, which in this case is the connection to Chechnya ...



At the Dublin Unit of the Immigration Office



Presentation for the 15 Conference participants from Germany, Austria, Ukraine, Belgium, Poland, and Sweden

The group was welcomed by three ladies from the Dublin Unit of the Immigration Office, which has currently 8 employees. Ms Kowalska had been employed since 2009 by Officer Magawa who is a senior expert on Dublin procedures. Prior to that, she worked at the reception unit at the office and was responsible for the organisation of the Dublin transfers. At present only the border guards are responsible for

the incoming Dublin transfers. The Dublin II Unit is dealing now with transfers to other responsible countries.

Ms Kowalska is responsible for examining requests by other member states and responsible for exchanging information between the member states. Ms Magawa, senior officer of the Dublin unit since 2008, is responsible for the cases of family reunification.

First, Ms Kowalska gave us statistics about the In- and Out-requests from other EU member states over the last years:

Year	IN requests	Pos. dec	Transfers	Highest no	Art 15 DU
2010	4852	4594	2097	FR DE BE AT NL	4 200
2011	3477	3356	1396	FR DE BE AT NL	2 960
2012	3204	2971	818	FR DE AT NL BE	2 795

Year	Out procedure	Pos. dec	Transfers	Highest no	Art 15 DU
2010	109	76	63	DE AT FR BE NO	32 (Family unific.)
2011	89	63	55	DE FR AT BE	26
2012	138	112	94	FR DE IT AT NO	19

Ms Kowalska also stated the fact that Poland is a transit country. The most Dublin cases in Poland

deal with asylum seekers from Russia, Georgia, Vietnam, Bangladesh, Pakistan and India. There is a distinction of three groups: 1. Many refugees do not apply for refugee status in Poland but in another member state. They are taken back from those states due to the Eurodac hit, which is the fact in most of the cases. 2. Some persons file an application for asylum while another country is responsible for them, even against the will of the person. Many of them say they did not know that they couldn't come legally to Poland or they wanted to visit friends in Poland. In addition, amnesty for undocumented immigrants has had a pull effect. 3. Some file an application in Poland and claim that family members are residents of other EU countries.

The Dublin II Unit is eager to respond to all upcoming requests from other member states. The Statistics above reflect cases - not people - so one should add 30% in order to calculate the number of persons who are transferred. From 2013 on, the data collection will be standardized to persons, but this will be the responsibility of another governmental authority.

In France, not many decisions to return are made due to the fact that most of the persons disappeared for up to 18 months. In those cases, prolongation under Dublin II regulations is possible regarding detention and the suspensive effect.

Were there any cases regarding Art 15 (humanitarian clause) last year? Germany does not permit family reunification for those granted only a tolerated or subsidiary status.

The interlocuteurs visited Germany a few years ago. They noted there is problem of unaccompanied minors. Poland generally grants most requests, but the authorities have no choice should there be a hit in the Eurodac System. Not all countries provide information about family members in their respective states because not all relatives are considered to family members under Dublin II.

There is a common Dublin Net info channel between governments which can provide family members with relevant information.

The interlocuteurs were asked whether in some cases asylum seekers return to Poland in bad shape. Would the Dublin Unit be informed of such a situation?

Previously Poland always asked for this information from the transferring member state and Ms Kowalska emphasized the need for this in order to provide an ambulance, doctor, etc., if needed.

Concerning the discontinuation of asylum applications, it was stated that in Poland, 80% of the asylum claims are to be vacated because the applicant went to another country. This is not really a discontinuation – if the person is back in Poland within 2 years, she can renew the procedure. After the period, the returnee must apply as a new case.

The discussion came up to the topic of detention in Dublin return cases. If the person applies for asylum upon re-entry, will she be detained? The answer was that returnees under Dublin are placed in „guarded centers“, open centers or private accommodations. The court decides for or against detention based on an individual assessment made by the Dublin Unit. If the claim is manifestly unfounded, it is very likely that the Dublin Unit will propose detention. The Unit was not able to provide statistics on the detention of Dublin returnees, as this data is surveyed by border guard services.

In cases of unaccompanied minors 14 years and older, fingerprints can be taken for an illegal stay. It was however stated that an case is not equivalent to an asylum procedure.

The excursion ended on a discussion about the new Dublin III regulation and the responsibility sharing mechanism within Europe. The visitors shared their view that the actual Dublin-System is not functioning properly and that there should be the freedom of choice within the EU to apply for asylum in a certain member state in order to consider the refugee's wish, family ties or knowledge of language. To balance potential asymmetrical asylum seeker reception within the EU states, there is the idea of an equalisation fund to distribute costs.



Warsaw Airport Center for Asylum Procedure, Prison cell



Impressions from Dom Dziecka, Youth Welfare Institution

Unaccompanied minors are not a big issue in Poland. The number of unaccompanied minors is quite small compared to other European countries. There were 16 asylum applications in 2009 and 20 applications in 2010. Most of the applications were made by unaccompanied minors coming from Russia, Georgia and Afghanistan. Applicants are usually males (between 75 and 100%) and over 16 (between 70 and 88%)¹.

One had been in a guarded centre for a month and a half and was truly afraid to be sent back.

The Dom Dziecka Children's Home hosts Polish children and, since 2005, foreign unaccompanied minors. This is currently the only centre for unaccompanied minors in Poland. At the time of our visit, it hosted 12 people coming from Afghanistan, Chechnya, Sri Lanka, Bangladesh, Armenia and Syria. Apparently they do not have so many contacts with Polish children living in the centre: they are accommodated in different floors of the building, and there are two different projects and budgets.

People working in the Centre are guardians of the children and deal with the everyday needs of the minors. All other functions are covered by custodians. Custodians are legal representatives of the minors and are assigned by the court to NGOs like the Helsinki Foundation, the Law Clinic and the Association of Legal Intervention. They work for the best interest of the minors, but only regarding administrative procedures.

According to Polish legislation, education is compulsory till the age of 18. Most of the unaccompanied minors living in the shelter are sent to private schools that organize multicultural special classes because most of them came to Poland at the age of 16 and 17 and cannot enter normal schools because of their difficulties with the Polish language. Similar problems often do not give them the opportunity to enter in vocational education.

We talked with some of the children. We asked them about the journey that brought them to Warsaw and they had a lot to say about their hopes for the future and their frustration about being stuck in Poland that was not planned as the final destination of their journey. They were aware of the Dublin II regulation and of the fact that they would probably be sent back to Poland in the eventuality that they succeed in reaching another European country illegally. But this awareness was unfortunately accompanied by the sense of failure of their migration project.

Their main concerns were about the lack of money. They cannot work and they receive 70 zloty per month, which is only enough to buy phone cards to call their families and they do not have any means of leisure, like going to sports clubs. They were complaining about the lack of opportunities and the lack of hope for their future.

But the main issue at the time of the visit was the new law that is going to change everything for these children. In fact, according to a new Polish law on children, orphanages are going to be closed and children will be sent to foster families. The Dom Dziecka Children's Home will probably be closed by the 31st of December 2012. The law came into effect earlier this year and under it, unaccompanied minors won't be accommodated by foster families but they will be sent to the intervention centre where they were first detained. Children were really upset and scared about the idea of leaving the Youth Centre. One had been in a guarded centre for a month and a half and was truly afraid to be sent back. In fact, there is no reason to send them to a guarded centre because the Dom Dziecka staff is well-trained and professional, while border guards have no suitable place to house the minors. Social workers of the centre are trying to present a project for family homes for these children so that they can stay together and go on trying to build their lives in Warsaw.

¹ France Terre d'Asile (2012), Right to asylum for unaccompanied minors in the European Union, Les cahiers du social n° 33, August 2012, <http://www.france-terre-asile.org/dam27>

Findings of a Visit in Warsaw Family Support Center for the Integration of Foreigners

There are 380 Centers providing social assistance for families all over Poland. Those refugees who have got an ordinary or subsidiary status can get financial support and individual help like social assistance and advice in questions of health care and family assistance for one year in that governmental centre.

If people want to take advantage of this offer, they must sign a contract and a case worker will assist with their individual needs - for instance, if they are ill or elderly.

The money they get is the same amount as for Polish citizens (351 zloty for a single person) but will be reduced after 6 months.

Since the year 2000, obligatory individual integration programs are foreseen by law and funded by Central Government, additional language courses and legal assistance as well as psychological help are provided only by NGOs or the centres itself.

During that first year, refugees should become independent, but in fact only 10-20 % succeed in finding their own housing and work during that time – most of them would need 2 or three years. Migrants have more problems than others to find a flat and would have to pay about 80% of the financial assistance for rent.

Some Family Centers therefore try to assist with a small number of 'protecting housing' or municipal houses for a limited time.

After 12 months, the integration program including financial assistance stops and refugees have to help themselves. Those refugees with only a tolerated status do not receive any support.

In the case that they are registered as unemployed, they can receive basic medical care.

In our discussions, we learned that because of these elementary conditions – being homeless and without any financial support - many refugees try to leave Poland to go to Western European countries.



