

European borders

Controls, detention and deportations



NGOs members of Migreurop

BELGIUM : CIRÉ Coordination et initiatives pour et avec les réfugiés et étrangers / CNCD Centre national de coopération au développement / LDH Ligue des droits de l'homme / SAD Syndicat des avocats pour la démocratie

FRANCE : ACORT Assemblée citoyenne des originaires de Turquie / Act Up-Paris / ANAFE Association nationale d'assistance aux frontières pour les étrangers / ATMF Association des travailleurs maghrébins de France / FASTI Fédération des associations de solidarité avec les travailleurs immigrés / FTCT Fédération des Tunisiens pour une citoyenneté des deux rives / GAS Groupe accueil et solidarité / GISTI Groupe d'information et de soutien des immigrés / IPAM Initiatives pour un autre monde / JRS France Jesuit Refugee Service / La Cimade/ MRAP Mouvement contre le racisme et pour l'amitié entre les peuples

ITALY : ARCI Associazione ricreativa culturale italiana / ASGI Associazione studi giuridici sull'immigrazione / Melting Pot / NAGA Associazione volontaria di assistenza socio-sanitaria e per i diritti di stranieri e nomadi

LEBANON : Frontiers

MALI : AME Association malienne des expulsés / ARACEM Association des refoulés d'Afrique centrale au Mali

MAURITANIA : AMDH Association mauritanienne des droits de l'homme

MOROCCO : ABCDS-Oujda Association Beni Znassen pour la culture, le développement et la solidarité / AFVIC Association des amis et familles des victimes de l'immigration clandestine / AMDH Association marocaine des droits humains / AMERM Association marocaine d'études et de recherches sur les migrations / GADEM Groupe antiraciste d'accompagnement et de défense des étrangers et migrants / Pateras de la vida

PORTUGAL : SOLIM Solidariedade Imigrante

SPAIN : ABEDIE/Andalucia acoge / APDHA Asociación pro derechos humanos de Andalucía / CEAR Comisión española de ayuda al refugiado / SOS Racismo / ACSUR-Las Segovias

SWITZERLAND : Solidarité sans frontières

TOGO : Attac Togo

TURKEY : HCA Helsinki Citizens' Assembly / RASP Refugee advocacy and support program

UNITED KINGDOM : Statewatch / Barbed wire britain network

Contents

Introduction	3
What have migrants become	3
Ceuta, a gilded prison	7
A murderous border	7
A legal limbo	8
The situation of migrants in detention	8
The situation of migrants in the CETI (open centre)	9
Deportations and expulsions	12
Surviving without resources	14
Sahel-Saharan countries, Europe's new sentries	17
I – European interference in inter-African migrations – the case of Mauritania	18
The “crisis of the cayucos”	18
1. Cooperation instigated by Europe	18
2. Mauritania tramples on its own principles and conforms	21
3. Subcontracting repression and endangering foreigners	22
II – Bargaining between Libya and Europe: migrants as an exchange currency – the case of Niger	33
1. A reciprocal exploitation	34
2. An increasingly repressive control of borders	37
3. Arrests and detention in Libyan territory	39
4. A deadly expulsion policy	42
Conclusion: the real face of Kadhafi's pan-Africanism	44
Poland, Romania: how to be good state members in the enlarged EU	47
I – At the new frontiers: the screening of migration	47
1. Reducing the transit and deserving Schengen	48
2. The border police, Frontex and cooperation with other European states	48
II – Reception and detention centres	52
1. The detention of foreigners	52
2. Reception centres: isolating asylum seekers	60
3. “Dublinized” asylum seekers	61
III – Returns	63
IV – Intolerance towards migrants and refugees	66
V – Embryonic mobilizations	70

The Ionian and Adriatic seas: forced returns between Italy and Greece	73
A new migration route at Europe's gates	73
I – Controlling and blocking	75
1. Controls in Greece	75
2. Controls at sea	77
3. Controls in Italian ports	78
II – Turning back and readmission	82
1. Arbitrary practices and violation of rights	82
2. The port of Venice: collective returns	83
3. The port of Ancona	86
4. Forced return to Greece	86
III - Detention	88
1. At the borders and at sea: areas beyond legality	88
2. Detention in Italy	89
3. Detention in Greece	90
IV – Some cruel situations	93
1. In Greece	93
2. In Italy	96
V - Mobilizations	97
1. In Venice	97
2. In Ancona	97
3. In Greece	98
Ping-pong at the Greco-Turkish border	101
Selective expulsions and random readmissions	106
Reactions to a degrading and sometimes murderous situation	107
Assistance, support, resistance	108
Dismantling the Calais jungle: a deceptive operation	111
I - The declared objectives of the 22 September 2009 operation	112
II - The real objectives of dismantling the jungle	113
III - The Modus Operandi: brutality and trickery	115
IV - What next?	116
Migreurop network	121
Annexes	122
Knocking down walls and defending the right to migrate	122
UNHCR-Libya : the bid is rising, migrants pay the price	124
All for the closure of camps for migrants, in Europe and beyond	125
Italia and Libya: hand in hand	127
Roma people victims of the French government xenophobia	128

Introduction

What have migrants become?

Abbiamo fermato l'invasione: “We have stopped the invasion”, a Northern League poster boasted in March 2010 before the regional elections in Italy. The press could rejoice about seeing “Lampedusa returned to the fishermen”, since the identification and expulsion centre on the island, which had seen over 30,000 “illegals” disembark in 2008, and still 1,220 in February 2009, was henceforth empty since October. In turn, the Italian government was trumpeting the fact that, against “illegal” immigration, firmness had ended up paying off. From the other islands in the Sicily Channel to Malta, to the Canary islands, and to the coasts of Andalusia in Spain, the same fact could be noted: unwanted arrivals on the coasts had ended, at least on that side of Europe. Moreover, at a time when Migreurop is completing its second annual report, it has even been stated that Libya has closed its detention centres – those camps that were hastily created following great inputs of “aid” from north of the Mediterranean. Readers should read this report with caution, because, in the field of migration, the gateways and routes open up and close down very quickly, in accordance with the deals between European Union member states and those between the latter and so-called “third” countries, in spite of the strong trends that we denounce here.

Libya? Let us indeed talk about it since, in the summer of 2010, the Italian soil on which he was received with great pomp by his counterpart Silvio Berlusconi gave Muammar Kadhafi the opportunity to add, with uncommon cynicism, some verbal provocations. And immigration was precisely what was on the agenda. It was the moment for everyone to remember or realize that, in 2008,

a “friendship treaty” was signed between the two countries, stipulating, among other things, that Italy would invest 250 million euros per year for 25 years to equip Libya – a steeply growing market for Italian capitalism-, which was disguised in a not too subtle way as “compensation” for the thirty years of colonization that followed the disembarking of Italian troops in Tripoli in 1911. It is a lucky strike for Libya as well, which has finally become a privileged partner of the Union and a beneficiary of its largesse. In exchange, Kadhafi promised to prevent the departure of boats laden with migrants towards Italy, or at least to take back their human cargo.

At present, even more than in the past, Kadhafi takes the stage and places migrants on it. These migrants who are claimed to have disappeared, but who have never been so present in the phobias that are aroused everywhere by the leaders of European countries, and which the leader of Libya has learned to understand well. In Rome, while his host smiled (but the Italian parliament and newspapers did not), without fearing that he may be following the lead of the most racist far right, he demanded that the Union give him 5 billion euros per year, or otherwise “tomorrow Europe may no longer be European and may even become black, as there are millions who want to come” from Africa. This is something “very dangerous”, he added, because “we do not know what will happen, how the white and Christian Europeans will react to this influx of famished and uneducated Africans”. And the former cantor of panafricanism and open borders finished off by taking up president Sarkozy’s slogan in his own style: as Libya is “the gateway for unwanted immigration”, it needs this money to “block it at the Libyan borders”. At first, the European Commission did not utter a word, but it is

hardly doubtful that the idea will make headway, in view of the extent to which member states have become captive of their own xenophobia while they have instilled the notion of a “migration risk” in public opinion. In these conditions, the upping of the stakes is inevitable and, all things considered, juicy for the inexhaustible market of border security that accompanies the European construction. There is already an Italian company that is about to start work in the Libyan desert to build an electronic wall along the border with Sudan, Niger and Chad.

And what about migrants and asylum seekers in all of this? Turned into a living exchange currency, they pay the price of the “dirty deal” between Rome and Tripoli, as a Reuters agency journalist called it. Where are they now? With the 2008 friendship agreement, Italy took a further step in the overt violation of recognized fundamental rights, which is even trumpeted before the media. After pioneering the art of enacting collective expulsions since 2004, without possible asylum claims being examined, towards the dangerous destination that Libya, Italy logically then worked on the construction of those concentration camps whose purpose is to “receive” the returned people, in a country that does not recognize the Geneva Convention. But that is no longer the stage we are at. In order not to have to reply to protection requests that are too often lawful, the Berlusconi government has started picking up migrants at sea, before they are able to enter Italian territorial waters: then, one can just head south and return them to the Libyan authorities.

Let us hear what a member of the *Guardia di Finanza* (customs and excise police with a military status) who was in charge of one of this kind of interceptions had to say: “It is the most despicable order that I have ever carried out.[...] When we took them on board of the three boats, they thanked us for saving them.[...] My heart sank. I could not

tell them that we were taking them back to the hell that they had risked their lives to get away from.[...] When they realized that we were taking them back to Libya, they started shouting: “Help us, brothers!” But we could not do anything. The orders were to sail them back.[...] We left them in the port of Tripoli, where the Libyan soldiers were waiting for them” (*La Repubblica*, 9/3/2010).

Like one of the islands’ residents said, in this way “the immigrants are no longer here, let us say, but on the other shore of the sea, far from the spotlight. And even more isolated”. Crammed into camps, they remain under a constant threat of forced repatriation, with a UNHCR office that is helpless to assert their rights and dignity, and whose members were eventually thrown out of Libya on 8 June 2010 – the way in which Kadhafi made it known that he will not be embarrassed about manners when it comes to obtaining the exorbitant amounts that are demanded from the Union. Shortly afterwards, in the Misratah detention centre, around 600 Eritreans staged a revolt when they found out that they would be put before their ambassador to be identified. There was a brutal repression, and the tracks of 250 of these mutineers were lost until it became known that they were transferred to detention cells in Al Braq in southern Libya, even further away from any glances, and were liable to be expelled at any time. The example of the sub-Saharan highlights one element of the new policy in the south of the Libyan Sahara: in September and in December 2009, and then again in May 2010, respectively, there were 153, 149 and then another 149 Malians who were made to board planes that were going to Bamako.

