

Mass protests across Germany for the rights of asylum-seekers and migrants (23.10.12)

Two protests were organised in Berlin on 13 and 15 October 2012 against the German authorities' policies on asylum-seekers and migrants. Thousands of people were present, showing the size of the refugee and migrant community and its capacity to protest and advocate for their rights together with German civil society organisations and individual activists. However, most of the demands are not specific to Germany and seem to reflect broader discontent with EU policies, whether it has to do with the reception conditions or deportations.

Break isolation: "Refugee March" reaches Berlin

Setting out on 8 September, thousands of refugees, asylum-seekers and activists marched from Würzburg, in the southern state of Bavaria, to Berlin, arriving on 6 October 2012. The event was organised by the VOICE Forum and the *Karawane* network.¹

A general demonstration took place in Berlin on 13 October,² marking the climax of many months of protests and hunger strikes across Germany - one TV channel reported that protests were carried out in at least nine cities.³ The protests were an attempt to make asylum-seekers' voices heard opposing German asylum law and against deportations of unsuccessful applicants for international protection. One Iranian asylum-seeker, Samir Hashemi, committed suicide in a reception centre close to Stuttgart on 4 September 2012, and many suicide attempts in reception centres have been reported in recent years.⁴

Protesters united under the slogan "break isolation", initially used during the *Karawane* festival of the VOICE Refugee Forum in Jena in 2010, a summer camp bringing together refugees, asylum-seekers and activists was organised in Erfurt to organise against perceived social, political, and geographical isolation.⁵

Just over a month later, about 2,000 protesters from several parts of Germany gathered in Berlin (with a sister march organised in Leipzig⁶) to oppose the undignified living conditions of asylum-seekers and restrictions on their mobility. Asylum-seekers who took part in the march symbolically tore up their residence permits when crossing the "border" of their *Land* (federal state) of registration on their way to Berlin. The importance of the demonstration attracted the attention of national media.⁷

The "camp system" (*Lagersystem*) and isolation

Asylum-seekers in Germany cannot access the labour market unless they have been waiting over a year for a reply to their first instance application. In the meantime, asylum-seekers are entitled to

¹ <http://thevoiceforum.org/>

² http://www.youtube.com/watch?feature=player_embedded&v=Orn3RqzkM_U

³ http://www.tagblatt.de/Home/nachrichten/ueberregional/politik_artikel,-Verfassungsgericht-hebt-die-Asylbewerberleistungen-an- arid,180560.html

⁴ Die deutsche Asylpolitik treibt Flüchtlinge in den Suizid, 16 September 2012
<http://antifanm.blogspot.de/2012/09/>

⁵ The VOICE Refugee Forum – Die Karawane, Newsletter October 2012
http://www.thecaravan.org/files/caravan/The_Voice_of_Refugees_and_migrants_Nr_4_2012_web.pdf

⁶ <http://www.3sat.de/mediathek/?display=1&mode=play&obj=32348>

⁷ Taggesschau and RBB channels <http://www.refugeetentaction.net/index.php?lang=de>

benefits mainly given in the form of vouchers and some cash (called “pocket money” by asylum-seekers) which often does not exceed about €40 a month.⁸ This is insufficient for asylum-seekers to sustain themselves and vouchers can only be used in certain shops, sometimes expensive ones (a similar system than in the UK where asylum-seekers are given the ‘Azure’ card). Some cannot even pay for travel. Reception centres are often located in isolated areas with few shops or facilities accessible by foot.

The UNHCR has argued that the situation of asylum-seekers in Germany amounts to a breach of the 1966 International Covenant on Economic, Social and Cultural Rights. This argument, with other organisations’ opinions, was taken into account by the German Constitutional Court in a landmark ruling on 18 July 2012⁹ which dismissed the current level of benefits as being “obviously insufficient” (*evident unzureichend*), and determined that the total amount of benefits allocated to asylum-seekers should be re-evaluated and take into consideration inflation rates, which has not been the case since 1993. Following the court’s decision, the total amount granted to asylum-seekers was re-evaluated from €225 to €360 monthly.