Family Support Center, Warsaw



Meeting with Mrs Agata Kaczmarska, Head of Department of the Integration of Foreigners in Warsaw Family Support Center

Access to the EU Asylum System



European External Borders



The Right to Access International Protection



Mrs Kerstin Becker, Red Cross Germany, ECRE

Mrs Kerstin Becker, Central European Region Representative of ECRE, German Red Cross

EU member states have made combating irregular migration a priority. This is carried out within the policy fields of freedom, security and justice. Action taken by numerous EU member states to prevent the illegal entry of migrants has not only an effect on irregular migration, but also seriously affects potential asylum seekers who are on their way

to seek international protection in EU countries.

Many people fleeing persecution and human rights violations in their countries of origin are finding it increasingly difficult if not impossible to reach a safe country where they can apply for international protection as provided by international fundamental rights instruments such as the 1951 Refugee Convention, the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights.

outflow of migrants or re-admitting those who have been expelled by EU member states. Transit countries are asked to better control their borders, and countries such as Morocco and Libya become buffer zones to contain migration from sub-Saharan Africa. In this process, migration control is delocalized, taking place far away from the geographical location of EU borders.

According to the principle of non-refoulement, it is forbidden to expel, deport or return persons to territories where they face the threat of persecution, torture or arbitrary violations of the right to life or irreparable harm. It is also forbidden to return a person to a transit country where the person is at risk of being returned to another country where he or she faces persecution or other serious harm.

Agreements between EU member states and neighboring countries, in certain cases, even provide European border patrol units with the possibility to operate within the territory of the neighboring state and to intercept migrants already there – even further removed from the implementation of EU refugee protection law and standards. Humanitarian concerns are further aggravated by the increasing institutionalization of these border control mechanisms and practices through the build-up of competences and capacities of the EU border control agency Frontex.

Many people fleeing persecution and human rights violations in their countries of origin are finding it increasingly difficult if not impossible to reach a safe country ...

As a consequence of the reinforced and externalised border controls, EU member states are not fulfilling their obligations under international law, international refugee law and human rights law, as well as EU asylum law. States are showing a growing and worrying tendency to shift their border protection and border control mechanisms and the first contact with migrants and possible asylum seekers as far away from their borders and territories as possible. Countries of origin are motivated and financially supported by the EU and its member states to contribute to migration control by curtailing their

Recent Developments in Establishing the European Border Surveillance System (EUROSUR-Regulation)



Mrs Katrin Hatzinger, Director of the German Protestant Church (EKD) Office, Brussels

On the 12th of December 2011, the European Commission published its Proposal for a Regulation establishing the European Border Surveillance System (EUROSUR). The proposal is subject to the ordinary legislative procedure meaning that Parliament and Council must jointly adopt the Eurosur Regulation. Based on the Eurosur roadmap presented by the Commission in 2008, parts of the Eurosur system are already in an operational testing phase.

Eurosur is a new border surveillance system that shall provide an enhanced control of the EU external borders. The main aims of this forceful border control are:

- Fighting cross-border crime (e.g. human trafficking, smuggling of drugs, etc)
- Reducing the number of irregular migrants entering the EU undetected
- Fighting loss of lives at sea

It is therefore logical that a common, effective control of the EU external borders is a necessary consequence of the right to move freely inside the EU.

The Eurosur surveillance system consists of two parts:

1. An enhanced system of information sharing between the national border authorities and Frontex shall be established. To that end, each member state with land and sea external borders shall install a so-called National Coordination Center (NCC). The access to this very broad information pool shall increase situational awareness and improve the reaction capability of the border authorities.
2. Frontex shall provide a service for the common application of surveillance tools. The application of advanced surveillance technology, such as satellite imagery or unmanned aerial vehicles, to monitor the external borders as well as the pre-frontier area, is explicitly foreseen in the proposal (Art. 12).

The European Commission estimates the overall costs for the development of Eurosur during the period 2011–2020 at about 340 million Euros. However, the Heinrich Böll Foundation has published a study (“Borderline - The EU’s New Border Surveillance Initiatives”) which seriously questions the accuracy of the commission’s estimation. In the responsible LIBE Committee of the European Parliament, various members of parliament equally explained doubts regarding the real costs for Eurosur.



The surveillance system Eurosur foresees extensive collection of data which might include personal data. Moreover, Eurosur is designed to foster cooperation with third countries in the field of border protection. Here, the protection of personal data is a major problem.

The Commission claims that the fight against loss of lives at sea is one of the main objectives of Eurosur. Nevertheless, the intention to save lives at sea is only to a very limited extent mirrored in the actual legal obligations or content of the regulation. In the



The EKD Office Brussels has, together with the Jesuit refugee service (JRS) and other organizations, proposed a number of amendments in order to foster the fight against loss of lives at sea.

proposed regulation, rescue missions are explicitly excluded from the scope of the regulation (Art. 2 (2)).

The EKD Office Brussels has, together with the Jesuit refugee service (JRS) and other organizations, proposed a number of amendments in order to foster the fight against loss of lives at sea.

The Key element in the proposed amendments is an early warning mechanism: Every time a National Coordination Center or Frontex detects a situation where an individual is in distress at sea, it has to immediately communicate all relevant information on the situation to all others NCCs, Frontex and the responsible Maritim Rescue Cen-

ter, thereby triggering the obligation for search and rescue under the Law of the Sea.

Various other amendments proposed shall raise awareness to potential dangerous zones at sea. The key benefit would be that areas of potential danger to small or sea unworthy boats could be identified and controlled to a greater extent, thereby adding a preventive element to the fight against losses of lives at sea.

The amendments have been presented to the office of the shadow Rapporteur of the Greens, Ska Keller, as well as to Rapporteur Jan Mulder. The aim is to bring the Eurosur Regulation as quickly as possible through the legislative procedure. Eurosur shall be operational by October 2013. Negotiations between the European Parliament and the Council are supposed to start before the end of the year.

The Situation of Transit Refugees in the Ukraine

Mr Marc Speer,
Border Monitoring Project Ukraine

At present, the International Organisation for Migration (IOM) is running the SIREADA project in Ukraine, with backing of almost EUR 2.4 million from the European Union and the Austrian Ministry of the Interior. The declared aim of this project is to provide “Humanitarian assistance for migrant detainees in Moldova and Ukraine”. In addition, the International Centre for Migration Policy Development (ICMPD) carried out the ERIT project, which was funded by the European Union to the tune of EUR 1.75 million. The ICMPD has written the following about the project: “Technical support in the amount of 140 thousand Euros has been recently provided to two detention centres in Rozsudiriv (Chernigov oblast) and Zhuravichi (Volyn oblast) under the GDISC ERIT project. That was in addition to substantial financial assistance of the EU to the Ministry of Internal Affairs of Ukraine for actual establishment of those facilities in 2008.” According to statements by the UNHCR, Human Rights Watch, Amnesty International and the Ukrainian Refugee Council, Somali refugees went on hunger strike in the detention centres at the beginning of 2012 in an effort to draw attention to their situation. There is also evidence and reports of violent attacks on the hunger-strikers by members of the Ukrainian security forces on 30 January 2012. The UNHCR had cited a potential breach of Article 5 ECHR with regard to the detention of the Somali refugees.



Mrs Kateryna Baleha,
Medical Aid Committee
in Zakarpattia,
Uzhhorod / Ukraine

Charitable Organization “Medical Aid Committee in Zakarpattya”:

In the course of realization of its projects that are directed upon social and medical sectors CO “MACZ” pays great attention to protecting human rights. The categories of people CO „MACZ“ works with (mentally ill persons, children/adults with special needs, HIV/TB infected, Romas) need not only direct aid but protection and observance of their rights as well. In accordance with the recent expansion of the European Union and geographical location of CO “MACZ”, since 2009 it has been engaged with the issue of protecting the rights of illegal immigrants, refugees and asylum seekers in the region. Nowadays, the work of CO „MACZ“ is directed in:

- educating and informing the general population about medical-social problems
- exchange of experience and training of the staff of the social and medical establishments in the region
- material-technical aid, help in improving the conditions in the social and medical establishments of the region.

Work with refugees and immigrants includes consultations with a doctor, and accompanying them to medical establishments in cases of emergency; providing the opportunity to use computer equipment, in particularly the Internet; improving the living conditions, etc.



Detention Center Zhuravichi, Ukraine

Przemysl Guarded Camp for Refugees





Close to the border with Ukraine, in the city of Przemysl in the Eastern part of Poland, a reception centre for refugees is located - financed by the European Union. It is built inside the border guard zone and is divided into two different parts. We were able to see both of the centres and could talk with the border guard staff in charge during an official appointment.

One part of the facility is a so called “guarded camp” and it looks like a detention centre. The refugees who are imprisoned here are not allowed to leave the camp. The area shows different buildings and has just a small open area; it is fenced and equipped with security precautionary measures. The guards wear military uniforms. To reach the canteen, the inhabitants have to cross a bridge made of glass and pass the internal roadway which crosses the camp. In front of the canteen there is a simulation of the Polish-Ukrainian border line showing the two different boundary posts.



The children’s room shows us plush bears. This is one of the most bizarre things we have seen during the Asylum conference: Children’s toys behind bars.

The other part of the facility looks like a prison as well, surrounded by iron fences, equipped with a security center with an all over video surveillance. Allegedly this is a place for criminals, but also for people who didn’t behave orderly in the neighboring guarded camp.

The establishment is one of the six “guarded camp” centers in

Poland. In the last 5 years, about 2,200 people have been detained in Przemysl, which is about

500-600 people a year. Most of them come from Chechnya, Georgia, Vietnam, Armenia and Ukraine.

