



## Statewatch Analysis

### EU: Controls, detention and expulsions at Europe's borders

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**In October 2010, Migreurop published its second annual report [1]. It focuses on practices in Europe's border regions, and beyond, that stem from the EU and its member states' migration policies and their "externalisation".**

Migreurop's second annual report is based on work carried out through missions and by local organisations and is used to document the situation in Sahel and Saharan countries, which are described as "Europe's new sentries". The report also examines Poland and Romania, countries that are doing their best to prove themselves reliable members of the enlarged EU. It also describes the sea borders where boats from Greece arrive in the Adriatic port cities of Italy where many expulsions are carried out. A glance at what happens to migrants trapped in the Spanish north African enclave of Ceuta is provided, and updates on areas that were examined in the first Migreurop annual report include the Greek-Turkish border and the French operation to dismantle the so-called "jungle" in the Calais region of northern France on 22 September 2009.

#### Exporting migration policies and human rights violations to north Africa

The report documents the way in which influence is exerted on African nations which leads them to enact policies, both internally and towards neighbouring countries, whose effects run contrary to the EU's claims that they work to advance human rights worldwide. A key pillar of EU migration policy is supposed to be improving conditions in countries of origin in order to reduce the reasons their citizens have to want to emigrate. The report examines the move from initial cooperation in this field between the EU's southern border states (Italy and Spain) with African countries bordering on the Mediterranean (Morocco, Libya, Tunisia and Algeria) to more wide-ranging efforts that appear to have shifted the EU's borders further south. It analyses the situation of countries in the Sahel-Saharan belt, which have become a priority region, by focusing on the Libyan-Nigerien border and Mali's frontiers with Algeria and Mauritania.

In late 2005, a shift in migration routes from the Strait of Gibraltar to the Atlantic Ocean en route to the Canary Islands, saw several thousand people die in shipwrecks. Cooperation between Spain and Mauritania resulted in the number of arrivals in the Spanish archipelago decreasing, but at the cost of thousands of arrests and illegal detentions as well as large-scale collective expulsions. Rather than increasing scrutiny of the root causes of the deaths, the crisis resulted in Spain offering to "help" Mauritania to control its sea borders and repatriate migrants. Returns to Mauritania were based on a 2003 bilateral agreement

that contains a readmission clause which includes non-nationals who are “presumed” to have travelled through Mauritania. One of the first operations involved 369 people intercepted by Spanish boat patrols on the *Marine 1* off the Canary Islands in January 2006, who were escorted to the Mauritanian coast. After a 15-day stand-off, they disembarked in Mauritania and were held in a fish warehouse, guarded by the Spanish. Twenty-five of them were transferred to the Canary Islands to have their asylum requests evaluated and, after rejection, they were repatriated to their home countries; others were transferred to Cape Verde and then to Guinea, while others spent several weeks in detention before being returned to their home countries. Twenty-three people spent over three months in detention before they were repatriated and six were taken to Melilla as a result of the effects of detention on their mental health.

As part of this cooperation the Spanish armed forces were deployed to turn a school in Nouadhibou into a detention centre to receive migrants from Spain, before returning them to Senegal or Mali. Frontex deployed rapid intervention boats and joint aerial and sea patrols for border surveillance in successive operations named “Hera”. These began in July 2006 and were enacted every year, for varying periods, through 2010. The operations had budgets of millions of euros to finance information, training, detention and repatriation activities, as well as equipment and the use of two boats that Spain gave Mauritania. Migration had not featured in European Development Fund documents concerning Mauritania until 2006, but subsequently it became a key element, with a number of activities in this field included as the purpose of funds allocated to the country (8 million euros between 2008 and 2012).