But we should not overlook the fact that it is all of Europe which, actively or by keeping its eyes shut, has committed to the path that has been laid in this way, and that it is all around it that, by now, “aid” and supposed “co-development” have become synonyms of profitable investment, of blackmailing means

and of taking populations hostage which do not ask for anything other than the chance -which is theoretically guaranteed by international texts- to travel freely. It is necessary to forcefully recall, as we have done in the previous report, that the laws which have been hastily adopted by certain countries like Morocco, Tunisia, Algeria or Libya following the Seville Council in 2002 to criminalize emigration, are laws that are illegal in relation to the Universal Declaration on Human Rights, which unambiguously recognizes that “everyone has the right to leave any country”. We must be no less stubborn in reminding people that, while no country has to grant its protection to all asylum seekers, it is no less true that it has to examine every application individually, and that it is unlawful to organize collective returns to places where people may fear that they will be mistreated. In this case, the relevant texts are the Geneva Convention and the UN Convention on the Protection of Human Rights and Fundamental Freedoms. Neither must we forget, and this report provides some examples of this, that it is within Europe itself that obstacles are placed in the way of the freedom of movement that is envisaged by the Rome and Schengen treaties.

The situation does not encourage optimism because, as we have said, in their repressive charge forward, the authorities that strive to prepare themselves against the “migration threat” are not just driven by their own deadly game - to increasingly control, detain, punish and chase away, - but also by the objective to subcontract out all of these activities, as far away as possible. In this downwards and deleterious spiral, there are two processes that worry us and require us to be alert. The first is the one that leads us to double up our own borders, or even to replace them with walls in the places of origin: we have seen it, the absurd notion of “illegal migration” that clutters official and media discourse. The second may stem from the fact that, in order to

achieve a “control of migration flows” that is impossible to attain, the solutions offered by detention and “placing people in camps” may end up reaching their limits and increasingly resulting in what we may compare to the placing of people in orbit: organized wandering, the constant and brutal rejection from any place where people could potentially settle, the destruction of dwellings, permanently returning people to the roads that, all together, and more than in the past -but like at the start of the industrial era in England, with its “tramps” with no place to live nor to go- may constitute a new model for the “management” of these flows through their relentless and necessarily deadly acceleration.

AM



Fence around Ceuta, Moroccan side. Crossing it is risking of being trapped on the other side (photo: Mattia Santini)

Ceuta is a small Spanish territory in Africa and (as its twin Melilla) a typical picture of the inhuman absurdity carried out by the ongoing externalization. There, the European Union requires Spain to block away, no matter how, non European migrants, and to treat severely those who succeed in entering. In turn, Spain purports to lean upon Morocco to stop, at the source, attempts to enter. The numerous haggling and bargaining caused by this outsourcing has, as its consequences, persecution of would-be migrants (especially sub-Saharan) trapped inside Moroccan borders, and de facto imprisonment of foreigners without a visa who succeed in crossing the rampart wire fence enhanced by "razor" barbed wire running on the land side of the enclave. To asylum seekers stopped there, some for 3 years, Ceuta is not even any more part of the European Union because their transfer to the peninsula has been forbidden. Now, they have either to stay on this "golden cage", in misery and prey to hostility from local inhabitants, or risk their lives proceeding to make the crossing. All this aggravated- the height of the incoherence of the European migration policy- by the enforcement of a new asylum law based on the fear that a "draught" is being created, merely because Spanish authorities take a more liberal approach than in the past.

Ceuta, a gilded prison

We can walk freely in the town, we can eat every day, but we can go neither forward nor back. Ceuta is like a prison, a gilded prison. B.S., Indian; in the forest at Ceuta for 3 years, he lives in fear of deportation.

Ceuta is situated at the north of Morocco. Fourteen kilometres separate this Spanish enclave from the Iberian Peninsula. It is not considered to be part of Schengen, a fact which prevents migrants who reach it from moving freely to other parts of Spain. Under a 1992 agreement, Morocco accepts to readmit onto its territory migrants who enter in an irregular manner. In this way, the hardening of European and Spanish migratory policies has reinforced border controls, limited the movement of migrants inside Spanish territory, systematised methods based on detention and deportation and generated a silent, growing violence, in flagrant breach of migrants' rights and dignity.

In writing this report we made use of information gathered by the organizations Elin¹, APDHA² and CEAR³.

A murderous border

The month of September 2005 marks a turning point in the history of immigration at the Ceuta border. On that date, a desperate attempt by migrants of sub-Saharan origin who had been blocked for months in the mountains near the border waiting to jump over the barrier was repelled by Moroccan and Spanish security forces, who opened fire on the migrants and caused the deaths of thirteen people according to official information (and in reality certainly more).

A consequence of the externalisation of borders organized by the European Union (EU), this tragedy was followed by the persecution of survivors on Moroccan territory: hundreds of people of sub-Saharan origin were loaded handcuffed into buses, and carted off, in some cases, to their deaths. These deportations continued in subsequent years⁴.

The most visible change has been at the border. From 2005, the Spanish government established 24 hour border controls, backed up by state of the art technology (movement detectors, video cameras, night vision cameras, etc.). The height of the wall was increased along the length of the land border. There has also been a reinforcement of the number of security staff on duty both on land and sea, a move aimed at making the enclave inaccessible.

1. An NGO which has been working since 1999 to defend migrants' rights and more specifically women and children passing through Ceuta. In 2005, following the deaths of migrants at the border with Ceuta and the deportation of migrants into the desert, it opened an office in Morocco and provides assistance to refugee families and sub-Saharan migrants transiting in the country.

2. Asociación pro Derechos Humanos de Andalucía.

3. Comisión Española de Ayuda al Refugiado.

4. In 2007, Elin collected testimonies on the deportations into the desert from some 400 sub-Saharan migrants, particularly from refugees and asylum seekers. The Comité René Cassin filed a complaint at the International Criminal Court at The Hague on the basis of these testimonies.

The effect of these changes on migrants has been greater suffering, greater risk-taking and greater expense. It has also made them more vulnerable to mafia groups and human trafficking networks: in short, more deaths for greater power of dissuasion.

From 2005 to 2008, immigration towards Ceuta continued. Today, few migrants manage to cross the wall, and the number of people coming across at the land border crossing of El Tarajal hidden in cars is increasing. This crossing is more expensive (prices can be as much as € 3,000) and is controlled by Mafiosi who enrich themselves by offering money on credit, particularly to women who, once in Europe, could be victims of sexual exploitation forced to pay back much higher sums.

From 2009 to mid-2010, around three hundred people came through Ceuta. That translates to a drop in the migratory flow: Ceuta is no longer considered by migrants to be an easy door into Europe: they know that once they arrive it will not be possible for them to leave again until Spain signs a readmission agreement with their country of origin, enabling them to be sent back (a process that can take several years).

A legal limbo

Spain has signed readmission agreements with Morocco (1992), Nigeria (2001), Algeria (2002), Guinea Bissau (2003) and Mauritania (2003), targeting the return of nationals from these countries. It has completed migratory cooperation agreements with Guinea and Gambia (2006), Cape Verde and Mali (2007) and Niger (2008), promising aid to these countries only if they show willingness to readmit their own nationals. In the meantime, the latter are kept in administrative detention.

For them, Ceuta is an enormous detention centre surrounded on one side by a wall six metres high and eight kilometres long and on the other by sea. The Spanish government's policy of enclosure is the dark side of the readmission agreements it signed with countries of origin to permit it to expel migrants in Ceuta "efficiently" and "legally."

The situation of migrants in detention

The migrants held in Ceuta live in a kind of legal limbo. Compared to what they would have on the Iberian Peninsula, their rights are limited. They can travel neither in Spain nor in the rest of the EU because Ceuta is not considered to be part of Schengen. This exceptional situation becomes even more serious in the case of irregular migrants: unlike those in mainland Spain they do not have the right to register with the municipality, making it impossible for them to demonstrate their residence in Spain as part of a request for a residence or work permit. As a result, even after three years of residence (the minimum required by law), they have major difficulties in getting a permit. They have no access to social security or education either.

The situation of migrants in the CETI (open centre)

The CETI⁵ was set up in 2000 and, unlike administrative detention centres (CIE⁶, closed centres managed by the Interior Ministry) in mainland Spain, is an open centre supervised by the Ministry of Work and Immigration. It provides accommodation for migrants and refugees arriving in Ceuta.

When “undocumented” migrants arrive in an irregular manner in Ceuta, they have to present themselves at the police station and demand access to the CETI. The police then ask them to give their identity and fingerprint them. From then on, they are registered as “irregular” migrants in Spain. Should they wish to demand political asylum, they have one month to do so. If they fail to do so, the police begin an administrative procedure which ends in a decision to expel them for a period of five years. They can appeal, but at the moment appeals are systematically rejected. The wait for deportation then begins, and can last several years.

Especially vulnerable groups

On 8 March 2010, there were 366 people in the CETI, 93 of them women from different countries in Africa and Asia. 60% of the women had been in Ceuta for two years. Three groups are particularly vulnerable: Indians, women and unaccompanied minors.

Indians

The Indians arriving in Ceuta have paid between € 12,000 and € 15,000 for their trip across Africa. In April 2008, faced with the risk of being arrested and expelled by the police, 72 Indians fled the CETI for the woods on Mount El Renegado. In 2010, 54 Indians are still there, living off charity (see below).

5. Centro de estancia temporal de inmigrantes.

6. Centro de internamiento de extranjeros.

Women

Women and children are among the most vulnerable of migrants. In 2009, the majority of the women at the centre came from Anglophone countries like Nigeria, Sudan and Somalia, but also from Cameroon, Congo (RDC) and the Ivory Coast.

Until 2008, women with children were given residence permits due to “exceptional circumstances” before leaving Ceuta for the mainland. After that, only a small number of families and women with children have been permitted to cross over to mainland Spain, and without residence permits. Since September 2009, pregnant Nigerian women have been transferred to administrative detention camps in Spain for identification and deportation. Most families detained in the CETI have been there for two years. Until now, families with children have not been expelled.

Minors

There are two types of minors: those accompanied by adults and unaccompanied minors who come to Ceuta from Morocco hoping to hide in lorries to get to Spain. Accompanied minors live in the CETI, despite the fact that facilities there are inadequate: there can be up to eight people per dormitory. An ombudsman criticised this situation, but nothing has been done to change it.

Discriminations faced by asylum seekers

I have been at the centre for two years and eight months. I want to get out, find a job and earn money. My dream is to become a famous runner. I came here from Somalia in a car in exchange for €300. Before getting to Ceuta, I went via Morocco and I thought that everything would change once I got to Europe. In Morocco, I worked hard to travel to Europe. I can't sleep. I think of my future. My mother and my sister are in Somalia and I would like to have the money to telephone them. Fesa Jhon, 23, Somalia.



CETI of Ceuta (photo: Benedettelli-Mastromatteo-Zerbetto)

To discourage migrants from applying for asylum, the police began collective deportations at night towards countries whose massive violations of human rights are widely recognised (like Eritrea, Sudan or Somalia), a fact that should be sufficient reason to forbid their nationals from being sent back.

The new law on asylum, brought in on 20 November 2009, introduced two potentially positive measures: the limiting of causes of inadmissibility for asylum applications made on Spanish territory and the introduction of

a fast-track procedure, as foreseen by administrative rules for the emergency assessment of both manifestly founded and manifestly unfounded claims. This modification has, however, had a disconcerting effect in Ceuta and Melilla (the other Spanish enclave in northern Morocco).

In Ceuta, after the law came into force, the transfer to the mainland of asylum seekers whose claims were pending slowed down and stopped completely after 22 December 2009. Since 28 January 2010, the police responsible

for controlling the port have forbidden asylum seekers access to the ferries, saying that they are following orders from government representatives in Ceuta.