The border guard officer told us about the re-admission agreement between the European Union and Ukraine, which leads to the deportation back to Ukraine of almost 80 % of the persons who are caught at the border. He assures us of the fact that people who are applying for asylum are not forced back to Ukraine. Anyway, they’ll be imprisoned. In 2012, the period of time in which a refugee could be detained was not allowed to be longer than one year. In 2013, Poland is expected to adopt new legislation which determines the time spent in prison during the asylum procedure could be extended to a maximum of one more year after a negative decision, in order to conduct the the expulsion procedure. This can lead to two years of prison for an asylum seeker.

In our opinion, the grounds for detention of asylum seekers are merely too broad: a person can be imprisoned just because the authorities want to ascertain his personal data or because they try to avoid asylum abuse, and for security reasons and in order to protect public order, health, life and properties of other people. Only in a case of illegal entry whereby the person has entered directly from a country where he has experienced person persecution, and is immediately applying for asylum, and declares the reasons for his escape, will there be no detention at the border.

So Poland is in line also with Greece, Malta and Ukraine for disproportionately detaining refugees. It is very distressing that those broad detention grounds have been established in the new Recast of the European Reception Conditions Directive which aims obviously to legitimize the current state practice at the external borders of the EU.



Hunger Strikes in Guarded Centers

A Brief Report



The Halina Nieć Legal
Aid Center
21st December 2012

On 15th October 2012 the HNLAC received information that asylum seekers placed in the guarded centres in Poland had called a mass hunger strike protest their being placed in detention. The HNLAC's lawyers contacted asylum seekers placed in all six centres to clarify this information.

The HNLAC's lawyers regularly contacted individual asylum seekers in order to ask about the strike, its rea-

sons, the demands and to inform the AS that they can be provided with free legal information from NGOs as well as about the HNLAC's visits in the guarded centres. According to detainees interviews, hunger strikes were declared in four guarded centres:

- In Białystok 24 asylum seekers of Georgian nationality and 3 of Armenian nationality were on hunger strike from 15 October to 22 October 2012;
- In Przemyśl 7 persons of Georgian nationality were on hunger strike from 16 October to 21 October 2012;
- In Biała Podlaska 30 persons of Georgian nationality were on hunger strike from 17 October to 18 October 2012;
- In Lesznowola 6 persons from Chechnya, Georgia and Dagestan were on hunger strike from 17 October to 19 October 2012.

The fundamental grounds for the strikes was the very fact that asylum seekers are placed in detention facilities. Migrants do not understand the reasons why the courts issue the rulings on placing them in the guarded centers for foreigners. Almost all rulings are limited to the justification that the detention of a foreigner is necessary to

establish his/her identity or in order to prevent them from abusing the proceedings for granting the refugee status. The courts do not focus on the individual circumstances of a case and tend to ignore the arguments against detention. Moreover, detainees claim that they lack competent legal support or interpreting services, which seriously obstructs the process of claiming their rights in the proceedings on placing them in detention. Furthermore, the strikers possess information that other asylum seekers, whose situation is similar to theirs, are not placed in detention facilities. This increases the feeling that the decisions are issued arbitrarily.

Other demands of the strikers concern the conditions in detention facilities (lack of TV sets in the rooms, quality of meals, length of outdoor walk, rules for cleaning the toilets), access to medical help, psychological assistance and legal assistance, as well as the situation of children in detention (lack of proper education, healthcare and spare time activities for children). The HNLAC lawyers during the confidential interviews with asylum seekers were informed that doctors who examined their state of health prescribe only one type of medicine for all diseases. Moreover, detainees complained that access to the medical examination may sometimes depend on the good will of border guards. Some of the detainees also claimed that the border guards attitude towards them was negative - there are cases of harassment or punishment without respect to the regulations. During the visits by HNLAC monitors, these allegations were not confirmed. In the past there were some instances, however, when HNLAC lawyers intervened to facilitate access of detainees to specialized doctors and treatment.

The HNLAC's lawyers informed the asylum seekers about the principles of stay in the guarded centres in Poland, as well as about the possibility to contact NGOs, including HNLAC. They also provided them with HNLAC's telephone number. After that, the lawyers were informed that they already had this information, but they wanted to see a lawyer in the centre. The HNLAC's lawyers informed the asylum seekers that the Guarded Centres in Przemyśl, Lesznowola and Biała Pod-





laska, are regularly visited by the HNLAC. Also the Guarded Centre in Białystok is regularly visited by a lawyer from Caritas (HNLAC does not visit this facility). Detainees were also informed of the dates of the next visits in their facilities.

The HNLAC's lawyers visited the Guarded Center in Lesznowola, Biała Podlaska and Przemysl. During their visits, the HNLAC's lawyers met with detainees placed in the detention centers and enquired about the reasons and causes of the strike and the strikers' demands. According to the information gathered by the HNLAC's lawyers, the people on strike were embittered by their situation, which again (as mentioned before) included the fact of being in detention in the first place (fleeing their own country in order to end up in prison-like facilities); furthermore, their complaints concerned the conditions of detention and its duration. Frequently the detainees were not aware of the exact reasons of their detention and believed that the courts' decisions on detention were arbitrary (based on the information about other asylum seekers in similar situations who were not placed in detention). While talking to the asylum seekers placed in detention centers, the HNLAC's lawyers informed them of their rights under Polish law, particularly the right to appeal detention rulings and to file motions to be released from the detention centers. They offered them legal help and written information on asylum procedures in Poland.

During their visit in the above mentioned detention centers, the HNLAC's lawyers met also with the camp administration officers and authorities, who turned the lawyer's attention to the fact that the detainees should know that it is not the case managers (border guards) who are respon-

sible for placing the asylum seekers in detention - it is the court that issues the rulings. They wanted the asylum seekers to therefore realize that the people who are in direct contact with them while they are on strike do not make the rulings on detention. The Head of the detention center in Biała Podlaska stated that the border guards even support the HNLAC initiative against detention because of the lack of the places in the detention centers in Poland arising out of the growth rate of refugee applications on the borders of persons who fall under the specific criteria for detention. In response to the detainees' claims, the head of the detention center in Biała Podlaska stated that the administration of the detention center, after consultation with the Immigration Office, had adapted its procedures in order to reduce the length of refugee proceeding to a minimum. Nevertheless, the foreigners in the detention center claimed that they have to wait, sometimes even a few days to send their documentation to the lawyer. Currently the HNLAC's lawyers are in constant telephone contact with asylum seekers placed in detention. During the hunger strikes, asylum seekers frequently inquired about the courts' rulings prolonging their stay in the guarded centers and demanded the right to face the court, explain their situation and express their arguments. The HNLAC supports such detainees and also stands in court supporting their claims.

The HNLAC lawyers undertook activities within the scope of their capacity to offer legal aid and advice to asylum seekers placed in closed camps, and also spoke with detainees going on hunger strike in order to list their demands and draw attention to their reasons. The main problem that the detention centers seem to be facing



is the detainees' lack of information about their legal situation, which directly relates to the reasons for placing them in detention. Moreover, the detainees complained of not being able to state their reasons. This kind of treatment causes concerns, lack of comprehension and in consequence – distrust towards the authorities. The hunger strikes came to an end on 22nd of October. A few days after that the only striking detainee in Przemysł also stopped his protest.

As a result of these events, the Polish Ministry of the Interior carried out an investigation of the situation in guarded centers for asylum seekers.

The results of this investigation will be published soon. Representatives from the Helsinki Foundation for Human Rights and Association for Legal Intervention were allowed to take part in this investigation.

Meanwhile Minister Cichoński announced that the migration detention programme in Poland will be altered. The projected changes include: children will be only placed in two specially adapted centers, border guards will be additionally trained and one of the centers will be modernized. Additionally, a new law on aliens is currently being drafted.



Report: Migration is Not a Crime

The current system of guarded centers for foreigners in Poland, fashioned after the military and prison systems, combined with its external design and the internal architecture of the facilities must be deemed oppressive, according to the report „Migration Is Not A Crime,“ published by the Helsinki Foundation for Human Rights and the Association for Legal Intervention in the beginning of 2013.



Both organisations hold the view that such a system fosters unacceptable behaviour among the centers' staff (made up of border guards), which could be seen as infringing upon the dignity of non-nationals. They are, for instance, addressed by their identifications numbers or subjected to unreasonable threats of deportation.

The published report is a summary of the monitoring conducted by the Helsinki Foundation for Human Rights and the Association for Legal Intervention at the request of the Ministry of Interior following October's protests by detainees in guarded centers throughout Poland. The Ministry's audit and the NGOs' monitoring activities were carried out simultaneously in November 2012.

Among the individuals referred to guarded centers, some have remained in Poland without a valid residence permit, while others are applying for refugee status. "It must be expressly noted that foreigners are detained in guarded centers for administrative violations and they are not criminals", says Karolina Rusiłowicz, a lawyer with the Helsinki Foundation for Human Rights.

The monitoring revealed no material breaches of law by border guards and, more importantly,

no cases of the officers beating or abusing any foreigners. Still, according to the Helsinki Foundation for Human Rights and the Association for Legal Intervention, it is necessary to amend the internal regulations of the centers, which in their current form are excessively restrictive and lead to undue interferences with the right to personal freedom and privacy.