EU pressure has thus caused considerable change in an under-populated country that has relied on foreign labour since its independence. Mauritania’s withdrawal from The Economic Community of West African States (ECOWAS) in 1999 did not alter a situation whereby controls on the entry and residence of foreigners was relaxed and privileged relations with neighbouring countries (such as the 1963 bilateral convention with Mali) encouraged free movement. Malians could enter and travel with a simple identity card, while regulations governing residence were hardly applied, although an immigration law that envisaged punishment of up to six months’ imprisonment for illegal entry and residence existed. To satisfy external interests, Mauritania now “arrests, detains and arbitrarily returns people suspected of wanting to emigrate to Europe ‘illegally’”, the report notes. People who are detained include those sent back from Spain and Morocco, those intercepted at sea and those who are suspected of wishing to leave. It has led to large-scale round-ups which involve the racial profiling of sub-Saharanans in areas where they reside and at ports, from where some may seek to leave but many also work. Leaving the country is technically not an offence, as nationals of countries that have bilateral conventions (like Mali or Senegal) are allowed to “freely leave the territory” while others need an “exit stamp” on their passports. Failure to comply with this formality does not entail punishment. When they are detained and questioned to establish their identity, no administrative procedure is enacted and there is no legal assistance or right of appeal. A majority of detained foreigners are now transferred to the Nouadhibou detention centre.

Thus, people’s lives may be disrupted suddenly because they are in a city that is deemed to be a gateway for “illegal migration”. It is a reputation that derives from arrests that are largely arbitrary, and often target people who are settled and have worked in Mauritania for years and, due to racial profiling, leads to the stigmatisation of black people. In spite of a large decrease in arrivals in Spain (31,678 were detained in the Canary islands in 2006, 9,181 in 2008 and 2,246 in 2009), available data suggests that the number of people detained on the basis of “suspicion” of wanting to reach Spain has remained stable at between 300 and 360 people per month. There is an interest in keeping arrest levels high to prove the worth of EU funding in this field (i.e. the arrests of suspected “migration

candidates" show the need for the Nouadhibou detention centre), in a form of repression that is becoming a "market". In turn, the arrests result in human rights violations with testimonies obtained by APDHA/AME/AEC missions [2] that tell of beatings, ill-treatment and problems in such basic needs as being allowed to go to the toilet.

In spite of bilateral agreements allowing free movement and the absence of readmission agreements, Mauritania carries out hundreds of expulsions to Mali and Senegal every year in pitiful conditions, without any formal decisions being issued or the possibility to appeal. These are sometimes the final stage in "serial expulsions", following those from Spain or Morocco, or both. In some cases, migrants expelled from Morocco have been left in the desert near the Mauritanian border, in a region where difficulties are augmented by the presence of landmines from the Western Sahara conflict, and there have been deaths. Many expulsions to Senegal are relatively straightforward, due to the short distance and a relatively good quality road from Nouakchott to Rosso. Others are covert, with foreigners being made to cross a border river in makeshift canoes at night because Senegal does not readmit non-nationals.

Expulsions to Mali are longer and more harrowing. They involve a 1,400 km journey that takes between two and four days in a crowded minibus, without adequate nourishment, before they are handed over to the Malian police in the border village of Gogui. Gogui is one of 16 Spanish-funded border posts created in Malian territory in 2008 "to fight illegal migration, terrorism and organised crime". The French are involved in a training capacity. Here, the migrants are handed over, a discharge form is completed and a woefully inadequate sum of money is provided for travel costs. The border post is isolated, a 65 km walk to Nioro du Sahel. For years, those arriving in Gogui, often in poor physical condition and without access to adequate medical care, have depended on support from drivers and doctors in Nioro's hospital for transport and access to medical care (two refouled people died in July 2009 when they arrived in Nioro from Gogui). Red Crescent medical volunteers are now trying to help people in Gogui, and solidarity in the form of tents set up by Human Help (funded by Cigem, the EU's Migration Information and Management Centre) and transport to the police stations in Nioro or Kayes is being provided. Improvisation has been the norm, with migrants dumped in Gogui and then Nioro with no provisions for accommodation and other needs (the police briefly set up a makeshift reception area in the prefecture offices).