This decision has led the CEAR to lodge a series of complaints. The police have reacted by presenting written resolutions justifying checks on foreigners travelling to the mainland on the basis of applying the Schengen agreements. More worrying is the unofficial response of the authorities, who claim that letting asylum seekers onto ferries would act as a “red rag” to migrants still in Morocco: the high number of positive asylum claims in Ceuta following the adoption of the new law would cause a rise in the number of irregular entries. It is a practice which shows how positive modifications in the reform of asylum laws have been applied perversely by the authorities.

Furthermore, a group of 83 asylum seekers possessing a residence permit for the whole of Spain⁷ was refused passage to the mainland without any convincing explanation on the part of the government. It is another example of the failure to respect the new asylum law in Ceuta.

One of the recent tragic consequences of this policy was the death, on 3 May 2010, of Abdoulaye Kone, an asylum seeker denied access to the mainland despite the fact that he possessed a residence permit. He was crushed to death after he fell from a lorry he had hidden in to leave Ceuta. The accident took place on the A-7 motorway, near Manilva in Malaga. He was twenty years old and came from the Ivory Coast, which he had left to flee the war which had killed his mother and led to his forced recruitment in an armed group. Kone had requested asylum in October 2009 and had been living in the CETI ever since. He had filed a complaint about violations of his freedom of movement.

7. foreseen by article 13.2 of the asylum regulation.

The Moroccan portadoras of Tetouan. *I've been working on the border for 17 years. I get up at 3.30 in the morning; I prepare breakfast for the children and leave home at 4. I take the bus to Castiokuo and a taxi to the border. I start at 7 when the border opens, and work until it closes at 1 p.m. When I have difficulty breathing, I let other people into the passage. Before, the police treated us well but now it is more dangerous. I sell food. When I am ill, I don't go to the border. Otherwise I go three times a week. I can earn between 300 and 1000 dirham a day, but the Moroccan police sometimes takes my goods off me and I have to go back home to Tetouan empty-handed. Habduj.*

Ceuta is a free zone which has border, economic and professional relations with its Moroccan neighbour. Every day, nearly 20,000 people of Moroccan nationality enter the town to work and earn their livelihood transporting goods. Under an agreement signed by Spain and Morocco, these people can only stay in Ceuta by day and must return to Morocco before midnight. Many of them are porters, also called “mujeres mulas” (mule women): mostly women, they bring goods bought in Ceuta's industrial zone of Tarajal into Morocco, via the Biutz crossing, which is set aside for this trade. The aim of these women is to cross the border as many times as possible per day to earn as much money as possible. But it is a profession that can easily become a struggle for survival. The Moroccan police are very corrupt, and the conditions at the crossing (heat, dense crowds) have proved fatal for numerous women. On 25 May 2009, two women aged fifty-three and thirty-two died and eight were injured and hospitalised after being crushed by crowds at the Biutz crossing.

Before, when my husband was working, I stayed home. Since he lost his job, I have been looking for work at the border. I've managed to get through four times. I'm afraid and don't want to work at the border. I would like to work as a cleaner. Faridan.

Amina, Habduj's mother, told us about the death of one woman, a colleague of hers. The Moroccan police had beaten her and taken her goods because she had mixed new and second-hand products. The police abandoned her at a taxi stop to avoid accusations of beating her at the border. She died a week later in Tetouan hospital.

Deportations and expulsions

The Spanish government uses two different techniques to get migrants to leave Ceuta, depending on whether they are leaving for Morocco or the Spanish mainland.

Deportations to Morocco

Expulsions to Morocco target all migrants arrested in Moroccan waters and in the border area. They take place without any control or respect for human rights. Numerous migrants' stories testify to violations of these rights, both by Moroccan and Spanish security forces. Confronted by these defenceless people, the authorities use military methods as if they were dealing with an army. We have already mentioned the deaths at the border in 2005 and the deportations into the desert in recent years. Even today, however, despite the small number of migrants coming to Ceuta, bloody events continue to happen, leading to numerous deaths. A migrant of sub-Saharan origin, D.P., testifies to the manner in which a Senegalese companion died alongside two others while they were trying to swim to the coast of Ceuta. The deaths were caused by the *Guardia civil*, with the Moroccan police looking on. The men died in September 2008.

Towards two o'clock in the morning on the night of 25-26 September, a group of four people (a man from the Ivory Coast, a man and a woman from Cameroon and a man from Senegal) tried to swim across. Having avoided the Moroccan police, they went into the water to cross from Ben Younes beach to the beach at Ceuta. When they reached Ceuta beach, a Guardia civil boat intercepted them and handcuffed the men from the Ivory Coast and Senegal. The boat set off towards the Moroccan coast and, a hundred metres offshore, the four migrants were pushed into the water. One member of the Guardia civil pierced one man's life jacket. The Senegalese shouted that he didn't know how to swim. Thinking it was a joke, the Guardia civil

did nothing until, as he tried to get out of the water a second time, one of the guards realised he was telling the truth and tried to get him out of the water and reanimate him. But it was too late.

The government delegation at Ceuta confirmed his death on 26 September in a brief press statement. Lacking any form of identification, he was buried at Santa Catalina in an unmarked grave. According to the 30 September edition of the newspaper "The Ceuta Lighthouse" people living in Benzú, spotted a Guardia Civil boat going into Moroccan waters to intercept four swimmers trying to come into Ceuta irregularly. For an hour, while the life of the Senegalese man was still in the balance, ambulances were unable to reach the injured man via the Benzú check point.

In January 2009, the United Nations Committee against torture accepted a request concerning the death of the Senegalese migrant Lauding Sonko, who died as he tried to swim to Ceuta with three sub-Saharan migrants. The case, opened by the family, was turned down by the *Audiencia provincial* (regional court) of Cadiz at Ceuta. The Committee against torture demanded the opening of an inquiry into the role of the government and particularly the government delegation at Ceuta, and an examination of their responsibility in the case. Its demand states that, before his death, Sonko was in a craft belonging to the *Guardia civil*. Sonko's family accuses the three *Guardia civil* officers of failure to assist a person in danger.

Arrests and expulsions to the mainland

When migrants reach Ceuta, they are either placed in the CETI, or held in the town, awaiting transfer to a detention centre on the mainland prior to being expelled.

The living conditions in the CETI are inhuman. In general, expulsions take place at night so that migrants are taken by surprise and unable to flee, with policemen coming

into bedrooms to arrest detainees. Generally, they are collected into groups of twenty to thirty people. A second technique used by the police involves them patrolling around the CETI and systematically checking the identity of passers-by in order to complete the groups selected for expulsion. At the moment, the Nigerian community is the most affected by expulsions because of an agreement signed recently by Spain and Nigeria. Under the agreement, Spain buys gas and oil from Nigeria, which agrees in return to readmit its nationals. On 30 July 2009, for example, the police arrested thirty-two Nigerians in the CETI, three of them women, before expelling them to the administrative detention centre in Malaga. Again, on 9 December, the police arrested nine Nigerians in the CETI, including five pregnant women, before expelling them. Six Nigerians who were going to be expelled as part of the same operation managed to escape into the forest. One of them suffered a broken leg.

Once arrested, the migrants are taken to the police station, where the police can keep them a maximum of 72 hours. During this period, a magistrate can decide to send them to an administrative detention centre on the mainland. The aim of their stay in this centre is for the embassy of their respective countries to be contacted to clear the way for their expulsion. The new law on the status of foreigners has increased holding times from forty to sixty days. If they are not expelled at the end of this holding, they are set free, without any documentation, thereby remaining entirely irregular.

Living in the forest to avoid being taken

When I reached Ceuta, I thought that the nightmare was finished. Unfortunately, I realised that it would be no better. I began my stay at the CETI in April 2008. The president of the Hindu community at Ceuta, Ramesh Chandarmani, talked to the government delegation of Ceuta and told us that we were going to be

sent back to India. Because we didn't want to go back to our country after suffering so much, spending so much time and money, on 7 April all the Indians living in the centre decided to leave it to try to run away. Today, we have been living for ten months in Ceuta forest in the harshest possible conditions: cold, winter rains, wind, lack of water, food and medicine and the constant fear of expulsion.

To make things worse, the Guardia civil has several times forbidden us to light fires to warm ourselves up and heat up food. To survive, we work where we can: parking cars, helping people with their shopping. Twice, the police stopped me and I didn't have my ID with me. Both times I was sent to prison for the night. Since my arrival at Ceuta, they have expelled a group of forty-eight people and another of thirteen. Both times, before the expulsion, the Indian ambassador came to talk to us. We could be expelled at any time. Two of us have been hospitalised with depression. After such a long wait (twenty months) made anxious by the fact that I don't know what is going to happen, plus the eighteen months of travel that have left bitter memories, staying here means suffering every day. I can no longer live with this insecurity, this anxiety which prevents me from sleeping. I have suffered different tortures during my journey, but at Ceuta too. G.S., statement made in 2009. He continues to live in the forest, awaiting an answer.

In this way, migrants see their hopes of freedom disappear and waste their lives without any means of improving their situation, either professionally or economically, or in terms of their legal situation or their personal safety. In Ceuta, the survival of migrants depends above all on charity and the holding centre. The law serves only to gain time while preparing their expulsion.

The psychological torture migrants suffer and the stress of not knowing when they will be expelled has a grave effect on their physical and mental health. In desperation, some

try to get out of the town, hidden under cars crossing to the mainland on ferries. Many die in the process.

Surviving without resources

Whereas in other Spanish towns migrants can find, via organizations or government and non-government institutions a possibility of defending their rights or getting assistance, in Ceuta the number of organizations is very limited. Moreover, the law limits the resources they would otherwise be able to access themselves.

Opportunities in the CETI and their limits

The CETI offers a series of resources: the Red Cross is responsible for legal and health assistance, while the CEAR, aided by a lawyer, offers legal assistance for refugees and asylum seekers. There are also Spanish lessons and vocational training.

Other organizations are also involved. The Association Cardijn, linked to the Church, offers Spanish and computer lessons. The Association Elín, as well as offering legal and educational support, advocates for the rights of migrants, in particular women and minors, via a network of organizations such as *Accorema*, of the Ceuta Evangelical Church and other NGOs in Spain and Europe. From time to time, members of the Ceuta Hindu Temple, the San Antonio Centre for Trans-border Minors and the Centre for Unaccompanied Minors of the Mediterranean Region, linked to the municipality, give support.

But the fact that migrants are unable to regularise their situation by registering with the local authorities prevents them from becoming citizens in the real sense of the word.

Given the circumstances, they resort to a range of strategies to help them survive what is a deeply frustrating and distressing situation. It is very important for them to establish relations with people from their own countries, via the creation of small mutual help communities. One vital aspect of getting by is being able to communicate with their families to receive a little money but also psychological and emotional support. In Ceuta, migrants offer their services by helping people with their shopping and parking their cars. Very few of them work in shops or cafes, however.

Resistance of Ceuta's Indians and the development of solidarity

The style of resistance adopted by Ceuta's Indians is particularly relevant, given the nature of Ceuta society and its public opinion. As we have already said, out of 72 Indians who fled the centre in April 2008 to avoid deportation, only 54 were left in 2009.