"One of our recommendations is to reduce the frequency of automatic strip searches to which centers' residents are subject on too many occasions. During the search, the detainee is asked to stand naked while a body cavity inspection is conducted. For this reason, a strip search is a measure that substantially interferes with the privacy of the affected individuals", says Dr. Witold Klaus, head of the Association for Legal Intervention. Both NGOs involved in the monitoring believe that similar objections could be raised against the search of detainees' rooms. Such searches should not be carried out as a standard procedure - they should be restricted to cases where there is a suspicion that a foreigner has dangerous or forbidden items.

Both organisations call for a number of changes in the way the centers operate. "What is important is to modify the internal and external design of guarded centers. They should be guarded on the outside, but inside there should be as few elements indicating the closed status of these facilities as possible. If practicable, bars on windows or inside buildings should be removed", says Ms Rusiłowicz. In the opinions of the NGOs, detainees should have the right to move around a facility and be allowed to spend their time outdoors beyond the scheduled times for outdoor exercise.

A problem reported by many foreigners is overwhelming boredom and lack of sufficient access to recreational activities, which has an extremely negative impact on their mood and general mental and physical state. "Therefore it is an imperative to give them access to various types of activities during their detention in a guarded centre", reads the report.



The HFHR and the Association for Legal Intervention once again draw their attention to the fact that guarded centers are hardly a place for children and thus the detention of minors in such facilities ought to be absolutely prohibited. "It shall never be in the best interest of the child to be kept in detention due to reasons related to migration", says Dr Klaus. Children are kept in guarded centers surrounded by barbed wire fences where playrooms have bars on the windows and access to education is not sufficient. "Certainly, these factors are not conducive to the child's development", adds Dr Klaus.

The report is available here.
<http://www.hfhr.pl/wp-content/uploads/2012/12/Migration-is-not-a-crime.pdf>

The Association for Legal Intervention published a report of previous monitorings of Guarded Centres In Poland. It includes also the legal framework which has not been the topic in the report 'Migration is not a crime'. The report is available in English at <http://interwencjaprawna.pl/docs/ARE-411-monitoring-osrodki-strzezone-ang.pdf>

Deportation Prison Zhuravichi



We are at the end of the world. Not far from the city of Zhuravichi, in the North-West of Ukraine, a deportation prison appears in the middle of the wood. We are 25 km away from the northern city of Lutsk, which is 5-6 hours away by car from L'viv. We are glad we found the place. There is only a small sign in Ukrainian to point the prison - it's very different from the sign pointing to the Museum of Partisan's Glory, which is apparently also nearby.

The area and the building seem to be quite new and looked after. The security precautionary measures are considerable: walls, fences, barbed wire, security cameras. The European Union has invested a lot of money here.

We come closer to the gate. A policeman in uniform reaches us and wants us to go away. We won't take "No" for an answer, and insist on our request: we would like to talk to one of the prisoners. An NGO in L'viv gave us the name of the person concerned. Finally, they let us into the entrance, where the surveillance system is located. Many policemen in uniform are there. After a while, a prisoner comes. He speaks German because he himself was a refugee in Europe and lived for a period in Germany. They show us the list of the prisoners - about 120 names and photos. Some of them are children. We discover the name of the person we requested on the list and again express our wish to speak to him. The policemen prove to be helpless. Someone makes a call, probably with the main officer of the prison. They tell us that unfortunately, we have not come during office hours. They suggest that we come back the following day at 10:00 am to speak with the prisoner and that we spend the night in the city. We insist a lot and our patience is tried. But they are clear: we must leave, and so we do.

For the prisoners in Zhuravichi, where a big hunger strike took place in January 2012, this is the bitter truth: Due to regulations that are unclear, the prisoners are isolated, cut off from most means of support that could help them in their search for protection from persecution. They told us that an NGO offers counsel to the prisoners once a week, but we could not verify that. In addition, all the people we had the opportunity to talk with highlighted the fact that corruption in Ukraine is omnipresent.

It is clear that Ukraine is a central stone of a wall, which Europe built around itself. The European Union itself subsidizes a government, which is accused of violations of human rights, arbitrary imprisonment and corruption, trying to keep refugees away.

Background:

- Border Monitoring Project Ukraine, foundation Pro Asyl: „You want to be free? You pay money!”, report December 2011; Homepage: www.bordermonitoring-ukraine.eu, in particular <http://bordermonitoring-ukraine.eu/2013/03/15/migrants-can-be-detained-without-court-decisions/#more-906>
- unhcr.org.ua, in particular <http://unhcr.org.ua/en/2011-08-26-06-58-56/news-archive/839-unhcr-is-concerned-about-the-impact-of-the-amendments-in-the-legislation-on-persons-seeking-protection-in-ukraine>

Extract from the statement of the UNHCR, November/December 2012:

„Second, UNHCR had advocated with the authorities to introduce periodic judicial review of detention in cases where persons are in administrative detention pending deportation. In Ukraine, such detention can last up to 12 months. The European Court of Human Rights has held that in cases involving deportation, judicial review should be frequent (generally about every two months), since “factors relating to the progress of ... the deportation proceedings and the authorities’ diligence in the conduct of such proceedings, may change over the course of time.” In Ukraine, the absence of periodic judicial



review has led to prolonged detention of asylum-seekers. For example, in 2012, UNHCR has observed that many asylum-seekers (including persons from Afghanistan, Eritrea and Somalia) have remained in detention even while their asylum applications were under substantive consideration. These asylum-seekers have filed appeals against their deportation and detention; however, in practice they must wait for lengthy periods - often 6 to 9 months - for administrative courts to consider their appeals. Many asylum-seekers thus remain in detention for twelve months at the cost of the state, as the authorities do not even attempt to deport them for various practical or financial reasons. Then they are released because the maximum detention period has been served with no solution available to them other than to attempt to cross the border into the European Union once again.

Third, the amendments to the Law on the State Border Guard Service of Ukraine give the State Border Guard Service the power to authorize the detention of foreigners and stateless persons in the Migrant Custody Centre if the individuals were detained in the border regions while attempting or making an illegal border crossing. Until now, such detentions have been authorized by a court, not an administrative body, and this is the better approach. According to the Ukrainian constitution, detention should be authorized by a court (Art. 29), and European human rights law reinforces this requirement, which is a fundamental guarantee for individual liberty.”

- Amnesty International
<http://www.amnesty.org/en/region/ukraine/report-2013>
- Human Rights Watch,
World Report 2013, <http://www.hrw.org/world-report/2013/country-chapters/ukraine>
Ukraine: Stop Harassing Somali Asylum Seekers, Hunger Strike Highlights Flaws in Asylum System, February 1, 2012, <http://www.hrw.org/news/2012/02/01/ukraine-stop-harassing-somali-asylum-seekers>
Buffeted in the Borderland, Dezember 2010, <http://www.hrw.org/en/reports/2010/12/16/buffed-in-borderland-0>
- Schweizerische Flüchtlingshilfe
http://www.ecoi.net/file_upload/1788_1313754086_ukraine-behandlung-von-post-traumatischer-belastungsstoerung-rolle-der-korruption



At Frontex Headquarters: Migration Control versus Refugee Protection

The Conference participants were welcomed at the entrance hall of a huge building in the city centre of Warsaw called Rondo 1-B, a skyscraper of 40 floors, of which a couple are host to Frontex, alongside various service and law firms.

Since 2005, Frontex (from *Frontières extérieures* for “external borders”) operates as the European Agency for the Management of Operational Cooperation at the external borders of the EU member states.

Mr. Klaus Rösler, Director of the Operations Division, gave us an overview of the work and components of Frontex. First, he said that EU border security covers more than just „migration control“ - it also fights crimes like trafficking, the illegal labour market, etc. Migration control measures by Frontex are responsible for analyzing regular migration and research, joint border operations, joint return operations and training.

The main components are the border guards agencies of the member states, the related EU Agencies Europol, Eurojust, CEPOL, EASO, FRA, the national services of third countries and international organizations like IOM and UNHCR. As of 2012, Frontex has an overall annual budget of € 85 million and approx. 300 staff members.

Frontex Code of Conduct

All officers deployed to an operation coordinated by Frontex are bound by the Code of Conduct, which includes provisions on respecting fundamental rights and the right to international protection and lays out a set of behavioural standards that all staff involved in a Frontex joint operation must follow. However, this instrument is non-binding. It is Art. 5 that refers to the international protection of refugees:

Participants in Frontex activities shall promote, in full compliance with the principle of non-refoulement, that persons seeking international protection are recognized, receive adequate assistance, are informed, in an appropriate way, about their rights and relevant

procedures and are referred to national authorities responsible for receiving their asylum requests.

Of course the EU Charter of Fundamental Rights is applicable and binding in all Frontex operations. This led us to a discussion about what Frontex officers are obliged to do when they are confronted with asylum seekers in rural areas - e.g. the islands of Greece - where there are simply no accommodation systems and there are no alternatives other than to transfer the person to the next police station. These real problems have still not been resolved - the crucial distinction between persons in need of international protection and „irregular immigrants“ and the subsequent rights in the corresponding member state are neither guaranteed nor well-regulated.