In geopolitical terms, large-scale repatriation harms relations between Mali and Mauritania. Criticism of Mauritania is only voiced by returnees, as Malian authorities do not criticise the treatment meted out to their nationals, aware of the devastating effects that migration policy could have on diplomatic and social relations in the region. It is a delicate balance that the EU does not appear to take into account, blinded by its "war on migration". The Mauritanian population comprises the Moorish and black communities which fought an internal conflict between 1989 and 1991 that resulted in tens of thousands of black Mauritanian nationals being expelled to Senegal. The repatriation of Senegalese nationals could undermine the country's and the region's stability. The agreements and policies that are imposed ignore age-old inter-African human mobility patterns from which all parties benefit (Maliens find work and a means to survive; Mauritians receive a vital labour force). This led a mayor, quoted in the report, to state that "European countries' policies cause a lot of harm to would-be migrants and to our different countries". International organisations working towards free trade and economic and political unity such as ECOWAS and the Community of Sahel-Saharan States (CEN-SAD) envisaged areas of free movement, the first from Niger and Nigeria to the Atlantic coast and the second all the way from Somalia to Morocco and the Atlantic coast (except for Algeria and Ethiopia). Thus, the free movement that is a founding principle of the EU is being attained at the expense of similar projects elsewhere.

Tinzouaten is a town on the Algerian-Malian border where refouled migrants are abandoned in desperate conditions that have led to it being nicknamed the "city of madness" due to its effect on the people who are stuck, often for long periods, in what is described as a "desert no man's land". The city is split between Algerian and Malian sections and, when they are expelled, migrants are left in the former and walk to the, largely abandoned, Malian side in whose buildings migrants have set up ghettos on the basis of their nationalities (Senegalese, Burkinian, Liberian, Cameroonian). A Touareg rebellion in the region (2008-9) meant that the area was under curfew and no travel into or out of it was allowed for long periods. Since September 2009 the Red Cross has sought to transfer a limited number of people to Gao (Mali) every week. In Gao, NGOs that participate in the Migrants House project are responsible for providing otherwise inexistent reception facilities.

The Libyan case illustrates the bartering process between the EU and its neighbouring states to which border controls are "subcontracted", its human rights implications, and its effects on poor countries, in this case Niger. The equation is simple: substantial financial and material "aid" in exchange for the imprisonment and deportation of migrants, while taking back those who are captured en route or after they enter Italy, or when Italy enacts collective refoulements. Libya is a rich country that needs foreign labour in several economic sectors and has regularly attracted workers from CEN-SAD countries. It has now taken on the role of guardian of EU borders, enacting restrictive migration policies that contravene its legislation and commitments concerning free movement in the region, in exchange for large amounts of funding, equipment (from both the EU in projects to "aid third states to improve their management of migration flows" and Italy) and a return from its post-Lockerbie diplomatic isolation.

EU projects, which include returns and the setting up of detention centres, always vow to "respect human rights", but there are causes for concern. Sahel country nationals (from Niger, Chad, Mali and Burkina Faso) have migrated to work in Libya for decades, joined in the 1990s by those from west and central Africa, a small part of whom continue their journey towards Europe. The new restrictive measures imposed have resulted in an informal system for taxing migrants while they travel by the police. Migration from Niger to Libya was not illegal due to the free movement principle that applied within CEN-SAD. Now, when a bus crosses a border post, or a military post, or when vehicles are inspected, passengers are required to pay collective sums of money; their documents are sometimes confiscated, only to be returned if further payments are made. If they refuse or are unable to pay, force may be used or they may be lined up for hours in the sun, or in the wind as they are sprayed with cold water, until they collect an amount that is deemed sufficient, even before they have left Niger. Overall, considerable sums are paid by migrants, including CEN-SAD country nationals and sometimes even Nigerians. If they run out of money, their journey stops until they can gather the resources to continue. Crossing the desert is dangerous, and there are accidents, vehicle breakdowns and deaths.

The avowed principle of freedom of movement between Sahel-Saharan countries has been relegated to the level of official discourse, as Libya, Tunisia, Morocco and Algeria have adopted new immigration laws between 2003 and 2008 which introduce heavier punishment for "illegal" migrants, and several countries have signed bilateral readmission agreements. In Libya, this happens in a context in which immigration was encouraged and entry and residence took place with the relative statuses hardly even being ratified officially. Cooperation with the EU has resulted in legislative changes, the setting up of new institutions and the introduction of visa regimes for African and Arab countries (except for Egyptians and Tunisians). Two million euros were allocated by the Aeneas project just to control migration between Niger and Libya, with French officers and IT