These Indians have tried to make their plight more visible. They have asked the citizens of Ceuta to support their demands via a petition (they themselves collected 5,000 signatures), and have extended the campaign throughout the country with the help of the organization Elín, which collected 8,000 signatures. The petition was presented in March 2009 to the Ministry of the Interior. The Indians are not the only ones who have begun to mobilise. On 15 September 2009, two hundred migrants gathered in the town centre to demand a solution to their situation.

These initiatives have had a decisive effect on the relations between migrants and the citizens of Ceuta. The latter have stopped seeing migrants as a threat and have begun to support them. This struggle has had significant repercussions outside Ceuta too. Volunteers from around Spain and Europe have mobilised, setting up a solidarity camp

“me at yours, you at mine” in support of the rights of migrants in Ceuta, and demanding that they be transferred to the mainland.

Finally, many journalists and organizations have visited Ceuta to learn about the situation there. Reports in the Indian press have led Indian politicians to demand a response from the Spanish government.

SOS Racismo, APDHA, CEAR,
Andalucía Acoge, ACSUR-Las Segovias



**Migrant in the detention centre of Nouadhibou
(photo: Gwenaelle de Jacquelot)**

"Arresting people willing to migrate has no legal basis. [...] The mere intent is an offence. [...] A man was arrested because he was wearing a Barcelona soccer team's jersey!", explains a member of Amnesty International on a mission in Mauritania. That's how, far away from the European Union, zealous local officers willing to please EU member states end up detaining people found guilty of thoughts of traveling, even in dreams. Nouadhibou detention centre, known under the nickname of *Guantanamo*, opened in April 2006 in a former school that the Spanish had rehabilitated. Classrooms have been turned into prison cells: is this the "co-development" model promoted by that Union? Living conditions are appalling, as in so many detention centres for aliens around the world; with no detention or subsequent expulsion falling under any identifiable legal text".

Sahel-Saharan countries, Europe's new sentries

In order to fight against irregular immigration from sub-Saharan Africa -even though it is numerically insignificant on the scale of the two continents- Europe has engaged African countries that look onto the Mediterranean and, more recently, Sahel countries, to control or relentlessly stem the migration movements in the Sahara, often in contempt of basic human rights.

Since the resumption of the so-called "5+5" dialogue in Lisbon between representatives of countries on the Mediterranean's southern (Morocco, Tunisia, Algeria, Libya, with the addition of Mauritania) and northern shores (Spain, France, Italy, Malta, with the addition of Portugal), the "concerted" management of migration flows between Africa and Europe is dominated by the present Europeans security approach.

This translates, in particular, into the requirement that controls be strengthened further away in a southwards direction, and by the willingness to strike readmission agreements with most African countries. This type of externalization on the southern front of the European Union (EU) also aims to contain migrations arriving from the Middle East or Asia.

This intention to "reinforce and make the fight against irregular migrations more effective in countries of origin and transit countries", announced during the ministerial conference on migration in the western Mediterranean (Tunis, October 2002), that has been regularly reiterated since, has entailed the official and de facto hardening of north

African countries' migration policies, within which detention and removals are the daily lot reserved to migrants.

Attention was initially paid to Africa's Mediterranean and Atlantic coasts. At the time, the first large migration control programmes were established, in particular through the setting up of the "SIVE" electronic surveillance system for Spain's southern coasts since 1998, then through the creation of the Frontex agency to manage organizational cooperation by EU member states at the external borders in 2004. But this focus progressively shifted further south, towards Saharan spaces.

The Nigerien-Libyan border, just like the Malian borders with Mauritania and Algeria, have thus, step by step, become priority areas for the fight against "irregular immigration" coming from Africa towards the European Union.

I – European interference in inter-African migrations – the case of Mauritania

Following the sadly famous events in Ceuta and Melilla in October 2005¹, the strengthening of border surveillance has led migrants to adapt their routes. New migration routes towards Europe appeared, and the city of Nouadhibou in Mauritania became a privileged departure point in order to reach the Canary islands. Then, over a few months, the European Union (EU) and Spain enacted a combination of measures to prevent departures using dug-out wooden fishing boats. Four years later, their consequence was an actual decrease in arrivals on the Spanish islands, at the price of thousands of arrests and detentions which did not have any legal basis and of collective removals at borders, whose execution -under European pressure and with European funding- is a task entrusted to the southern countries.

This section was drawn up thanks to the information collected during a mission carried out in February 2010 in the Mali-Mauritania border area by the Association malienne des expulsés (AME, a Malian association of expelled people), the Association mauritanienne des droits de l'homme (AMDH, a Mauritanian association for human rights) and Alternatives espaces citoyens (an association in Niger for alternative spaces and citizenship), with support from La Cimade. It also relies on information from APDHA (Asociación pro derechos humanos de Andalucía, an Andalusian association for human rights) and from AME contained in the 2009 report « Une autre frontière de non-droit : Mali-Mauritanie » (“Another border with no law: Mali-Mauritania”).

The “crisis of the cayucos”

Since the end of 2005, the press carried reports of shipwrecks and of people who drowned, who increased the list of *the unnamed and uncounted*². This extensive media coverage could have been an opportunity to focus on the real causes for these deaths a few months after the dramatic events in Ceuta and Melilla³, but it primarily served as an alibi for Spain and the EU to impose measures upon Mauritania to “assist” it in controlling its sea borders and in repatriating migrants, and serial repatriations followed at a frantic pace just a few months later.

1. Cooperation instigated by Europe

Returning, intercepting and displacing Europe's borders

Very quickly, the Spanish government organized the return to Mauritania of migrants who had reached the Canary islands by relying on a bilateral agreement from 2003⁴ that contained a clause for the readmission of nationals and non-nationals who were in an irregular situation in Spain, in cases in which it was “assumed” that they had travelled through Mauritania.

“Blocking” migrants: the example of the Marine I. *In January 2006, the ship Marine 1, carrying 369 people, was intercepted by the Spanish law enforcement forces in the high sea off the Canary islands, and was escorted close to the Mauritanian coast. Following a diplomatic conflict, the passengers, who had stayed on board for nearly 15 days, disembarked in Mauritania and were detained in a hangar for storing fish under the control of Spanish law enforcement forces. 25*

2. *Ibid.*

3. Migreurop, *Atlas des migrants en Europe*, « Morts aux frontières : les routes changent mais les drames subsistent », p.116.

4. Madrid, 01/07 2003. www.lexureditorial.com/boe/0308/15555.htm

1. Migreurop, *Guerre aux migrants, le livre noir de Ceuta et Melilla*, Syllepse, 2007.

people, including some asylum seekers, were transferred to the Canary islands before they were sent back to their home countries, as their applications were deemed inadmissible by Spain. Others were transferred to Cape Verde, then to Guinea, or they were returned to their countries after several weeks' detention. In this way, 23 people were sent back after more than three months' detention, and six were transferred to Melilla as a result of their psychological condition that was connected to their detention⁵.

In March 2006 in Nouadhibou, outside of any legal basis, a former school was converted into a detention centre with the participation of the Spanish army. Managed by the Mauritanian Red Crescent with support from the Spanish Red Cross, its goal was officially that of "receiving" migrants who were intercepted or sent away from Spain, while they awaited their return towards the borders of Senegal or Mali.

In May, Spain announced that it wished to enact "a global policy for sub-Saharan Africa that is ambitious and at the same time realistic and concrete"⁶. It launched a three-year "Plan Africa" that was later renewed, whose wide-ranging⁷ measures primarily aimed to promote the reaching of readmission agreements and the strengthening of cooperation in policing.

In June, some African and European leaders met in Dakar in order to prepare an action plan "against illegal immigration" in preparation for the first Euro-African "migration and development" ministerial conference⁸. Undoubtedly for the purpose of allowing a better acceptance of a series of securitarian

measures, the plan also envisaged improving economic cooperation and the development of trade in countries of origin.

In July, the measures announced since the month of March after the visit of a Spanish delegation to Mauritania were implemented. The Frontex agency deployed some ships for rapid intervention as well as joint sea and air patrols for border surveillance. Operation Hera, envisaged to last for a few months (July to October 2006), was renewed (Hera II, from August to December 2006, and Hera III, from February to April 2007), and was later institutionalized (Hera 2007, 2008, 2009 and 2010). These operations, which were allocated a considerable budget⁹ as well as quasi-military means (planes, helicopters, boats, radars), enabled the collection of information about travel routes, the identification of migrants, the surveillance of coasts and their return. Over two million euros were also released by the EU within the framework of the "rapid intervention mechanism" for the purpose of funding, among other activities, the operation of the boats made available by Spain and Mauritania and the coast surveillance patrols, equipment, training, detention and the return of migrants towards their home countries¹⁰.

This mechanism for the containment of migrants on the African continent continued later, while migration issues had become one of the unavoidable elements of European cooperation with west African countries including Mauritania and Mali.

Sealing west African borders

The documents on EU cooperation with Mauritania concerning the awarding of European development funds (EDFs) speak volu-

5. APDHA, *Report on the southern borders*, 2007, CEAR, *Report on the situation of refugees*, 2008.

6. Plan Africa, <http://www.maec.es/SiteCollectionDocuments/Home/planafrica.pdf>

7. Increase in fishing, cooperation in the field of security and border controls, development aid, promotion of private investment in the energy and fishing sectors.

8. Euro-African ministerial conference on migration and development, 10-11/07/2006, Rabat.

9. Hera II (127 days): 3.5 million euros; Hera III (60 days): 2.7 millions; Hera 2007: 5.4 millions. <http://frontex.europa.eu>

10. Mauritania: new measures to fight illegal emigration towards the EU, Brussels, IP/06/967, 10/07/2006.



The Nouakchott traditional fishing port (photo: Gwenaëlle de Jacquélet)

mes. Migration, which had not featured until 2006, have become a key element.

Thus, within the framework of the 10th EDF (2008-2012), eight million euros have been allocated for “qualitative improvement of the work undertaken at border posts, support for the services entrusted with surveillance of the territory, the training of services responsible for managing migrations, raising awareness about the dangers of irregular immigration, the review of the legal framework and penal procedure, reflection concerning the regularization of migrants and the development of a regional partnership for the positive management of flows¹¹”.

Mauritania's capability to “manage migration flows” has now become an indicator of its “governance profile” at the same level as respect for human rights, the rule of law or economic policies. Hence, the Mauritanian government has committed to “drawing up

11. Mauritania-European Community, *Country strategy paper and national indicative programme for the 2008-2013 period*.

and implementing a global strategy for the management of migration flows” that, in particular, envisages the punishment of illegal networks, the strengthening of border controls and the adaptation of legislative and regulatory procedures¹².

The integration of these issues into the fields covered by European development aid is undoubtedly not a result of Mauritania's interests, as the largest part of these funds were only meant for security aspects and for adapting national legislation, even though this country has always been on the receiving end of considerable immigration.

Nonetheless, this cooperation enables the EU to keep migrants further away from European borders. Thus, in its 2009 report, Frontex notes that Operation Hera is “the most successful” one undertaken by the agency, due to the “close cooperation with west African countries” and particularly as a result of the arrests carried out at departure points, without it being disturbed by the conditions

12. Mauritania-European Community, *ibid*.

in which they occur or about their consequences.