Despite this important decision, asylum-seekers still remain reliant on vouchers and upon the accommodation provided by the authorities, with some reception centres – which in total house some 60,000 asylum-seekers - lacking functioning electric equipment and clean water. Georg Classen, from the Berlin Refugee Council (*Flüchtlingsrat Berlin*), explained that such deprivation affected asylum-seekers physically as well as psychologically to such an extent that those being granted leave to remain as refugees were sometimes not fit enough to work.¹⁰

One provision in asylum law is specific to Germany and Austria: the “*Residenzpflicht*” established by Article 56 of the Asylum Law, obliging asylum-seekers to remain in the *Land* where their claim is processed. This prevents them from freely circulating in the country which, according to NGOs, is in breach of Article 13 of the Universal Declaration of Human Rights: “Everyone has the right to freedom of movement and residence within the borders of each state.”

The EU Reception directive

Nevertheless, German law remains in line with the EU Reception Directive, which sets the minimum reception standards for asylum-seekers pending the examination of their claim.

The Directive states that “Member States shall make provisions on material reception conditions to ensure a standard of living adequate for the health of applicants and capable of ensuring their subsistence” (article 13). Access to the labour market can be restricted for up to one year before an

⁸ Verfassungsgericht hebt die Asylbewerberleistungen an, *Tagblatt*, 19 July 2012
http://www.tagblatt.de/Home/nachrichten/ueberregional/politik_artikel,-Verfassungsgericht-hebt-die-Asylbewerberleistungen-an- arid,180560.html

⁹ Bundesverfassungsgericht, Leitsätze zum Urteil des Ersten Senats vom 18. Juli 2012 - 1 BvL 10/10 - 1 BvL 2/11 - http://www.bundesverfassungsgericht.de/entscheidungen/Is20120718_1bvl001010.html

¹⁰ Für mehr Menschenwürde - Flüchtlingsproteste in Deutschland, 5 September 2012, *3Sat*
<http://www.3sat.de/mediathek/?display=1&mode=play&obj=32348>

initial decision is made, although this period will probably be reduced to nine months after the draft revised version of the Directive has been adopted by the end of 2012.¹¹

Moreover, according to the draft revised Directive, Member States will be allowed to apply less favourable treatment to asylum-seekers when granting social benefits. This, combined with restricted access to the employment market, may lead to deprivation for some asylum-seekers.

Restrictions on mobility are also permitted by the Directive. Article 7 - "residence and freedom of movement" - states:

"Asylum seekers may move freely within the territory of the host Member State or within an area assigned to them by that Member State. The assigned area shall not affect the unalienable sphere of private life and shall allow sufficient scope for guaranteeing access to all benefits under this Directive".

Overall, the adopted proposal put forward highly controversial measures, including the detention of asylum-seekers, making it "a missed opportunity to ensure that asylum-seekers in the EU are fully treated with dignity and fairness in all respects". [¹²]

Forced return to Nigeria, police violence and exchange of personal data

On 15 October, two days after the demonstration marking the end of the Refugee March, Berlin saw more protests. A demonstration was organised at the Nigerian embassy to denounce the country's cooperation with Germany. The occupation aimed to highlight the "routine deportations" which are:

*"Randomly conducted in different German cities on a monthly basis in an atmosphere of massive police presence and abuses – from Halberstadt to Köln, Bielefeld to Karlsruhe, Dortmund to Munich, Ludwigsburg to Dusseldorf. Enough is enough as we have reached an offensive threshold to say no to deportation threats and abuses because deportation is colonial heritage and persecution".*¹³

According to the police, 15 people were arrested, although activists put the number at 23. The police were accused of using disproportionate force against protesters, of binding their hands behind their backs with cables, and of beating them with batons.¹⁴ Pictures of the arrests are available online.¹⁵ Some police officers were reportedly using abusive behaviour and language against protesters:

"We could kill you all, nobody would pay attention, not even the Nigerian government would want you."