material sent over to train and equip the border posts in Dirkou and Madama, to ensure the identification of migrants before they enter Libya. The human rights implications of practices that have arisen include violence during arrests and questioning, dreadful conditions in detention centres, including violence and killings in the suppression of revolts. Deportations have led to thousands being abandoned in the desert region at the borders with Niger, Chad, Sudan and Egypt, where many have died following long journeys during which they were crammed in lorries. Repatriations of asylum seekers have also been documented, from a country that has not signed up to the 1951 Geneva Convention, without this stopping Italy from carrying out collective refoulements before their position has been examined. Nigerian officials told the EU Commission's mission that visited Libya in 2004 that they did not see migration as a problem because their nationals generally do not leave to go to the EU as they "stay in Libya to earn some money that they take back home when they return". They said that closing the border would harm the country, but this is not an argument to which EU bodies are very receptive.

### Catching migrants in Italian ports and returns to Greece

The situation in Italy's eastern ports on the Adriatic and Ionian coasts is acquiring importance as a point from which to observe migration patterns. This is due to the joint patrols and refoulements to Libya of migrants trying to reach Lampedusa or the Sicilian coast, and Spanish-Moroccan efforts to close down the route through the Strait of Gibraltar. Thus, there has been an increase in attempts to enter the EU from Greece by travelling on ferries that set off from Patras, Igoumenitsa, Corinth and Corfu to the Italian ports of Venice, Ancona, Bari and Brindisi along routes that were primarily used by people from Afghanistan, Iraq and the Indian subcontinent in the past. The journey, during which migrants often hide inside or under trucks, is dangerous, as they risk death by asphyxia, hypothermia or being crushed under a truck's wheels. Survivors are likely to be caught by the border police and returned to Greece as happened to 3,148 people in 2009 and over 5,000 in 2008. Greece is generally a "stepping stone", as conditions for migrants there are poor and the likelihood of an applicant receiving refugee status through its asylum system is remote (under 1%). In April 2008, the UNHCR recommended that EU countries cease to implement the Dublin II Regulation to return asylum seekers to Greece.

Key elements that the report highlights include the militarisation of ports (with a special focus on Venice, Ancona, Igoumenitsa and Patras) which includes high fences, checkpoints, scanners for heavy vehicles and the deployment of a large number of police officers to check vehicles on the ferries when they set off from Greece and upon arrival in Italy. Thus, it is one border within the Schengen area where the relevant Regulation does not apply: "internal borders may be crossed at any point without any checks on people, regardless of their nationality" (art. 20 Regulation 562). Of course, the police have a right to enact controls as part of their competencies, but these "must not be equivalent to border controls", they must result from specific threats or be random checks.

The increased controls have not resulted in fewer departures from Athens. Rather, the means to do so have diversified, fostering the bribing of road haulage carriers, with road trips to European destinations costing up to 3,000 euros, except for those to Italy (also viewed as a transit country). It appears that only the poorest and least well-connected migrants, often minors, continue to leave from Greece hidden beneath or inside lorries that travel on ferries, and they are often discovered and sent back. In Greece, "zero tolerance" towards illegal migration has resulted in ports and meeting places used by migrants becoming militarised to block departures. The Afghans' camp in Patras was destroyed in July 2009. Fences were erected near boarding points in Patras and Igoumenitsa and there are restrictions at certain times of day. Patrols looking for would-be migrants are not only deployed in ports, but also in nearby neighbourhoods and throughout

the city “in the bus station, the train station, ticket offices and parking lots for lorries”, as well as Athens’ main motorway access points. Reception areas for passengers in ports are limited to people whose tickets have been checked, and controls are conducted by the police, lorry drivers, boat captains and private security officers hired by carriers. New screening centres have been envisaged to identify migrants who are living in these cities and dissuade them from staying. The first Frontex regional sea borders centre is set to open for the eastern Mediterranean.

During the sea crossing, people hiding in trucks often climb out to hide between their wheels, at which point they are likely to be caught by security cameras. When caught they can be detained in cells that some ferry companies have on board, before being returned without having disembarked. They are readmitted, but the number of times this happens cannot be estimated as they are not recorded and do not have the opportunity to apply for asylum if they wish to.