These measures, which are portrayed as seeking to “save lives”, are in fact a long way away from protecting migrants. They have mainly enabled the removal of the violence that they endure from our view and to leave responsibility for their repression to the southern states.

2. Mauritania tramples on its own principles and conforms

In order to satisfy the external requirement to reduce “migratory pressure”, Mauritania arrests, detains and arbitrarily returns back people suspected of wishing to “illegally” migrate to Europe.

However, apart from immigration in transit through Mauritania, the history of this scantily populated country¹³ is deeply linked to that of immigration because, since its independence, it has received a substantial foreign workforce to fill jobs that were left vacant by its nationals, such as in construction and fishing¹⁴.

A legal framework that, a priori, favours free regional movement

Although Mauritania withdrew from ECOWAS in 1999, it kept legislation that complied with its tradition of receiving migrants and its need for foreign labour, as well as privileged ties with neighbouring countries. Thus, a 1963 bilateral convention with Mali governed the movement of their nationals between the two countries.

In general terms, the stance of legislative texts that regulate the entry and residence of

foreigners that date back to the 1960s favours the movement and settlement of foreigners. Mirroring the convention with Mali, numerous west African nationals could enter and travel around Mauritania with a simple identity card. Formalities concerning residence in the country were basic¹⁵ and remained scarcely applied. Likewise, not having a work permit was not deemed illegal¹⁶.

Violations of legislation on foreigners, at Europe’s service

Stops without a legal basis

Although Mauritanian legislation envisages penal sanctions in cases involving a foreigner’s irregular entry or residence, and prison terms of up to six months¹⁷, the reasons for migrants currently being stopped are not based on these texts.

The people arrested by Mauritanian security forces have been sent back by Spain or by Morocco, intercepted at sea, or even suspected of seeking to leave Mauritanian territory to head towards Europe. On the basis of this last reason, operations to check identity based on physical traits and of collective arrests that target sub-Saharan people are organized in dormitory-homes and in the port, where many foreigners work.

However, leaving or seeking to leave the territory irregularly towards Europe is neither a crime, nor even an offence. Foreigners who enjoy a special regime that is governed by a bilateral settlement convention “may freely leave the territory” and ordinary foreigners “must have their identity card stamped by the administrative authority of the place they

13. A population of three million in 2007.

14. A. Choplin, « L’immigré, le migrant, l’autochtone : circulation migratoire et figure de l’étranger en Mauritanie », *Politique africaine*, n°. 109, p.73-90.

15. Decree no. 64-169 of 15/12/1964 on the immigration regime.

16. OIM, *Migration en Mauritanie, profil migratoire 2009*, p. 48.

17. Law no. 65,046 of 23/02/1965 on penal measures concerning the immigration regime.

leave from¹⁸". No sanction is envisaged for cases in which this formality is not complied with. In 2008, Amnesty International was the first international organization that criticized the illegal nature of these checks, detentions and removals of migrants, and their connection with the pressure exercised by the EU on the Mauritanian government¹⁹.

In fact, this reason that is beyond debate is clearly recognized by both the EU -as Frontex expresses its satisfaction²⁰ for the decrease in departures from Mauritania due to arrests prior to departure- and Mauritanian authorities, which record it in their communication concerning the turning back of foreigners²¹:

– *Nouadhibou, on 29/09/09* [list of 19 people]: “intercepted following an attempt to undertake an illegal journey to Europe”;

– *Nouadhibou, on 07/08/06* [list of 21 people]: “intercepted in Thiarka during an illegal immigration attempt”.

Detention without a legal basis

At first, the detention of migrants takes place in police stations in Nouadhibou, where they are subjected to questioning to identify them, without legal assistance or help from an interpreter. No administrative procedure is enacted and they do not have any possibility to exercise a right of appeal. Only refugees recognized by the High Commissioner for Human Rights (UNHCR) in Mauritania can sometimes be freed, when the agency is informed of their arrest.

Most of them are subsequently transferred to the Nouadhibou detention centre that was set up with assistance from Spain (see above). There is no text to regulate its operation or even its existence, and this centre does not even appear to have an official name: it is referred to as a “reception centre for illegal immigrants” by the Mauritanian authorities, a “holding centre” or “detention centre” by Spain, “Red Cross centre” by the migrants, and it has also been nick-named “*Guantanamo*”²².

3. Subcontracting repression and endangering foreigners

This repression gives rise to situations that are as tragic as they are absurd, and they reveal the lack of consideration that governments have for these people, who merely seem to be reduced to the status of “illegals”. The arrests in Nouadhibou lead to situations that are frightful; in just a few hours, a life can effectively collapse. In the name of the protection of European borders, because they are foreigners in a city that is accused of being a “revolving door for illegal immigration” and in which procedures for stopping presumed migrants are not based on any law, they become things that are moved, taken away, and whose existence can be ruined.

Multiplying arrests for financial opportunism

The measures adopted by the EU and Mauritania in 2006 and 2007 contributed to dissuading migrants from embarking in Nouadhibou on their way to Europe. While 31,678 people were detained in the Canary islands in 2006, they were no more than

18. Decree 64-169 of 15 December 1964 on the immigration regime.

19. Amnesty international, *Mauritanie, personne ne veut de nous*, 01/07/2008.

20. Frontex, *General report 2009*, p.43. www.frontex.europa.eu

21. Communication by the Regional Director for Security of Nouadhibou to the Director General for National Security. We were able to consult these documents, a copy of which is handed to Malian authorities when returned people arrive, in Gogui in February 2010.

22. Lit. “little Guantanamo” [translator’s note], Amnesty International, *op cit*, p. 23.

9,181 in 2008 and 2,246 in 2009, according to the Spanish interior ministry²³.

Although it is difficult to obtain figures concerning arrests and detentions in the centre in Nouadhibou, it appears that their decrease is far from being as spectacular. In 2008, unpublished sources claim that between 3,700 and 4,400 people were detained, that is, between 300 and 360 people per month. According to the figures that are very seldom published by the Spanish Red Cross, between October 2006 and June 2008, 6,745 people passed through the centre²⁴, equivalent to 337 people per month. Hence, the monthly average of the number of people detained from late 2006 until 2008 appeared to have stayed relatively stable, even though arrivals in the Canary islands had fallen by 70%.

A majority of the people who are arrested at present are arrested on Mauritanian territory. These arrests, which are based on mere suspicion, increasingly entail excesses such as charges, the stigmatization of the black foreign population and arrests of people who are settled and have worked in Nouadhibou for some years already.

Following the example of other countries such as Morocco, Mauritania must show that it fights “illegal” immigration effectively in order to continue receiving credits from the EU. Moreover, as a result of the fact that lucrative local activities have developed around the “market” of the repression of migrants (that run from job creation through to the corruption of police officers), associations and migrants believe that, in practice, a policy of figures that seeks to prove to the Spanish that the detention centre is productive has been introduced. Hence, particularly since 2009, they report a multipli-

cation of arrests that are sometimes entirely unfounded, and every foreigner has become a potential “illegal migrant” who is liable to be stopped: “They [Mauritanian police officers] caught me twice in my room to send me to Mali. Whereas in fact, I was not an illegal, I worked. I worked as a cook²⁵”.

Detention conditions that undermine rights

During their arrest and/or detention, some migrants are victims of humiliating treatment and violence, and they are sometimes stripped of all their belongings²⁶. They speak of the difficulties of having access to medical care and staff in the centre. There is almost no possibility of applying for asylum, even though after a few months an operational partner of UNHCR, whose role was to identify asylum seekers and refugees, was granted authorization to visit the centre.

“When I was arrested by the Mauritanian police officers in Nouadhibou, I was handcuffed like a criminal, I was taken to the police station’s prison and to the centre of the Red Cross. I stayed there for two days, and I was expelled on the third day. [...] In the centre, one can only leave to piss and you can only go to do it with a police officer, you piss and then you return. [...] Down there, the Mauritanian police officers, they beat people to death²⁷”.

“In the detention centre, the Mauritanian police mistreated us. You had to pay for everything, even to go to piss²⁸”.

In the absence of regulations, the length of detention is variable and unlimited. Accord-

23. Interior ministry, *Results of the fight against illegal immigration, 2008*. www.mir.es/DGRIS/Balances/Balance_2008/pdf/bal_lucha_inmigracion_ilegal_2008.pdf

24. Le monde diplomatique, «Une ‘Guantanamo’ en Mauritanie», Zoé Lamazou, October 2008.

25. Testimony by C. collected in February 2010 in Gogui (Mali). AME-AMDH-AEC mission.

26. Amnesty International, *op cit*.

27. Testimony by T. collected in February 2010 in Gogui (Mali). AME-AMDH-AEC mission.

28. Testimonies by Amadou and Moussa, refouled to Mali from Mauritania, in APDHA-AME, *Une autre frontière de non-droit : Mali-Mauritanie*, p.59.



Detention centre surrounding wall, Nouadhibou, Mauritania
(photo: Gwenaëlle de Jacquelot)

ding to the Red Cross, it varies between three hours and 15 days depending on the number of migrants who are detained and on the possibility of “filling up” the minibus that will take them to the border.

In a report sent to the Spanish and Mauritanian authorities in 2008²⁹, the Comisión Española de Ayuda al Refugiado (CEAR, Spanish Commission for Assistance to Refugees) deemed that Mauritania should “proceed to close it immediately” and that “the Spanish government and the European Union [...] should also immediately suspend cooperation in migration matters for any operation that leads to migrants’ detention in Mauritania in the conditions that we have described”.

In January 2009, the Association mauritanienne des droits de l’homme (AMDH) complained about the persistence of this repressive

policy in spite of ceaseless recommendations in these words:

“This centre that the authorities refer to as of “reception” resembles a real prison because migrants are locked in closed cells there, on bunk beds, with up to 30 people in them, without adequate ventilation nor daylight entering. They cannot leave. Those who wish to go to the toilet must wait for several hours and sometimes have to relieve themselves in buckets that are placed inside. The police officers who provide surveillance often refuse to open the doors for them using the pretext of the risk of people escaping. The centre is not subject to any regulation that sets the length of detention, the reasons for removal and the possibility for NGOs to have access to them³⁰”.

29. CEAR, *Evaluation report on the Nouadhibou detention centre for migrants (Mauritania)*, December 2008.

30. AMDH statement for a “right of access” to the Nouadhibou-Mauritania detention centre, 31/01/2009.

Serial collective refoulements

In spite of the bilateral free movement agreements signed with neighbouring countries, without any readmission agreements, without notification of removal measures and in degrading conditions, hundreds of migrants are turned back every year by Mauritania towards Mali or Senegal. The decision to send someone to either of these countries is taken in the detention centre, based on their nationality and, at times, their choice. They are then loaded into a minibus that can hold up to 22 people, and they travel up to Nouakchott, where other arrested migrants sometimes join the convoy. According to the Mauritanian Directorate for Territorial Surveillance, 4,499 migrants were deported in 2006 and 4,148 were sent back in 2007.

Some had been returned previously from Morocco and Spain, with over 11,000 people sent back to Mauritania in this way in 2006, 6,634 in 2007 and 740 in the first two months of 2008, according to interior ministry data reported by the International Organization for Migration (IOM)³¹.