Other sources of protection are the Maritime Guidelines 2010 as an annex of the search and rescue operation COUNCIL DECISION (2010/252/EU) - PART II Guidelines for search and rescue situations and for disembarkation in the context of sea border operations -coordinated by Frontex and also the training handbook for border guards, which gives advice for detecting victims of human trafficking.

Rights Officer and the New Consultative Forum

Right before the Conference, the new fundamental rights officer was announced: Mrs. Immaculada Arnaez Fernandez was designated on 27th of September 2012. Unfortunately, it was not possible to have a discussion with her at the Conference, as her office has only been operational since December 2012. According to Mr. Rösler the Fundamental rights Officer has a senior position at Frontex and her task is to monitor, not supervise - she will be an „independent, in-house watchdog.“ Mrs. Fernandez will also conduct a field survey to monitor operations and give reports. As the first holder of this position, she will develop and strengthen her role at Frontex. The Fundamental Rights Officer also chairs the Frontex Consultative Forum.

The Consultative Forum consists of representatives from 15 different organizations, including





civil service organizations, EU agencies and international organizations: the Council of Europe (CoE), the Organization for Security and Cooperation in Europe, the Office for Democratic Institutions and Human Rights (OSCE/ ODIHR), the United Nations High Commissioner for Refugees (UNHCR), the European Union Agency for Fundamental Rights (FRA), the European Asylum Support Office (EASO), the International Organization for Migration (IOM), the European Council for Refugees and Exiles (ECRE), the Red Cross EU Office, the Amnesty International European Institutions Office (AI EIO), the International Ca-

tholic Migration Commission (ICMC), the Caritas Europa, the International Commission of Jurists (ICJ), the Jesuit Refugee Service Europe (JRS), the Churches' Commission for Migrants in Europe (CCME), the Platform for International Cooperation on Undocumented Migrants (PICUM). At its inaugural meeting right after the Conference on the 16th of October, the Consultative Forum on Fundamental Rights elected its first two Co-Chairs. Mrs. Aydan Iyigüngör, of the EU's Fundamental Rights Agency (FRA) and Stefan Kessler of the Jesuit Refugee Service (JRS) will serve for one year as co-chairs.

Do 	Don't 
<ol style="list-style-type: none"> 1. Know and respect the law 2. Inform those in need of international protection about their rights and relevant procedures 3. Respect human dignity at all times and be sensitive to cultural differences 4. Pay particular attention to the need of vulnerable persons 5. Uphold the highest ethical standards 6. Act fairly and impartially at all times 7. Report all violations of the law and the Frontex' guide to behaviour 8. Uphold your position of trust at all times 9. Take complaints seriously 10. Be accountable, truthful, accurate and respect required level of confidentiality 	<ol style="list-style-type: none"> 1. Discriminate against people on the basis of nationality, gender etc 2. Accept bribes or favours, or engage in corrupt practices 3. Misuse your powers and your position of trust 4. Use force and weapons unless absolutely necessary 5. Sexually abuse or exploit others 6. Get involved with prostitution 7. Harass others sexually or otherwise 8. Engage in behaviour likely to damage the reputation of Frontex 9. Abuse alcohol or drugs 10. Carry weapons when off-duty
<p>This guide aims to provide a handy reminder of some of the key points on the behaviour Frontex expects of those</p>	<p>who participate in its activities. The list above is not exhaustive.</p>



The Consultative Forum is entitled to give recommendations and opinions and will present an annual report available to the public. It therefore requires support for its work and relevant, up-to-date information.

External Relations

Frontex currently has working agreements with sixteen countries, among them Cape Verde, Nigeria, Azerbaijan, the Russian Federation, Brazil and Turkey. In addition, draft agreements with Mauritania have been prepared. Twenty-nine mandates have been given by the management board for the inclusion of new agreements with Egypt, Libya, Morocco, and Senegal, among others. Official liaison officers from Frontex are stationed at airports with the intention of conducting „pre-border procedures“.

At the Frontex Situation Centre (FSC)

The “situation centre” is located in one of the top floors of the Rondo B1 building and is a room with a continuous screen on three walls showing the map of Europe. Information management plays a key role in the work of Frontex as it depends on information about the approx. 1,800 official border crossing points on land and at sea. The FSC distributes a daily newsletter that illustrates all sorts of Frontex operations for all institutions involved. At the time of our visit, the screen was not working, but it was supposed to present a constant update of the illustrations of the relevant information at the borders. At the situation centre, the officers work in a two-shift system, every day from 8 am to 8 pm, with an additional on-call system for a senior duty offi-

cer. The support officers in the national border guards are reporting approx. 200 incidents a day to Frontex Headquarters.

So what is an incident? According to our guide, there are three levels of incidents: An incident is an irregular migration or a crime occurring at the border. A serious incident, such as a shooting or a vessel in distress in the Mediterranean, demands urgent action. A conflict, meanwhile, signifies a conflict in a neighbouring third country, such as the civil war in Syria.

For this reason, there is constant situation and crisis monitoring, as well as Frontex monitoring of media and an exchange platform for technical discussions of border surveillance systems under the new EUROSUR pilot project.

In order to share information with EU member states, Schengen member states and other relevant partners, Frontex hosts a platform called, „Frontex One-Stop-Shop“ (FOSS).

Outlook

Frontex is making much effort to further develop its technical capabilities and improve the border surveillance system. More and more own monitoring systems, be they radar or satellite-based, or via aerial vehicles. Establishing these systems will also lead to more responsibility in the field of refugee protection, especially concerning vessels in distress that try to reach the coast of the EU. In addition, Frontex will move to new premises in Warsaw in 2015.



This Graffiti came across to the participants in the city centre of Warsaw.



pietra floors 26-37

26
27
28
29

Discussions, Findings & Conclusions



A photograph of a restaurant interior. In the foreground, a man in a light blue shirt is seated at a round table with a white tablecloth, looking down at something on the table. To his left, another man in a striped shirt is also seated at the table. In the background, a bar area is visible with a dark wood cabinet containing various bottles and a clock. Other people are seated at tables in the background, some engaged in conversation. The overall atmosphere is warm and professional.

Discussions,
Findings &
Conclusions



Sharing the Recommendations for Common Standards of the European Asylum System

Discussion and Findings: Access / “Safe Third countries”

There are three types of the safe country concept, namely the third safe country, the super safe third country and the safe country of origin. Article 25(2)(c) of the Procedure Directive states that member states may find an asylum application inadmissible without a consideration of the refugee in cases when the protection seeker came from “a country which is not a Member State is considered as a safe third country for the applicant, pursuant to Article 27.” Article 27 of the Procedures Directive establishes, among other provisions, that a protection seeker may only be expelled to a safe third country “where the competent authorities are satisfied that a person seeking asylum will be treated in accordance with [...] the principle of non-refoulement in accordance with the Geneva Convention is respected.” Despite this directive this article, which obliges member states to respect the principle of non-refoulement in the implementation of the Procedures Directives, fundamental rights commentators have been critical of the introduction of the safe third country concept in refugee law. It has been argued that the third safe country concept in the Procedures Directive opens the door for member states to “shift the burden of processing asylum applications to outside of the EU. The safe third country concept creates the possibility for member states to reject any asylum application from a protection seeker who passed through another state which is considered to be safe. The risk for violations of the non-refoulement is intuitive: How can you determine whether a person will be subject to persecution if the application is not considered on its merits? The Procedures Directive does not ensure that protection seekers always have the possibility to rebut the assumption of safety, which creates a situation in which there is a risk for a violation of the principle of non-refoulement. An even more problematic type of safe country is the super safe third country. Super safe third countries have been introduced in European legislation in Article 36(1) of the Procedures Directive, which

reads: “Member States may provide that no, or no full, examination of the asylum application and of the safety of the applicant in his/her particular circumstances as described in Chapter II, shall take place in cases where a competent authority has established, on the basis of the facts, that the applicant for asylum is seeking to enter or has entered illegally into its territory from a safe third country according to Paragraph 2.” The difference with the safe third country concept is that in the super safe third country, the receiving state does not have the obligation to guarantee that the protection seeker will be a victim of a violation of the principle of non-refoulement. The problem with the super safe third country concept is that it does not allow the protection seeker to rebut the assumption of safety. The shift from a legally binding obligation to the discretionary power to not administer an asylum claim is the biggest concern posed by the Procedures Directive. There are numerous states which are considered to be super safe third countries who have questionable fundamental rights records and/or asylum procedures. For example, the safety of states like Ukraine, Turkey and Georgia for particular groups or individuals might be questionable. Specifically, the risk that a person is being sent back to a country where he or she faces persecution is a concern that has been voiced in the past. It is up to domestic courts to decide in individual cases whether the expulsion of a protection seeker to Greece under the safe third country principle is in accordance with the principle of non-refoulement. In this respect, there is recent jurisprudence which is diffused on this issue.

95% of asylum seekers try to enter Europe from the land borders.

If all neighbouring countries are declared safe countries, there is hardly any chance for asylum seekers to enter the asylum procedure in Europe.

The European Court declared that the European Parliament should agree with the European Council and with the European Commission propose a list of super safe countries - but this is not valid any more.

Seeking Protection in Europe – Refugees in Poland, the EU and at the External Borders



Even without the concept of safe third countries push backs and refoulement do happen.