In Italy, arrival areas have been physically separated from the cities and considerable effort has gone into ensuring that it is possible to bypass obligations, due procedure and controls in order to fast-track returns to Greece. Often the migrants who are caught are not even allowed to disembark. In both Venice and Ancona, the separation makes it impossible to have reliable information about the checks that are carried out and the number of people who are intercepted in ports (there is both a tourist and a commercial port in Venice). The body that is entrusted with guaranteeing access to the asylum procedure (*Consiglio Italiano per i Rifugiati*, CIR) is not present in the commercial port. Its opening hours are 9:00 to 13:00 during weekdays and three hours (on request) on Saturdays, thus it cannot intervene every time a boat arrives. Its workers are not allowed on ferries and can only intervene if they are requested to do so by the border police. Some migrants who were interviewed after their refoulement to Greece claimed that once intercepted they are interrogated by the border police, but interviews generally concern lorry drivers’ involvement and identifying smugglers, without the migrants being able to file asylum applications. The limited information that is available suggests that 850 people were returned from Venice between January and August 2008 (110 were seen by CIR). The figure is not available for 2009, although 132 people were interviewed by CIR and 3,148 were returned from the Adriatic ports between 22 January 2009 and the end of the year. Those returned claim that controls have spread beyond the disembarking area, with migrants stopped several kilometres away and sent back on the ferries.

Ancona port has been sealed off from the city centre by 3 metre high metal fences, except for two passageways that are under surveillance. A decree on security dated 6 November 2007 envisages that “protected areas” may be isolated. Truck drivers and bar owners complain that citizens are not free to frequent the area and disembarking times have grown longer. There has been a decrease in freight traffic which may be a side-effect of the strict controls that are enacted, leading to changes in the commercial routes that are used. While these measures appear to be a means of preventing the passage of “illegal” migrants, the authors note that the small number of people concerned means that it is just as likely that it is a means of concealing the law enforcement agencies’ actions from the population, creating an area in which the management of control operations is arbitrary. Disembarkation and control areas are entirely separate from commercial areas and public access is forbidden. Controls include the occasional use of scanners (Mobix) and a system that identifies people’s heartbeat (Avian) which can be used to inspect a vehicle in 15 seconds, although noise pollution in the port area limits its effectiveness. Border police checks and searches take place on a case by case basis in the customs area.

CIR has been working in the port of Ancona since 2002; it stopped in 2008 before starting up again in 2009, when its staff was no longer allowed to intervene freely (intervention

must now be requested by the border police) or to board ferries. CIR data for Ancona in 2009 records 1,107 searches by the border police and 800 interventions by CIR; 79 people were classified as unaccompanied minors (70 of them from Afghanistan), 93 were recorded as others, including minors who have been entrusted to Ancona city council although they had not lodged asylum claims, or people admitted for other reasons, particularly health problems. The border police statistic is higher (1,497), which may mean that some controls take place without CIR being present.

While UNHCR has asked member states to derogate the implementation of the Dublin II convention in cases involving returns to Greece of people who have requested protection, Italy continues to apply the 1999 bilateral convention that enables "readmission without formalities based on the captain's judgement". This leads to provisions in both Italian and EU instruments that impose respect for human rights and access to asylum procedures being contravened, including the non-refoulement principle (1951 Geneva Convention); the individual assessment of the situation of asylum seekers (Dublin II); the prohibition of collective expulsions (ECHR) and Italian legislative decree no. 25/2008 that strips the border police of discretion to decide whether applications are admissible. Migrants are often not allowed to apply for asylum or informed of the possibility of doing so, and they are made to sign a document (not translated and hence often incomprehensible) requesting their readmission. They are also not issued an expulsion or refusal of entry document.