The widespread violence, fear and displacement³² that these serial refoulements lead to often punctuate the migration journey. Some people have been intercepted at sea or returned by the Spanish from the Canary islands to Mauritania after a testing crossing that lasted several days, during which other passengers have often died:

“We went a bit far. There were some who were ill, there were even some who died in the cayuco [wooden dug-out fishing boat]. We have not brought the bodies with us. When they died, we put them in the water³³”.

31. IOM, *Migration in Mauritania, migration profile, 2009*. p. 49.

32. Migreurop, «Errances aux frontières internes et externes de l'Europe», *Atlas des migrants en Europe*, p. 102.

33. C., testimony collected by AME and AMDH in Niour du Sahel, Mali, February 2010.

Others were deported by Morocco to a desert no man's land that is 55 km away from Nouadhibou and is nick-named “*Kandabar*” because of the mines that there are following the Western Sahara conflict. Since 2005, the NGO Médicos del Mundo España (MDM, Doctors of the World) has criticized the abandoning of groups of migrants in this area by the Moroccan authorities, and the death of two of them³⁴.

Towards Senegal: the “small refoulement”

Removals of people to Senegal take place in Rosso and generally happen quickly, as the city is only a few hundred kilometres away from Nouakchott on a high-quality major road.

As Senegal regularly refuses to readmit non-Senegalese nationals into its territory, the Mauritanian authorities often make migrants cross the border river at night, on makeshift canoes. On the other bank, the Senegalese Red Cross, funded by its Spanish counterpart, then takes charge of moving them on again by paying their bus ticket to Dakar or to the nearest large town to their home region. Removals to Senegal are supposedly more numerous than those to Mali due to their being easier to carry out for the Mauritanian authorities and the many migrants for whom this “small refoulement” will mean that they will be able to go back rather easily and quickly.

Deportation towards Mali: over 1,200 km to travel

The route towards the Malian border is far longer and more exhausting. 1,200 km. separate Nouadhibou from the border with Mali, a journey that lasts between two and

34. MDM, *MDM a repéré 16 migrants subsahariens abandonnés dans le désert entre le Sahara occidental et la Mauritanie*, 9/09/2008; MDM denuncia el abandono de 53 inmigrantes en el desierto entre Sahara Occidental y Mauritania, 29/08/2006. Point chaud on line, *34 migrants clandestins portés disparus*, 17/11/2009.

four days without many stops and with nourishment that the migrants deem insufficient. Controlled by the Mauritanian police, they undergo this trip in degrading conditions that have been detailed by many accounts³⁵.

“There were 84 of us in the detention centre. We were all removed by minibus. There were 18 people in each minibus. It took us three days. [...] I was expelled three times from Mauritania. When they [the police] remove us to Gogui, they hand us over to Malian police officers. We had to walk for 65 km. from Gogui to Nioro. The Malian police officers told us that they couldn't care less, that they do not have the money to transport us³⁶”.

When the migrants, who are sometimes handcuffed, arrive in the small border village of Gogui, they are accompanied to the border post. The Malian authorities then sign a “discharge” document that includes the number of migrants, their nationality, names, the reason for which they were stopped (“attempt to illegally migrate to Europe”), but also the balance of the money that is meant to cover the costs of the journey, which they are given by the Mauritanian authorities but whose source remains a mystery³⁷.

From the end of 2005 to January 2009, the Malian authorities in Cercle de Nioro³⁸ have recorded 4,215 returned people³⁹. According to the findings of the AME representative in Nioro, at times the police also removes people to small villages along the border, without passing through the border post in Gogui. This post, like sixteen others on Malian territory, was created in 2008

within the framework of projects funded by Spain to “fight illegal immigration, terrorism and organized crime”, in which France takes part for training purposes⁴⁰.

Rudimentary and inappropriate medical care

In spite of the ordeal that a deportation or a crossing of the Atlantic can present, during their detention in Nouadhibou migrants do not have adequate access to health care and, even less, to psychological support. In its report, CEAR notes that despite there being minimal care, the distribution of certain medicines and the possibility of the most serious cases being admitted into hospital, “insofar as the protection of health is concerned, detention conditions in the centre constitute a threat for the well-being of people subjected to return procedures⁴¹”.

Upon their arrival in Mali, returned people are often in worrying physical and psychological conditions. On 8 July 2009, two of them died when they arrived in Nioro du Sahel, having lacked the medical care they needed before or during their removal.

Responsibility for the medical care of returned migrants depends entirely on solidarity from local people and the commitment as citizens of three doctors from the hospital in Nioro, who note that no provisions are made at the level of the health care system, and that only the most serious cases in which the hospital is seized are taken into its charge. There are no systematic check-ups upon arrival, and nor is there a real emergency care system, in spite of some volunteers from the local Red Crescent in Gogui having received training⁴². The people who require care, but whose health condition does not appear to be

35. AME-APDHA, *Another border without rights: Mali-Mauritania*, 2009.

36. Testimony by Ousmane (returned in April 2009), collected in February 2010 in Gogui. AME-AMDH-AEC mission.

37. APDHA-AME, *op cit*.

38. “Cercle”: Administrative division of a region.

39. Interview with the Prefect of Nioro, AME-AMDH-AEC, February 2010.

40. Franco-Malian committee on migrations, 7th session, decision statement, 14-15/12/2006.

41. CEAR, *Evaluation report on the Nouadhibou detention centre for migrants*, December 2008, p. 18 and p. 28.

42. AME-APDHA, *Une autre... op.cit*.

serious, are not taken to hospital. Well, they also immediately hesitate to go there as they lack the means to pay for their check-up and medicines.

Solidarity as a response by the “returned”: the example of Mali

When they arrive in Mali, the returned are left to their own devices and can only rely on the solidarity of people like themselves, of the population and of local authorities that find themselves having to “manage” the reception of returned people, regardless of their will.

“When we arrive, they do not take us to Nioro, they leave us in Gogui. The Mauritanians, they say that they hand over some money, but in fact, the money that they hand over cannot get us to Nioro. When our group arrived, they handed over 8,000 Ouguiyas [around €22] for 37 people⁴³”.

The discharge papers signed by Malian authorities upon the arrival of returned people confirm this claim. For example, they state:

– *Discharge of 29/06/2006, 23 people, 1,500 Ouguiyas* [around €4]

– *Discharge of 03/10/2006, 25 people, 6,000 Ouguiyas* [around €17].

Goodwill and improvised means

From then on, solidarity is what enables migrants to leave Gogui. Local carriers will accept to drive them to the capital of the Cercle, Nioro, around sixty kilometres away, as long as they pay for the fuel costs. If they lack any support, some returned people sell what they have:

“Then we sold the covers and added a little bit of money to be able to reach Nioro. The

police asked the driver to take those who were returned⁴⁴”.

Since a few months ago, returned people are supposedly transported to the Nioro or the Kayes prefecture, thanks to a gendarmerie vehicle that was paid for by Spain or thanks to a local association, Human Help, that was set up in Gogui in August 2009. It was funded for a year by the Migration Information and Management Centre in Mali (CIGEM), a Mali-based institution that was started up in 2007 by the European Commission using European funding.

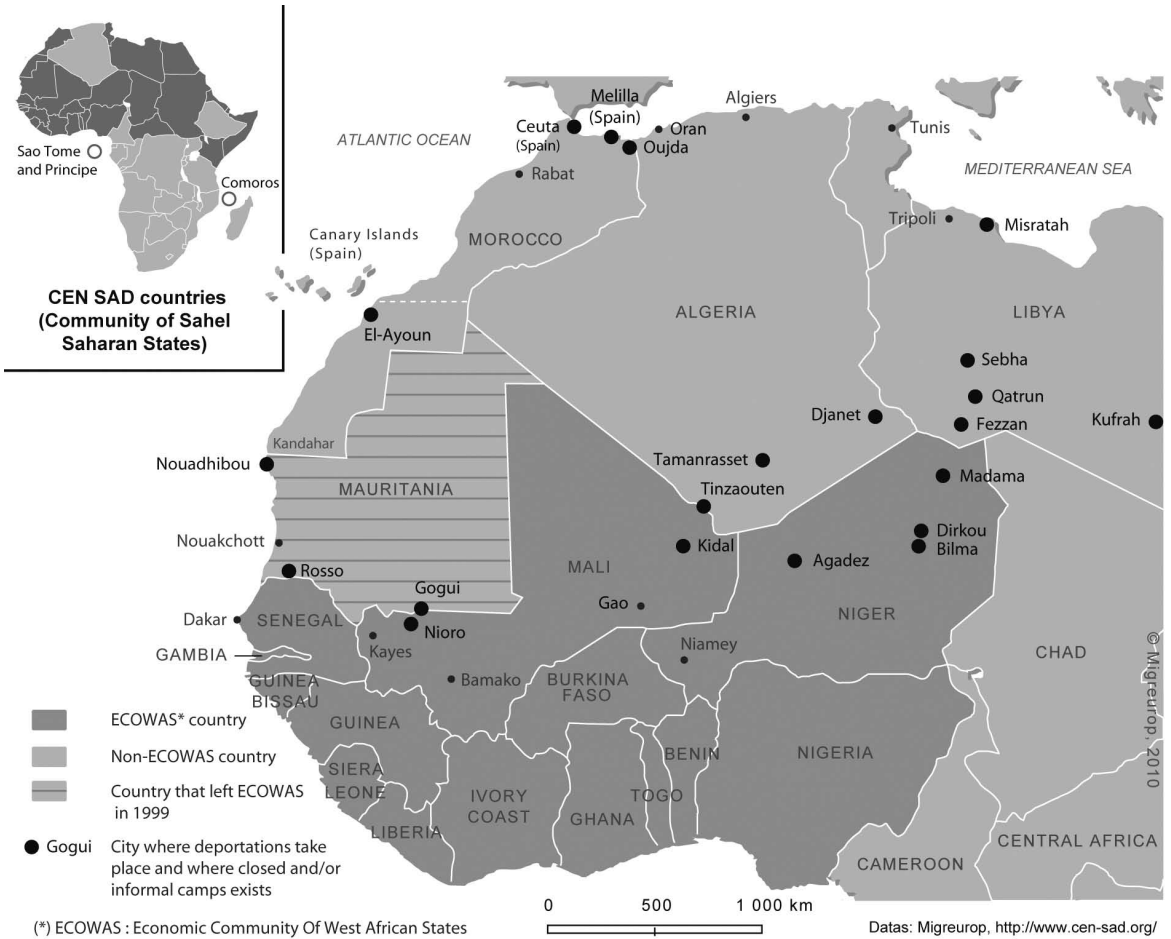
Local authorities and the population have been trying to organize since the first deportations in 2006, but the lack of means and political will at the national level mean that the few attempts that have been made to set up a reception mechanism amount to personal initiatives not to abandon these people. The first meals generally come from collections among families. Thanks to two tents that have been set up in Gogui by Human Help, the migrants are no longer forced to sleep in the open air while waiting to leave the border village.