- Hungary put Serbia on the list of safe countries
- There are country lists (originating from Germany – Dublin II)

Recommendations:

- Border guards are obliged to inform asylum seekers about their right to claim asylum. The right to information must be ensured. It has to be applied effectively. There must also be monitoring of the implementation of the right to information. But border guards are often working under stress and therefore unwilling to do so. Even existing information is not ema-

nated immediately. Training for border guards are therefore needed. UNHCR already does offer training for border guards of FRONTEX. But there are still too many who do not inform asylum seekers of their rights.

- The Concept of safe countries should not be part of any asylum directive at all.
- No asylum seeker should be detained upon arrival even if he does have falsified documents and enters illegally.
- Alternatives for detention should be further explored – including Dubliners. Pilot projects and trainings for border guards. Accommodation and social support for migrants is needed - detention should only be seen as a last resort.

„Elemental Violation of Human Rights in EU Countries“

Diakonie and Churches Criticize Reception of Refugees

Warsaw / Karlsruhe: 14th European Asylum Conference ends in Warsaw

Diakonie and Protestant churches have criticized sharply detention centers for asylum seekers at the EU's external borders. The common practice in countries such as Poland, Hungary or Malta is likely to be in conflict with the Geneva Convention on Refugees and basic human rights. At the end of the 14th European Asylum Conference it was demonstrated once again that in Po-

land and other EU countries many refugees are arrested regularly at the external borders - due to the pressure of other EU countries in the centre to tight their border. So they have to conduct their asylum procedure from inside prison up to one year. Affected by this practice are also families with children.

A small delegation has visited prior to the conference a detention centre in a remote place in the area of the West-Ukrainian city Luzk. There were also families with children imprisoned seeking international protection in the EU, for example from Somalia and Chechnya. „The detention of asylum seekers because of their illegal entry contradicts the Geneva Convention, so the Commissioner for Refugees of the Evangelical Church in Baden, Annette Stepputat. She emphasized that particularly refugees in EU-funded detention centers in Ukraine have practically no rights.

Completely unacceptable is also the planned revision of the EU asylum Reception Directive, which will legitimize this practice in the EU.

It will contain very vague and far-reaching grounds for detention, and therefore legalize the current EU-wide detention of asylum seekers during the asylum procedure. „We hope this serious regression in the EU's refugee protection system will be prevented by the final vote in the European Parliament in 2013“, so Ms Stepputat. In Baden-Württemberg there are always cases where incoming Asylum seekers have to be transferred into such EU States according to the EU asylum regulation “Dublin II”. A common European asylum system could only work if the minimum human rights standards are met in all member states. „The dramas of European refugee policy take place at the external borders of the EU,“ said Jürgen Blechinger, an expert on migration and refugees in Social Service Baden. Asylum seekers at the EU borders should have an effective access to the asylum procedure. Currently they have to fear to be pushed back in states such as Ukraine. „We need an effective monitoring and advisory system by independent bodies, „says Blechinger. Only then it is ensured that vulnerable people such as refugees do have access to a fair asylum procedure. This became apparent in talks with refugees, officers and colleagues from other EU countries during the Conference. About 70 refugee experts from 13 European countries, including the Protestant churches and Diakonie in Baden-Wuerttemberg have met at the 14th European Conference on Asylum in Warsaw from various religious institutions and non-governmental organizations. The Conference focused on the situation on the eastern external borders of the EU, the Asylum System in Poland, the role of the European border agency Frontex and the border authorities of EU member states in the refugee protection system.

«The dramas of European refugee policy take place at the external borders of the EU.»





Appendix



14th European Conference on Asylum in Warsaw

9th – 12th of October 2012 at Warsaw University

Tuesday, October 9th

3:00 pm

Conference Opening

Mrs Katharina Stamm,
Diakonie Deutschland, Berlin
University, Senate Hall



Welcome Adresses

Prof. Dr. hab. Tomasz Giaro,
Vice Dean of the Faculty of Law and
Administration, University Warsaw / Prodziekan Wydział Prawa
i Administracji UW



Archbishop Jeremiasz,
President of the Polish Ecumenical Council
(PEC) / Arcybiskup Wrocławski i Szczeciński,
Prezes Polskiej Rady Ekumenicznej

Mrs Isabell Turzer,
Head of the Legal and Consular Department at the
German Embassy



3:45 pm

Refugee Policy in Poland – Introduction

Mrs Maria Pamula,
Assistant Protection Officer, UNHCR Poland



5:00 pm

The Polish Asylum System I: The Integration Process

The Perspective of a Refugee from Chechnya
Mrs Zula B.



Integration into the Labour Market in Poland

Mrs Agnieszka Kunicka,
Director of the Polish Humanitarian Action/
Polska Akcja Humanitarna (PAH)



Integration into Local Society

Mrs Agnieszka Kosowicz,
President of the Polish Migration Forum/
Polskie Forum Migracyjne



Mrs Katarzyna Sekuła,
Refugee Project coordinator Caritas Poland/
Koordynator projektów uchodźczych Caritas Polska



Moderator: Prof. Dr. hab. Monika Płatek,
Faculty of Law, Head of Criminology Department,
Warsaw University/Kierowniczka Zakładu
Kryminologii, Wydział Prawa i Administracji UW





7:30 pm

Networking Meeting with Polish NGOs and Exchange of Experience

Integration:

- Mrs Aleksandra Chrzanowska, Association for Legal Intervention/ Stowarzyszenie Interwencji Prawnej (SIP)
 - Mrs Katarzyna Potoniec (Białystok), Foundation for Education and Creativity/Fundacja Edukacji i Tworczosci
- Moderator:** Dr. Agnieszka Gutkowska, Faculty of Law, University Warsaw/ Wydział Prawa i Administracji UW

Legal Advice:

- Dr. Katarzyna Przybysławska (Kraków), The Halina Niec Legal Aid Center/Centrum Pomocy Prawnej im. Haliny Niec
- Mrs Ewa Ostaszewska, Helsinki Foundation for Human Rights Poland/Helsinska Fundacja Praw Człowieka
- Moderator:** Mrs Katarzyna Słubik, Association for Legal Intervention/ Stowarzyszenie Interwencji Prawnej (SIP)



Medical Treatment/Psychological Help for Refugees:

- Mrs Maria Książak, International Humanitarian Initiative/Fundacja Międzynarodowa Inicjatywa Humanitarna tbc
 - Mr Piotr Bystrianin, Ocalenie foundation / Prezes Fundacji „Ocalenie”
- Moderator:** Mrs. Nele Allenberg, Legal Consultant at Protestant Church (EKD) Office, Berlin

Wednesday, October 10th

9:00 am

Discussion: Poland's Amnesty for Undocumented Migrants

- Mrs Katarzyna Rzesos-Radzka, Immigration Office /Urząd do Spraw Cudzoziemców
 - Mrs Ksenia Naranovich, Foundation for Development “Beyond Borders”/Fundacja Rozwoju Oprócz Granic (FROG) tbc
 - Mrs Ewa Ostaszewska, Helsinki Foundation for Human Rights Poland/Helsinska Fundacja Praw Człowieka
- Moderator:** Mr. Paweł Dąbrowski, Kozminski University Warsaw, member of the Polish Refugee Board and Center of Migration Research at Warsaw University



11:00 am

The Polish Asylum System II: Legal Aspects

The Asylum Procedure by the Perspective of Different Stakeholders

- Dr. Jacek Chlebny, Judge of the Supreme Administrative Court of Poland, President of the Regional Administrative Court in Warsaw/ Sedzia Naczelnego Sadu Administracyjnego, Prezes Wojewódzkiego Sadu Administracyjnego w Warszawie
- Mrs Karolina Marcjanik, Immigration Office / Urząd do Spraw Cudzoziemców





- Mrs Anna Lubońska – Rutkiewicz,
Head of the Refugee Board/Przewodnicząca Rady do Spraw Uchodźców tbc
 - Mr Grzegorz Wilga,
Association for Legal Intervention/Stowarzyszenia Interwencji Prawnej (SIP)
 - Dr. Katarzyna Przybyławska (Kraków),
The Halina Niec Legal Aid Center/ Centrum Pomocy Prawnej im. Haliny Niec
- Moderator:** Dr. Agnieszka Gutkowska, Faculty of Law, University
Warsaw/ Wydział Prawa i Administracji UW

2:00 pm Excursions

Group I

- 2:30 pm Open Center Targówek (ul. Księżnej Anny 24)
- 5:00 pm Meeting with the Head of Cultural Institute of Caucasus Nations and coordinator of Refugee Self-Help Center Sintar/ Prezes Instytutu Kultury Narodów Kaukazu (IKNK) oraz koordynator merytoryczny Ośrodka Samopomocy Uchodźców (SINTAR) (ul. Kruczkowskiego 3)

Group II

- 2:30 pm Dublin II Unit – Immigration Office (ul. Taborowa 33)
- 5:00 pm Dom Dziecka, Youth Welfare Institution (ul. Korotyńskiego 13)

Group III

- 2:30 pm Meeting with Mrs. Agata Kaczmarska, Head of Department of Integration of Foreigners in Warsaw Family Support Center/ Kierownik Działu Integracji Cudzoziemców Warszawskiego Centrum Pomocy Rodzinie (ul. Lipińska 2)
- 5:00 pm Visit of the Warsaw Airport Centre for Asylum Procedure/Okęcie Airport (ul. Żwirki i Wigury 1)