Complaints by organisations about border police conduct in Adriatic ports, where a high proportion of the people arriving come from areas that make them potential asylum seekers (Afghans, Iraqis, Kurds, Somalis, Eritreans, Sudanese), has resulted in less information about refoulements being released. A Venice organisation, *Tuttiidirittiunanipertutti*, filed a case before the European Court for Human Rights in 2008. An interview by an official from Igoumenitsa port authority published by *Melting Pot* which provided details of returns from Venice in March 2010, resulted in CIR issuing a press release. CIR complained that after it was informed that some people had been found, its officer was unable to provide assistance to the migrants, who came from countries that made them potential asylum seekers, most of whom were immediately returned on the same boat in which they had arrived. CIR was told that four asylum claims were filed and two unaccompanied minors were placed under the city council's care. The report draws a distinction between two phases of controls, the first of them "arbitrary" and entailing decisions by the border police as to which claims are admissible, and a second one involving CIR. The basis for claiming this are interviews with people who have been returned to Greece from Ancona, and it appears that this often happens to minors. Even in the second phase, some guarantees are not provided, due to its immediate nature, the availability of translators, the migrants' health conditions, fatigue and the wish to "unmask" so-called bogus asylum seekers. The transcript of an interview with a Palestinian from Gaza is provided, which resulted in an expulsion because he "did not say the magic words", in spite of the well-known situation in his hometown.

There are three kinds of removals from the Adriatic port cities: refoulements from Italy to Greek ports; returns to Greece within the Dublin II framework and transfers from one detention centre to another. Most readmissions take place outside of any legal framework, with people arrested in or around the port area not being allowed to submit asylum claims. The effects of returns and refoulements tend to be identical. The Igoumenitsa police prefect estimated that there are between 10 and 40 readmissions per day from Italy, and the prefect in Patras stated that expulsions have decreased since November 2009. A large number of the people in detention facilities in Igoumenitsa were readmitted from Italy. The same applied to squats and makeshift camps in both Patras and Igoumenitsa with around half of them claiming that they were victims of the Dublin II Regulation. People

living rough in the park near Patras port had been expelled from all over Europe, yet they had the pink paper that certifies that they had submitted an asylum claim. They are being made to leave the urban centres of port cities by the police, who attempt to “dissuade and discourage” them. Many end up in a camp in the middle of nowhere near the Albanian border, sometimes taken there by the police. Mass transfers from Patras and Igoumenitsa to Turkey reached their high point in the summer of 2009. They have now been replaced by transfers from one detention centre to another, or by returns within the framework of the Greek-Turkish bilateral readmission agreement that was reactivated in May 2010.

### **Poland and Romania, trying to be worthy**

Poland and Romania are interesting points from which one can observe the effects of EU membership on migration controls in former communist countries. After the end of strict exit bans in 1989, Poland joined the EU in 2004 and the Schengen area in 2007. By contrast, Romania has been a member since 2007 and is set to join the Schengen area in 2011. As routes into the EU and western Europe, the pre-adhesion period resulted in funding under the Phare programme for central and eastern European countries for purposes including the training of officers and the introduction of equipment to improve border controls. Visa requirements have been imposed for nationals of third countries (Belarus, Ukraine, Moldova and Russia) since 2003 and 2007 respectively. Westward migration was rendered more difficult by reinforced border surveillance, Frontex missions, readmission agreements and difficulties in obtaining refugee status, residence permits or regularisation, and the development of the detention system. The damaging effects that this shift has had on key “proximity migrations” resulted in agreements to soften some conditions for entry with neighbouring countries.

Their role as buffer states is demonstrated by efforts in this field. Funding earmarked by the Commission for Poland between 2007 and 2013 to strengthen border controls amounted to 78 million euros to modernise border point infrastructure, consular offices (equipment and biometric data collection) and to set up an IT system to control foreigners’ documents. Some 560 million euro in funding was allocated to Romania between 2007 and 2009 for Schengen facilitation. Other Romanian funding included the Phare programme, which has been used to develop border control systems such as Scomar (Integrated Black Sea Surveillance and Observation System) and to implement elements of the Schengen acquis by setting up control mechanisms on its eastern borders, these are subject to EU scrutiny through the Schengen evaluation process. The authorities in charge of border control are the border police and Romanian Immigration Office in Romania and border guards under the control of the interior ministry in Poland.