In Nioro, after the most massive waves of returns, a camp was improvised in the prefecture’s administrative offices. While the building comprising two cramped rooms that were not fitted out for this purpose and lacked hygienic conditions is no longer used, the town council has not been able to provide alternative accommodation. Yet again, it was as a result of a personal initiative that made it possible to rent a small house for the last seven months that is managed by former returnees which serves as a site for initial reception.

Moreover, some returnees have formed associations, like the Association des rapatriés d’Europe résidents à Nioro du Sahel (Arenes, Association of Nioro du Sahel residents repatriated from Europe), which was officially created in June 2008, and which has

43. Testimony collected by AME, AMDH and AEC, Nioro du Sahel, February 2010.

44. *Ibid.*



Zones of “free circulation” for people, now increasingly controlled

set itself the goal of assisting and supporting initiatives for the benefit of returnees. An AME volunteer who is in Nioro also seeks to coordinate and plead with the different actors that are necessary to take minimal charge of the returnees. The arrival of a branch of the Malian Red Cross in January 2010 has raised a degree of hope at the local level, in spite of some scepticism about the activities it will undertake.

Relations between Sahel countries at risk

Despite the helplessness and feeling of abandonment felt by most of the people we spoke to -activists, migrants, the population or authorities-, and in spite of a general consensus that migrants should not be treated like criminals, the concern to maintain “good relations” with Mauritania is strongly felt. Only some returnees criticize the fate that they have suffered and sometimes sponta-

neously rebel upon arrival in Mali⁴⁵, but very few representatives of Malian authority dare to condemn the treatment of migrants by the neighbouring country. Many appear to be aware of the devastating effect that migration policies could have on relations between the two countries, unlike the EU and its member states. The complete lack of reaction from Malian authorities, both in terms of condemning the deportations and of taking charge of returned people, may also stem from this interest in keeping things as they are with Mauritania.

European policies enacted towards Mali and Mauritania since 2006 and the excesses that derive from them have several consequences for the rights of foreigners. They entail risks insofar as diplomatic relations between different countries are concerned throughout the region. In particular, one could consider the specific context of Mauritania, which comprises *black and Moorish* communities, and which still bears the marks of the internal conflict of 1989-1991 that pitted the two populations against each other⁴⁶. Now, by exerting pressure on this country to make it expel foreigners who are largely Senegalese and Malian, the EU seems to ignore the consequences that the stigmatization of black foreign populations may have on Mauritania's stability, and on that of the region.

In just a few months, through its interference, the EU has managed to disrupt the modes of movement and reception that these two countries have chosen and made official through a bilateral agreement⁴⁷, without wei-

ghing up the history and the need for this inter-African mobility for both the Malian people who find work and hence the means for survival in the neighbouring country, and for Mauritania, which has a real need for foreign labour. As a local official stated, "European countries' policies cause many wrongs to candidates for emigration and to our different countries"⁴⁸.

GdJ, A-SW

45. Interview with the Mayor of Gogui and his assistants, February 2010. See also, AME-APDHA, *Ibid.*

46. This conflict had led to the expulsion of tens of thousands of black Mauritanian citizens towards Senegal and Mali. Cf. C. Becker and A. Lericollais, « Le problème frontalier dans le conflit sénégal-mauritanien », *Politique africaine*, no. 35, 1989, pp. 149-155.

47. Convention on the settlement and movement of people between Mali and the Islamic Republic of Mauritania, 25/07/1963.

48. Interview with the Mayor of Nioro and his assistants, February 2010.

Tinzaouaten, the “city of madness”

A joint mission Migreurop and the Comité contre la faim et pour le développement (CCFD-Terre solidaire) took place in October 2009 in Tinzaouaten, a town on the Algerian-Malian border. It allowed us to shed light on this region about which little is known, which is one of the revolving doors for migrations in the Sahel region. There, the deportation of migrants are carried out in the absence of any formal readmission agreements. Thus, hundred of migrants are transferred every month from Algeria to Mali, in conditions that are too often inhuman and degrading.

Algeria: a new police for Europe

Located in a strategic geographical position, both for the departure of its own nationals (harragas) towards the European continent, and for the transit and settlement of sub-Saharan migrants, Algeria has been made, after Morocco, Turkey, etc., to play its role in the externalized control of borders as prescribed by the European Union (EU). The

adoption in 2007 of an immigration law that copies the French texts in this field, and which sanctions the round-ups and deportations that Algeria has been practising for several years, makes it easy to perceive its cooperation with the EU in terms of the “management” of migration flows.

As has already happened in neighbouring Morocco, for certain migrants, transit has grown longer in time up to the point where it has become a lengthier settlement, with the Algerian stage allowing them to save up some money for the purpose of continuing their migration route in Africa, or towards Europe. Thus, building sites in Algeria which require a workforce are brimming with underpaid sub-Saharan workers who are subjected to poor working conditions.

However, in collaboration with site managers, the authorities proceed to carry out arrests of migrant workers once the bulk of the work has finished, and this happens just before the date when, in theory, their wages will be paid. These round-ups take place in cities with a large concentration of foreigners like Algiers, Oran, Inshahla or Tamanrasset, but also around Djanet (on the Libyan border): to carry out



Rules of the Cameroonian ghetto in Tinzaouaten (photo: Sara Prestianni)



Desert no-man's-land of Tinzaouaten (photo: Sara Prestianni)

the round-ups, the police patrol the roads and enter homes or workplaces.

The spiral of deportation

These arrests automatically lead to police custody during which the migrants are brought before a court, without a lawyer and with interpreters (only for French and English). The ruling systematically results in detention, whether it is in a common law prison, cells that are reserved for migrants, or in some authentic detention camps for foreigners.

Migrants interviewed in Gao, Kidal and Tinzaouaten who had just been expelled from Algeria, criticize the detention conditions in Algerian camps. They tell of how they were forced to live in unhygienic cells, crammed within a few square metres, under-nourished (a piece of bread and a litre of milk for five people per day). Their account explains the veritable “spiral” in which they are caught once they are arrested: from detention to refoulement. Every ten or fifteen days, they are transferred to camps that are further south. Taken in lorries in groups of between 50 and 100 people from the respective places where they were arrested, they all converge towards the camp of Tamanrasset. This town, in the middle of the desert, is also a place of transit, of greater or lesser length, for migrants who have come from the south:

those who are not in the camp either live in the town or in hiding in some caves on the outskirts of town, sometimes in fear of the locals’ racism and especially of the possibility of experiencing problems with the police.

From Tamanrasset, Algerian police officers divide migrants up into groups of around one hundred people and organize convoys of “lorry prisons”, which cross southern Algeria, and then “unload” them in the no man’s land of Tinzaouaten (on the Algerian-Malian border). The testimonies describe very difficult travel conditions, with over ten hours spent crammed on top of each other without even being able to ask for the lorry to stop.

Tinzaouaten, the trap for migrants

Tinzaouaten is a border town that is divided in two: one part is Algerian, and has houses that are inhabited; the other part is Malian, and is desert, with many abandoned houses. After having undergone the process of detention and deportation, once they arrive in Tinzaouaten, the migrants are “left” in the Algerian part of the town, and they walk to the Malian side where the houses have been turned into “ghettos”.

There is a ghetto for every nationality: that of the Nigerians, who form a majority of the

population that is in transit in this region, those of the Senegalese, of the Liberians, of the Cameroonians and of people from Burkina Faso. The living conditions there are extremely hard. It is difficult to feed oneself or even to have access to medical care. The situation of women is particularly pitiful. At the time of our visit, 70 were living in the ghettos. Most of them were young Nigerians, around twenty of whom were pregnant and two had babies with them. The women are often an exchange currency to barter with the local military to obtain what some of them term the "tranquility of the ghetto".

Tinzaouaten is a genuine trap for migrants, who remain blocked in this buffer zone, around one hundred kilometres away from Tamanrasset to the north and Gao to the south. As a result of the Tuareg rebellion in this region, Tinzaouaten has been in the middle of a "curfew" area for a long time (particularly in 2008-2009): movement towards the north and the south was interrupted, and migrants remained blocked without being able to advance or to retreat. During a mission carried out in January 2008 in Kidal (Mali), people often employed the expression "city

of madness" when talking of Tinzaouaten, given the large number of migrants who, when they were trapped there, tended to go mad out of fear, rage and helplessness. This risk of becoming psychologically disturbed exists in circumstances in which migrants find themselves caught in a net, without being able to advance or to turn back.

Since September 2009, a Red Cross convoy sets migrants on their way towards the city of Gao (Mali), 700 km further south, in groups of 50. This has made it possible to partially unblock a situation of deadlock that had become unbearable. The priority mission is to evacuate vulnerable people -particularly women-, who will be received in Gao by the "Maison du migrant" (Home for migrants). There, they can rest before resuming their journey towards Niamey in Niger or Bamako in Mali.

As is highlighted in a brochure of the Comité contre la faim et pour le développement (CCFD, Committee against hunger and for development), "Gao, crossroad of migrations Crossroad of solidarity", while the Red Cross' activity allows the number of people blocked



Tinzaouaten : waiting for the Red Cross convoy to Gao (photo: Sara Prestianni)

in the desert no man's land of Tinzaouaten to diminish, it also appears to have some problematic effects: the risk of discrimination in the choice of priority groups for evacuation, abusive police controls of travellers during the transfer (particularly in Kidal), travel frequency that is disproportionate and not tailored to the Maison du migrant's reception capacity.

The purpose of this place that was officially created on 21 March 2009, is to "receive, listen to, accompany and raise awareness among migrants from all nationalities about the dangers of irregular migration". The Home is a coming together of associations from Gao - Caritas Gao, Direy Ben- and from Bamako - Association des refoulés d'Afrique centrale au Mali (Aracem), Association malienne des expulsés (AME), Aide Mali-, that are linked to the Catholic mission. The Home simultaneously receives people from the Red Cross convoys and migrants who arrive individually using their own means. From February to September 2009, 858 people (822 men and 36 women) from all over west Africa have been received there.

SP

II – Bargaining between Libya and Europe: migrants as an exchange currency – the case of Niger

After the lifting of international sanctions against Libya in 1999, the European Union (EU) has turned this country on the edge of the Sahel-Maghreb space into a privileged partner of its externalized migration policy, which consists in subcontracting the control of its external borders to third countries, especially in the fight against "illegal" immigration. With the confidence resulting from its 5,000 km of borders, in exchange for substantial financial and material "aid", colonel Kadhafi has taken on the task of persecuting, imprisoning and deporting migrants arriving from the south and east, while it has accepted to take back irregular immigrants who are arrested in Italy or while they are heading towards that country, even in cases involving collective refolements.

Libya thus officially recognizes its role as a transit space for irregular African immigration heading towards the north. However, this adaptation of European law⁴⁹ to inter-African migrations appears to reflect the requirements of Euro-Mediterranean agreements⁵⁰ rather than Saharan realities. By raising doubts about regional cooperation, this "securitarian" concession to the EU entails harmful consequences for the rights of people

49. Cf. D. Perrin, «L'étranger rendu visible au Maghreb. La voie ouverte à la transposition des politiques juridiques migratoires européennes», *Asylon(s)* (4) 2008, <http://www.reseau-terra.eu/article770.html>.