¹¹ LIBE Committee adopts Reception Directive and the Dublin III Regulation, Statewatch News online 26 September 2012 <http://www.statewatch.org/news/2012/sep/07reception-dublin-III.htm>

¹² Statewatch Analysis, The EU Directive on Reception Conditions: A weak compromise, by Steve Peers, Professor of Law, July 2012 <http://www.statewatch.org/analyses/no-184-reception-compromise.pdf>

¹³ Press release, 15 October 2012 <http://asylstrikeberlin.wordpress.com/2012/10/15/english-press-release-embassy-action/#more-1070>

¹⁴ Flüchtlinge beklagen Aggression, Die Taggeszeitung, 16 October 2012 <http://www.taz.de/Polizeieinsatz/!103713/>

¹⁵ <http://www.flickr.com/photos/neukoellnBild/sets/72157631775488698/show/>

Later that day, 800 people demonstrated spontaneously in solidarity with the arrested, setting up a camp in Orianenplatz, before a crowd of 500 headed to Tempelhofdam where most of the arrested activists were held in custody. All were released later the same day.

Cooperation between Frontex and Nigeria

The protesters at the Nigerian embassy also denounced cooperation between the EU border agency Frontex and Nigeria. A working arrangement was signed between the two parties in January 2012,¹⁶ which aims to facilitate border management cooperation and especially the organisation of joint return flights to Nigeria. Frontex, with a recently-revised mandate, is now also able to deploy liaison officers in partner third countries and to engage in technical border management cooperation when a working arrangement has been signed.

Frontex's cooperation with third countries was criticised by human rights organisation as lacking transparency, democratic scrutiny and safeguards against the mistreatment of migrants, and has emerged as a major area of concern for all organisations that replied to the European Ombudsman's call for opinions on Frontex's Fundamental Rights Strategy.¹⁷

The Jesuit Refugee Service, which co-chairs – with Frontex – the agency's Consultative Forum on Fundamental Rights, particularly emphasised Frontex's "failure to consider the human rights situation in transit countries "where intercepted migrants may be returned, and an absence of mechanisms to enable migrants to make a formal complaint against Frontex".¹⁸

Cooperation with third countries on border management and migration policy, which increasingly involves Frontex, is not limited to the EU's southern neighbourhood. The German government confirmed in 2012, in an answer to a parliamentary request by members of the political party *Die Linke*, that €20 million (£16 million) worth of support in training and equipment has been provided to the Belarusian police by the German Ministry of Interior since 2008.

Up to 2011, no less than 26 measures related to cooperation with Belarus on border control were enacted. Cooperation with Belarus is part of Germany's wider involvement in securing the EU's eastern border. In 2007 the *Bundespolizei* worked with Polish border guards in Frontex's joint operation Ariadne at the Polish-Belarusian border, and in 2011 the *Bundespolizei*, together with 23 other EU and non-EU countries including Belarus, took part in Frontex's Joint Operation Jupiter at the EU eastern land borders.¹⁹

The EU and its Member states' cooperation policy with countries well known for their poor human rights records has been denounced as detrimental to the rights of migrants and asylum-seekers. According to Amnesty International:

¹⁶ Working Arrangement establishing cooperation between Frontex and the Nigerian Immigration Service, 19 January 2012 http://www.statewatch.org/observatories_files/frontex_observatory/WA%20Nigeria%20-%2019%2001%202012.pdf

¹⁷ Statewatch and Migreurop's joint reply to the European Ombudsman on Frontex's Fundamental Rights Strategy, September 2012

http://www.migreurop.org/IMG/pdf/SW_Migreurop_27092012_FrontexFRS_SubmissionEUOmbudsman.pdf

¹⁸ http://www.jrs.net/news_detail?TN=NEWS-20121017024845

¹⁹ 'Abschieben nach Belarus', Matthias Monroy, 30 August 2012, *Junge Welt* <http://www.jungewelt.de/2012/08-30/025.php>

“The policy of externalization of border control activities has been controversial. The implementation of migration control agreements between European and non-European countries have led to serious human rights violations. The lack of transparency surrounding many European countries’ border management practices and agreements with third countries means that these violations continue unchecked. The lack of scrutiny creates a permissive environment in which migrants, refugees and asylum-seekers are left vulnerable and are denied protection of their rights”.²⁰

²⁰ Amnesty International, Externalization of border and immigration control and other concerns in the European Union, 25 September 2012, presentation during the OSCE 2012 Human Dimension Implementation Meeting <http://www.osce.org/odihr/95142>