The region is considered so important in terms of migration management that the headquarters of Frontex is in Warsaw. In fact, according to the Frontex deputy director, Poland was responsible for issuing 27,000 refusals of entry out of a total of 114,000 into EU territory in 2009. In 2008, the agency reported that 3,298 people were stopped for illegally crossing the border into Poland and 756 were caught in Romania, leading the agency to express its satisfaction for the work of the two countries’ border control services. Frontex has coordinated a number of operations in Poland with a view to strengthening cooperation with other countries, including Russia. The most important operation, to control entries from the east using false entry documents through the land border or hidden in vehicles, was named “Jupiter”, and involved 14 countries including Poland, Romania, Slovakia and Hungary, as well as countries of “origin” or of “transit”, such as Ukraine. Earlier, in Romania, the “Euxine 2008” mission sought to improve controls in international ports and involved 12 member states, as well as Moldova and Ukraine. The “Five Borders 2008” mission involving Hungary, Poland, Romania and Slovakia resulted in the stopping of 621 migrants, the discovery of 67 forged documents and 2,378 refusals of entry, and there has



been cooperation with Ukrainian border guards to conduct surveillance operations. Frontex is also set to sign an agreement with Belarus.

Poland and Romania are passage points into the EU for nationals of countries like Georgia, Russia or Uzbekistan, Asians and people from the Middle East who travel through Turkey, many of whom may be in need of international protection. Not all head towards Greece and many gather in Moldova, Ukraine and Belarus before attempting the crossing. Thus, Poland and Romania may well turn into countries to which many refugees are returned in application of the Dublin II Regulation. The most accessible border point between Poland and Belarus is at Brest/Terespol where around 90% of asylum applications are filed.

Developments include a shift in the legal framework for identity controls. Until 2003 a reason was needed for a stop, but subsequently it became possible to stop people to check the lawfulness of their presence in Poland. Migrants claim that controls based on skin colour (or language) have increased. It appears that the Romanian Immigration Office's (RIO) practice of issuing a summons to its headquarters is, in fact, a deception to catch migrants, leading to their detention.

Polish detention centres, four of which were newly built in 2008-2009 with a capacity of 692 places, can hold a total of 980 people. The two Romanian detention centres, in Arad (western border) and Bucharest, can hold up to 180 people. In Poland, there is a division between closed migrant centres and deportation prisons, whose conditions more closely resemble a prison, with one hour per day allowed to go for a walk. The regime is more relaxed in closed centres, within which a degree of movement is allowed. Deportation prisons are meant for people who have shown themselves to be more aggressive or problematic (terms which are also applied to people who have attempted suicide). In Romania, detainees are classified under three groups: "removable", "expellable" and "undesirable". The first no longer have a right to reside in the country and have been issued with a removal order; the second have received an expulsion order from a judge after committing a criminal offence, and the last are people whose activities are liable to endanger national security and public order. Conditions are poor and similar to a prison regime, although they improved after 2006 when a detainee filed a lawsuit before the ECtHR alleging "inhuman and degrading treatment". At Otopeni airport, a transit zone which is supposedly extra-territorial has been set up in which migrants are made to stay while a decision as to whether to admit them is being considered.

The maximum length of detention in Poland is a year, because an initial period of three months may be renewed three times. Asylum seekers can be detained if they must be identified; if they are deemed to "abuse" the asylum procedure; if they are a threat to the security, life and health of others; if they are a threat to public order or if they have crossed the border illegally. These criteria seem to be applied arbitrarily. A judge rules if they are to be detained for between 30 and 60 days. In Romania, the maximum length of detention is six months for "irregular" migrants, two years for people against whom an expulsion order has been issued and, in theory, up to 30 years for "undesirables". Detention for irregular migrants is initially ordered for a month, with five days allowed to file an appeal, and renewals are automatically made for a further five months. These lengths of detention are deemed excessive by the report, because most returns take place within 16 days. The six-month period is considered a way of keeping migrants isolated, as those from Somalia, Iraq or Afghanistan are hardly ever returned, although detention is supposed to only be enforced for the purpose of allowing their deportation. Cases involving people who are detained more than once in the same year or in different countries are mentioned, and some continue their journey because they fear for their security in Poland and Romania. Problems include the detention of vulnerable people such as pregnant

women and minors, while access to legal assistance and the provision of information in languages that they understand is not guaranteed.

There are 19 reception centres for asylum seekers in Poland and five in Romania. In Poland they are located on the outskirts of towns to avoid conflict and in poor districts or near the border in Romania. Asylum seekers obtain work permits after a year in Romania and after six months from the start of their procedure in Poland. They can request places in reception centres for asylum seekers, which are open but subject to a curfew, and asylum seekers lose their place (which is easy to re-obtain if one applies to have it back in Romania) if they are absent on three consecutive nights without prior authorisation. In Poland, after seven days absence, asylum seekers lose their place and their asylum procedure is also curtailed.