7:30 pm Dinner and Personal Exchange



Thursday, October 11th

9:00 am

Sharing the Excursion's Findings

Moderator: Rev. Thorsten Leisser, Executive Secretary for Human Rights and Migration Issues, Protestant Church (EKD) Office, Hannover





11:00 am Access to the EU-Asylum System – European External Borders

The Right to Access to International Protection

Mrs Kerstin Becker, Central European Region Representative of ECRE, German Red Cross

Recent Developments in Establishing the European Border Surveillance System (EUROSUR-Regulation)

Mrs Katrin Hatzinger, Director of the German Protestant Church (EKD) Office, Brussels

The Situation of Transit Refugees in the Ukraine

Mr Marc Speer, Border Monitoring Project Ukraine

Mrs Kateryna Baleha, Medical Aid Committee in Zakarpattia, Uzhhorod / Ukraine

Moderator: Mrs Caroline Bolatti, La Cimade, Paris

3:00 pm Excursion to Frontex

EU Migration Control vs. Refugee Protection

Moderator: Mrs Katrin Hatzinger, Director of the German Protestant Church (EKD) Office, Brussels

8:00 pm Fare well Event



Friday, October, 12th

9:00 am Working Groups: Recommendations for Common Standards in the European Asylum System

- I. Asylum Procedures
- II. Access / "Safe third countries"
- III. Reception conditions
- IV. Responsibility sharing within the EU



11:00 am Sharing Recommendations for Common Standards in the European Asylum System – Findings from the Conference

Moderator: Dr. Torsten Moritz, Executive Secretary at the Churches' Commission for Migrants in Europe (CCME), Brussels

12:30 pm Conclusions and Outlook

Rev. Thorsten Leisser, Executive Secretary for Human Rights and Migration Issues, Protestant Church (EKD) Office, Hannover

Mrs Katharina Stamm, Diakonie Deutschland, Berlin

2:00 pm End of the Conference



Documents available online at: www.ekiba.de/referat-5

- Seeking Protection in Europe, Conference Program
- Press Release, Evangelische Landeskirche in Baden – Auftakt der 14. Europäischen Asylrechtskonferenz
- Report on the Visit to Przemysl Detention Center (Poland) on 04.10.2012

The Polish Asylum System I

- Seeking Protection in Europe, Introduction
- Integration into the Polish Labour Market – Presentation of Mrs Agnieszka Kunicka, Director of the Polish Humanitarian Action
- Integration in the local society – Presentation of Mrs Agnieszka Kosowicz, President of the Polish Migration Forum

The Polish Asylum System II

- Immigration Office – Department for Refugee Procedures, Presentation by Mrs Karolina Marcjanik

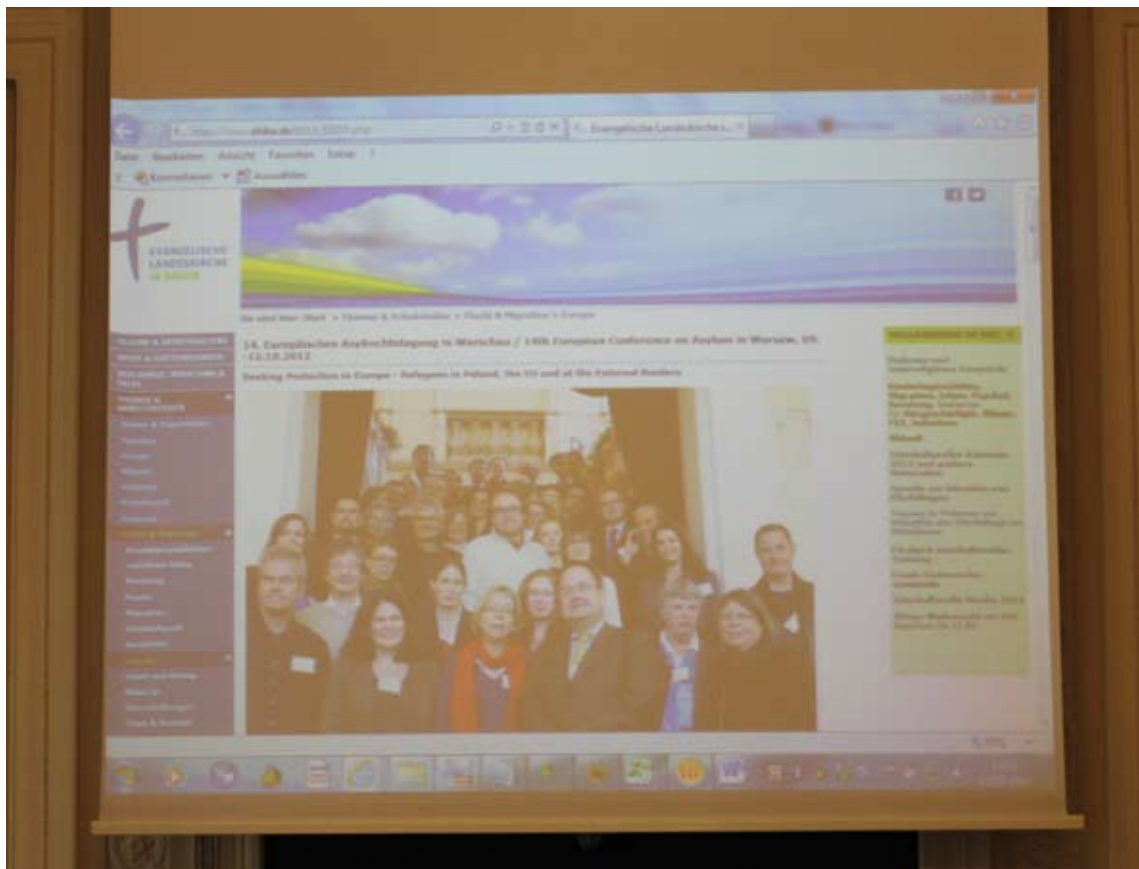
- Judicial Protection of Asylum Seekers in Poland – Presentation of Mr. Jacek Chlebny, Judge of the Supreme Administrative Court

Access to EU-Asylum System – European External Borders (Ukraine, Hungary ...)

- Transmigration through Ukraine Ungarn, Pro Asyl – Bericht einer einjährigen Recherche bis Februar 2012
- Medical Aid Committee in Zakarpattya (CAMZ, Comité d'Aide Médicale Zakarpattia), Charitable Organization

Conclusions

- „Elementarer Verstoß gegen Menschenrechte in EU Staaten“ – Diakonie und Kirchen kritisieren Umgang mit Flüchtlingen: 14. Europäische Asylrechtskonferenz endet in Warschau



Useful Links

Amnesty International
www.Amnesty.org
www.amnesty.org.pl

Association for Legal Intervention
Stowarzyszenie Interwencji Prawnej (SIP)
www.interwencjaprawna.pl

Border Monitoring Project Ukraine (BPMU)
www.bordermonitoring-ukraine.eu

Caritas Polska –Centrum Pomocy Migrantom i Uchodźcom
Caritas Poland –Aid Centre for Migrants and Refugees
www.caritas.pl/

Churches Commission for Migrants in Europe (CCME)
www.ccme.be

Cimade
www.cimade.org

Cultural Institute of Caucasus Nations and Refugee Self-Help
Center Sintar <http://sintar.pl/en/index.html>

European Council on Refugees and Exiles
www.ecre.org

European Country of Origin Network
www.ecoi.net

Evangelische Kirche Deutschland
www.ekd.de/menschenrechte

Foundation for Education and Creativity
Fundacja Edukacji i Tworczosci
<http://www.mentoring.pl/>

France terre d'asile
www.france-terre-asile.org

Fundacja „Dzieci Niczyje”
National Contact Point for Unaccompanied Children
and Children Victims of Trafficking
www.fdn.pl

Gazeta Uchodźców
www.refugee.pl

Halina Nieć Legal Aid Center
www.pomocprawna.org

Helsinki Foundation for Human Rights
www.hfhr.pl

Human Rights Watch
www.hrw.org

Informationsverbund Asyl und Migration
www.asyl.net

International Humanitarian Initiative Foundation, Warsaw
www.ihif.eu

Jesuit Refugee Service
www.jrseurope.org

Ocalenie Foundation, Warsaw
www.ocalenie.org.pl

Polish Humanitarian Action
www.pah.org.pl

Polish Migration Forum
www.forummigracyjne.org

Polish Red Cross
www.pck.org.pl

PRO ASYL
www.proasyl.de

UNHCR - United Nations High Commissioner for Refugees
www.unhcr.org
Poland: www.unhcr.pl
Ukraine: www.unhcr.ua