Dublin returnees often experience serial returns on the basis of bilateral or EU readmission agreements, particularly in cases involving inadmissible applications. Romania has reached 35 readmission agreements (seven with non-EU countries) and Poland has signed 25 (eight with non-EU countries). They lead to returns to migrants' home countries, countries where they have resided or merely passed through. Returns of third-country nationals to Ukraine are allowed due to the EU-Ukraine readmission agreement, and they may take place in under 48 hours through a fast-track procedure. The report notes that Ukraine is a country to which returns should be forbidden on human rights grounds due to inhuman and degrading detention conditions, readmission agreements with countries of origin or transit, a feeling of vulnerability and insecurity among migrants, racist attacks and refoulements and denial of entry for Russian nationals (including Chechens) although they are not required a visa to enter the country. For 2007, official figures show that 4,470 returns were executed in Romania, as well as a further 431 forced returns (with escorts). In the first half of 2009 the respective figures were 3,111 and 213.

Another problem is that a number of nationalities are almost certain to be denied asylum. Interesting cases that are examined include that of Vietnamese people in Poland, as well as Georgians, Uzbeks and Chechens. The new immigration regimes are causing problems to settled communities such as the 30,000-strong Vietnamese one in Poland. Vietnamese migrants have been in Poland for 15-20 years but have always worked without being officially issued documents. Poland and Vietnam signed a readmission agreement in 2004 in which Vietnamese officials are called upon to help identify migrants. After four visits in 2009, 245 Vietnamese were deported, 57 on the basis of a readmission decision, 183 expelled, three following a Dublin II return and two through different means. There has been criticism of this cooperation because some Vietnamese do not apply for asylum as it may endanger their families at home if they are branded "opponents" of the regime. They are seldom granted asylum.

This is also true for Georgians, Uzbeks and, increasingly, Chechens. Poland is one of the main gateways into Europe for asylum seekers from Russia who travel through Ukraine or Belarus (mainly Chechens). They accounted for over half the asylum applications lodged in 2009 (5,726 out of 10,590). 102 obtained refugee status, while 2,261 were granted subsidiary protection. The number of Georgian asylum seekers has also increased, but their nationality appears to be a reason to deem their applications manifestly unfounded. Chechens also fear for their security in Poland, as there have been cases of kidnappings and shootings carried out by agents of their home country's regime. Moreover, in both countries, intolerance against migrants and asylum seekers is growing, as demonstrated by local protests calling for the closure or moving of detention and reception centres.

## Conclusion

The situations that are detailed in this report show how the so-called "integrated migration management" approach that the EU has been promoting within and beyond its borders is leading to widespread human rights violations, growing hardship for migrants in host countries (regardless of whether they are just working or seek to travel to the EU) and a vast expansion in state activity that targets foreigners. In different forms depending on where they take place, the report documents unlawful expulsions, a proliferation of controls and the establishment of detention systems. Even in areas that had longstanding unregulated migration patterns that were beneficial for all parties. They are being curtailed. The trend that is being encouraged is one in which it becomes increasingly difficult to leave one's country. For those that do leave, the authorities are paid to ensure that these peoples' situation is one of permanent instability in which they must fear any interaction with public officials. Areas are being created in which ordinary laws do not apply and in Europe these zones of arbitrary decision-making can be seen in the Adriatic port areas in Italy.

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## Endnotes

1. *European Borders: Controls, detention and deportations*, Migreurop, November 2010, [http://www.migreurop.org/IMG/pdf/rapport-migreurop-2010-en\\_-\\_2-121110.pdf](http://www.migreurop.org/IMG/pdf/rapport-migreurop-2010-en_-_2-121110.pdf)

2. *Asociación Pro Derechos Humanos de Andalucía and Association Malienne des Expulsés. Following a mission to Mali, APDHA and AME jointly published the report "Une autre frontière de non-droit: Mali-Mauritanie", concerning Spain's co-responsibility in serial repatriations from Europe to Africa, April 2009.*

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