80 Experts from More Than 40 Organizations in 12 Countries Took Part in the Discussion

Nele Allenberg	Protestant Church Germany (EKD), Berlin	Germany
Karin Asboe	Diakonie - Rheinland-Westfalen-Lippe	Germany
Zula B.		Poland
Kateryna Baleha	Medical Aid Committee in Zakarpattia	Ukraine
Jakub Balicki	Uniwersytet Kardynała Stefana Wyszyńskiego	Poland
Prof. Dr. hab. Janusz Balicki	Uniwersytet Kardynała Stefana Wyszyńskiego	Poland
Cecilia Baltieri	social worker for refugees in Turkey	Italy
Kerstin Becker	German Red Cross	Germany
Jacek Bialas	Helsinki Foundation For Human Rights	Poland
Jürgen Blechinger	Protestant Church Baden	Germany
Caroline Bolatti	La Cimade	France
Piotr Bystrianin	Foundation Ocalenie	Poland
Dr. Jacek Chlebny	Supreme Administrative Court Poland	Poland
Aleksandra Chrzanowska	Association For Legal Intervention (SIP)	Poland
Damian Cichy	Osrodek Migranta „Fu Shenfu“	Poland
Dr. Pawel Dąbrowski	Kozminski University Warsaw, Polish Refugee Board and Center of Migration Research at Warsaw University	Poland
Fanny Dethloff	Northern Protestant Church, Hamburg	Germany
Svetlana Djackova	Latvian Centre for Human Rights	Latvia
Michal Dmitruk	Polish Ecumenical Council	Poland
Bogusława Domanska	Helsinki Foundation For Human Rights	Poland
Maciej Fagasiniski	Amnesty International Poland	Poland
Wanda Falk	Diakonia Kosciola Ewangelicko-Augsburskiego ERP	Poland
Markus Fritzenwanker	German Federal Police, Liason Officer at German Embassy	Germany
Ulrike Geith	German Embassy	Germany
Prof. Dr. hab. Tomasz Giaro	Faculty of Law and Administration at the University of Warsaw	Poland
Harald Glöde	Borderline-Europe	Germany
Matra Gorczynska	Helsinki Foundation For Human Rights	Poland
Dr. Agnieszka Gutkowska	Faculty of Law and Administration at the University of Warsaw	Poland
Katrin Hatzinger	Protestant Church Germany (EKD), Brussels	Belgium
Julia Ivan	Magyar Helsinki Bizottság/ Hungarian Helsinki Committee	Hungary
Archbishop Jeremiasz	President of the Polish Ecumenical Council	Poland
Anny Knapp	Asylum Coordination Austria	Austria
Karl Kopp	Pro Asyl	Germany
Agnieszka Kosowicz	Polish Migration Forum	Poland
Rafal Kostrzynski	UNHCR	Poland
Maria Ksiązak	International Humanitarian Initiative	Poland
Carla Küffner	Borderline-Europe	Germany
Agnieszka Kunicka	Polish Humanitarian Action	Poland
Rev. Thorsten Leisser	Protestant Church Germany (EKD), Hannover	Germany
Angelika von Loeper	von Loeper Literaturverlag	Germany
Anna Lubońska-Rutkiewicz	Head of the Refugee Board	Poland
Ingrid Lühr	Diakonie - Berlin Brandenburg- Schlesische Oberlausitz	Germany
Rev. Ireneusz Lukas	Polish Ecumenical Council	Poland
Karolina Marcjanik	Office for Foreigners	Poland
Vera Martins Almeida	Frontex Warsaw	Poland
Dr. Torsten Moritz	CCME	Belgium





Berthold Münch	Lawyer for Migration Law, Heidelberg	Germany
Ksenia Naranovich	Foundation for Development „Beyond Borders“	Poland
Hildegund Niebch	Diakonie - Hessen and Nassau	Germany
Rev. Rafael Nikodemus	Diakonie - Rheinland	Germany
Ewa Ostaszewska	Helsinki Foundation For Human Rights	Poland
Katarzyna Oyrzanowska	UNHCR	Poland
Maria Pamula	UNHCR	Poland
Prof. Dr. hab. Monika Platek	Faculty of Law and Administration at the University of Warsaw	Poland
Katarzyna Potoniec	Foundation for Education and Creativity	Poland
Dr. Dorota Pudzianowska	Faculty of Law and Administration at the University of Warsaw	Poland
Dr. Katarzyna Przybylska	Halina Niec Legal Aid Centre Krakow	Poland
Christoph Riedl	Diakonie Refugee Service	Austria
Dr. Martin Rozumek	Organizace pro pomoc uprchlíkům	Czech Republic
Judith Ruderstaller	Asyl in Not	Austria
Karolina Rusilowicz	Helsinki Foundation For Human Rights	Poland
Prof. Dr. hab. Irena Rzeplińska	Institute for Social Prevention and Resocialisation	Poland
Katarzyna Rzesos-Radzka	Immigration Office	Poland
Gérard Sadik	La Cimade	France
Katarzyna Sekuła	Koordinator projektów uchodźczych - Caritas Polska	Poland
Katarzyna Słubik	Association For Legal Intervention (SIP)	Poland
Marc Speer	Border Monitoring Project Ukraine	Germany
Katharina Stamm	Diakonie Deutschland – Protestant Federal Association	Germany
Christoph Steinwendtner	Diakonie Österreich	Austria
Annette Stepputat	Protestant Church Germany - Baden	Germany
Maja Tobiasz	Helsinki Foundation For Human Rights	Poland
Jacek Tobiasz	Helsinki Foundation For Human Rights	Poland
Isabell Turzer	German Embassy- Poland	Poland
Geesje Werkmann	Protestant Church in the Netherlands	Netherlands
Grzegorz Wilga	Association For Legal Intervention (SIP)	Poland
Michael Williams	Church of Sweden	Sweden
Sophia Wirsching	Bread for the World	Germany
Daniel Witko	Helsinki Foundation For Human Rights	Poland
Ernest Zienkiewicz	Head of UNHCR Poland	Poland

Contact

Diakonie Deutschland -
Evangelischer Bundesverband
Evangelisches Werk
für Diakonie und Entwicklung e.V.
Caroline-Michaelis-Str. 1
10115 Berlin - Germany
Phone +49 30 65211-0
Fax +49 30 65211-3333
diakonie@diakonie.de
www.diakonie.de

Layout and Production

von Loeper Literaturverlag
im Ariadne Buchdienst www.vonLoeper.de

Published June 2013



Thanks for editorial contributions to:

Kerstin Becker, Jürgen Blechinger, Katrin Hatzinger, Agnieszka Kunicka, Berthold Münch, Hildegund Niebch, Katharina Stamm, Annette Stepputat, Sophia Wirsching
Halina Nieć Aid Center, Helsinki Foundation for Human Rights, Association for Legal Intervention

Pictures were contributed by:

Jürgen Blechinger: 7, 38, 39, 41, 48, 49, 50, 52, 53, 55
Helsinki Foundation for Human Rights: 54
Polish Humanitarian Action: 11, 12, 13
Angelika von Loeper: all the other pictures

Special thanks

to the team interpreting during the conference and to Emily Sanford, Diakonie Deutschland



14th European Conference on Asylum in Warsaw, 9th - 12th of October 2012

Diakonie 
Deutschland



Polska Rada Ekumeniczna

Additional Partners:



Evangelische Kirche
in Deutschland



L'humanité passe par l'autre



Evangelische Kirche
in Hessen-Nassau



Diakonia Kościoła
Ewangelicko-Augsburskiego



churches' commission for migrants in europe

For financial support we thank:



Evangelische Kirche
in Deutschland



KIRCHEN
HELFEN
KIRCHEN



Evangelische Kirche
in Hessen-Nassau



GlücksSpirale

VON LOTTO

Seeking Protection in Europe – and Getting Stuck on the Way

The boy on the cover picture – let's call him Mohammed – is from Somalia, is 16 years old and has spent nearly all his life in refugee camps.

He lived with his mother and his six younger brothers and sisters in a camp in Uganda until his mother sent him to Europe to have a chance at a formal school education. At the age of 13, he arrived - unaccompanied - in Ukraine. He tried to cross the Western border to the EU several times, and was detained for seven months at the age of 15. He currently has refugee status in Ukraine and a residence permit for 5 years. He lives at an open centre, but he is still without any further education and has no prospects – he never attended school in Ukraine.

His dream is to study journalism and film in Germany – and, first and foremost, to live a normal life outside a camp. “See you in Germany!” are his parting words ...

Mohammed's story highlights the very difficult situation of refugees who are stuck on the way to the EU in so-called “safe third countries”, whose conditions for receiving asylum seekers are comparatively low or non-existent. Left for years in destitution and despair, they try - again and again - to enter the EU. But will they some day end up in paradise? Will they really find what they expect?

“Seeking Protection in Poland, the EU and at the External Borders” - this was the topic of the 14th European Conference on Asylum in Warsaw from 9th – 12th October 2012, where around 80 experts working in the fields of refugee protection, advocacy, social assistance and legal aid, from more than 40 organizations in 12 countries gained insight into the Polish asylum system in view of the goal stated by the EU to build a Common European Asylum System (CEAS) under the Stockholm Programme by 2012. The participants visited institutions, NGOs and reception centres for refugees during excursions and discussed best methods in the EU regarding the reception and integration of refugees. The analysis and the discussion of the information acquired first-hand at the conference will be a valuable asset to the everyday work of the participants. Moreover, it was evident that society must also build and strengthen European networks in order to keep up with the developments – de facto and de jure - of refugee protection in the EU and its external borders, identifying rights of asylum seekers and speaking up for those who are in need of protection.

To order copies, write to:

Diakonie Deutschland - Evangelischer Bundesverband
Evangelisches Werk für Diakonie und Entwicklung e.V.
Katharina Stamm
Caroline-Michaelis-Straße 1
10115 Berlin - Germany
www.diakonie.de