50. The EU reached association agreements with seven countries from the Mediterranean area between 1998 and 2005, which set the conditions for cooperation with each of them in the economic, social and cultural fields, between the EU and each partner country.

who are migrating⁵¹ and on the geopolitical balance of an entire continent.

1. A reciprocal exploitation

While it sought to renew its respectability following the lifting of the UN embargo, Libyan diplomacy found a subject for negotiations of fundamental importance in the migration issue, which quickly became one of the central stakes in its relations with certain European countries and with the EU as such⁵².

Migrants are alternately attracted and repressed

Caught between its need for foreign labour and its cooperation with the EU in the migration policy field, Libya uses the lever of the opening and closing of its southern borders as a mode of negotiation, playing upon European fears of an invasion while it preserves its own interests. It does so with a degree of success as -like some other countries- Libya has been allocated a national indicative programme worth 60 million euros for the 2011-2013 period, in order to enable it to “offer greater assistance in the field of health care and to fight illegal immigration”.

Nonetheless, Libya needs a substantial input by [foreign] workers to carry out the great projects that the regime in power has planned and to enable different sectors of its economy to function, including agriculture and construction. This is why the Libyan leader regularly encourages nationals of sub-

Saharan African countries to travel to his country, particularly within the Community of Sahel-Saharan Countries (CENSAD⁵³), which he created himself.

However, by acting contrary to its own legislation⁵⁴ and to its commitments on free regional movement, Libya has appropriated repressive European migration policy without setting up the necessary railings for the protection of human and refugees' rights. By acting in this way, it captures, detains, mistreats and deports foreigners and asylum seekers who are in its territory, all of which is done in the name of the EU's fight against “illegal” immigration and to cash in its credits.

“Cooperation for development” to protect the EU's borders

From the agreements with third countries such as Algeria, Morocco and Tunisia since the 1990s to the Cotonou agreements in June 2000 with ACP countries, the EU has quickly learned how to integrate an economic migratory dimension within its partnership and cooperation policy. Since the European Council in Seville in June 2002, any association agreement with any country must include a readmission clause for its own nationals and allow the possibility of expelling people who have travelled through it in transit.

Within the same outlook, the AENEAS project funded by the EU with 250 million euros for the 2004-2008 period and renewed for 2009-2013, thus aims to “aid third countries to ensure a better management of migration flows” and presents the “fight against illegal immigration” as one of its main objectives.

In March 2010, Italy -which, since 2003, had engaged in a fully-fledged programme of police and military assistance with Libya- was

51. Libya has not signed the 1951 Geneva Convention on refugees. See the European Parliament Resolution of 17 June 2010 on executions in Libya: www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0246+0+DOC+XML+V0//FR&language=FR

52. Cf. C. Rodier, «UE-Libye: une alliance contre nature pour l'externalisation des frontières au sud de l'Europe», in A. Bensaad (dir.), *Le Maghreb à l'épreuve des migrations subsahariennes. Immigration sur émigration*, Karthala, 2009.

53. CENSAD was established in 1998 in Sirte, Kadhafi's birthplace, and currently includes 28 African states.

54. Art. 20 of law no. 5 of 1991.

entrusted the direction of the SAHAMED project, for which 10 million euros were allocated, whose exclusive goal is to fight irregular immigration in the Sahara and in the Mediterranean. In order to strengthen the concerned countries' capacities to control their borders, SAHAMED provides surveillance, IT and transport material to the famous "third countries", including Libya and Niger.

Through all these programmes that, among other purposes, envisage the forced return of people and the building of detention camps "*in compliance with respect for human rights*" in Libya, Italy and the Union's member states become accomplices of all the exactions carried out that violate international conventions, far away from public view and from their borders, in the name of their protection.

The case of Nigeriens in transit: extortion and inhuman treatment

Migrants who are in transit between Niger and Libya are exposed to several dangers along their migration route, without any sort of protection⁵⁵. The itinerary that connects the north of Niger from Agadez to the main cities of the Fezzan desert in Libya constitutes one of the main axes of trans-Saharan migrations. People of the Sahel from Niger, Burkina Faso, Mali and Chad who have taken this route for several decades to go to work in Libya were joined by migrants coming from all over west Africa and central Africa during the 1990s. The latter also went to Libya for some months or a few years, and only a small part of them continued on their way to Europe. At present, these migrations constitute an important source of income for carriers and some other private actors in these Saharan regions alike, as well as for some state agents who are deployed in these places, who

55. On the Nigerien example, cf. J. Brachet, (2009), *Migrations transsahariennes. Vers un désert cosmopolite et morcelé (Niger)*, Paris, Éditions du Croquant, 2009.

have set up a veritable illegal taxation system for migrants.

Racketeering by the police

The journey from Niger towards Libya does not take place in illegality as a result of the principle of free movement that is in force within CENSAD and ECOWAS⁵⁶. Drivers even have to record their passengers, in order to enable the payment of the 1,000 CFA Francs (1.50 €) tax per passenger. But the law enforcement agencies often take far more than their share on the lucrative market of migrations.

Serial taxation. *The example of Dirkou, at the exit point of the Ténéré [desert], is significant. Upon arrival in this oasis, armed soldiers make the migrants get out of their vehicles and demand that they hand over a sum that must be paid collectively. Then, they are escorted to the gendarmerie post where they are taxed again, sometimes violently, and where their documents are seized... and must then be retrieved from the police station in exchange for a few further thousand francs.*

They will have to pay to leave Dirkou, and then again every time they cross a military post (cf. map). If they refuse or are unable to pay, the soldiers do not hesitate to use force. Many people tell of how they were lined up standing under the sun in the hot season, or assembled in a group at night in the wind and sprayed with water in the cold season, and left like this until the group collected a sum that was deemed sufficient. The migrants, who travel with over 30 of them crammed in the back of a pick-up truck or with 150 in the rear of large all-surface lorries, are thus controlled and taxed around ten times between Agadez and the Libyan border, that

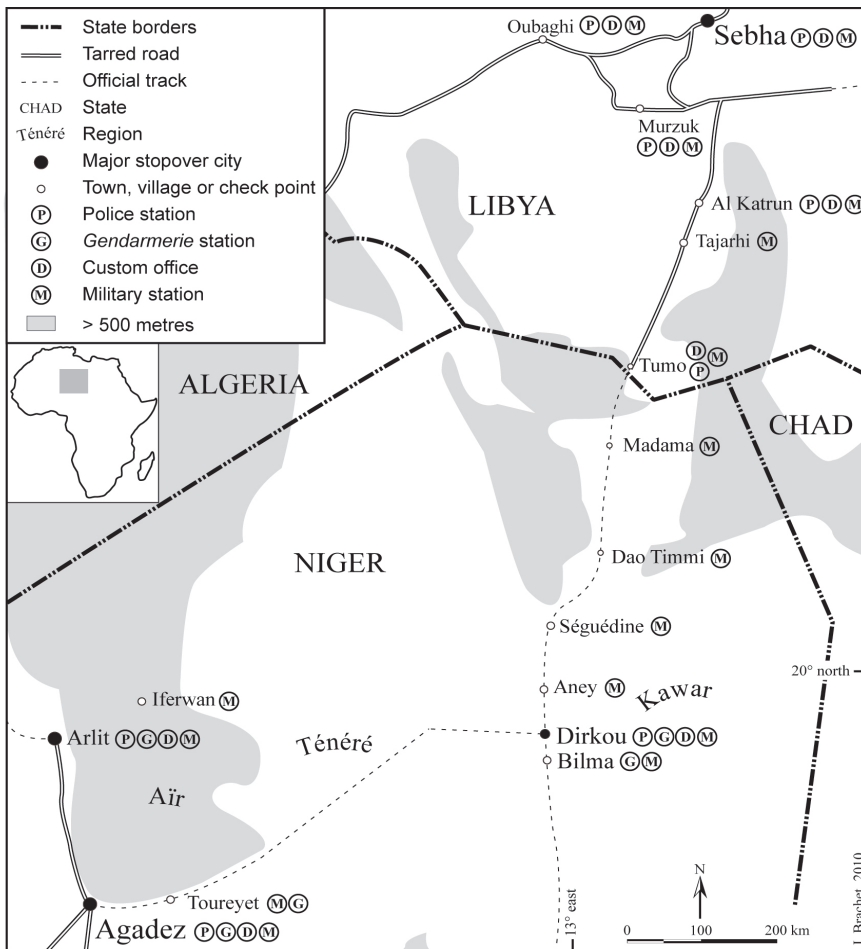
56. Created in 1975 by the Lagos Treaty to promote inter-regional economic integration, the Economic Community of West African States (ECOWAS) includes fifteen West African states. A protocol on the free movement of people (without visa) was signed and ratified by all the ECOWAS members in Dakar in 1979.

is, at each checkpoint. The sums that they have to hand over often reach several tens of thousands of CFA Francs, regardless of the regularity of their administrative situation (nationals from ECOWAS states, and sometimes Nigeriens as well, are made to pay just like the others).

These arbitrary taxes imposed by law enforcement agencies, which must be added to the high cost of transport, burden the migrants' budgets. Those who are less well off or are less prepared may find themselves blocked for some time, lacking sufficient means to continue along their route towards Libya.

Unable to advance or to return homeward, these migrants may stay where their journey has temporarily ended for several weeks, or even months.

“There is a lot of desert to get through to reach Libya. [...] Me, when I reached Dirkou, they didn't even ask me for my card. Just for money. There is no need for the card. It's the same in Agadez. Someone may pay 2,000 CFA Francs, someone else might pay 5,000 CFA Francs, it depends. But English speakers, they might pay 10,000 CFA Francs, another one will pay 5,000. And if you're lucky you will pay 2,000. When you leave Agadez, you will pay 5,000.



Localization of the checkpoints along the Niger-Libya route
(Design: Julien Brachet)

[...] As for me, I got to to the Libyan border, up to Madama. There, my money finished. The soldiers put me in a vehicle that returned to Dirkou. Off you go. You don't pay and you go back to Dirkou." Moussa, a Malian, in Bilma⁵⁷.

Dangers during the crossing of the Sahara

The crossing of the Sahara is long and dangerous. A transport problem, an ambush, extortion by state agents, getting lost or being abandoned: any mishap can have terrible physical and psychological consequences for migrants, all the way until death.

"There is no shortage of accidents. Mahmud survived in the desert for six days. [...] There were two vehicles, but the first one had a breakdown. The drivers abandoned the vehicle and its 35 passengers in the desert. The driver's brother came to look for them only six days later. They survived by drinking water out of the radiator. And thanks to the covers that they had brought for the night. They used them to create some shade and protect themselves from the sun. Four Ghanaians died of dehydration. During the same journey, Mahmud saw the remains of three people near one of the wells. And twelve other corpses next to an abandoned 4x4 in the dunes. [...] Hundreds die every year⁵⁸".

In fact, there are many who never reach their destination:

"The trans-Saharan routes are strewn with the skeletons of 'clandestines'. The Sahara is an obligatory passage. And it is a lot more dangerous than the sea. [You] cross the great desert in lorries and in 4x4s when you set off from Sudan, Chad and Niger. According to the international press review directed by Fortress Europe, at least

1,579 people have died during the crossing since 1996. But the figure could be far higher⁵⁹".

2. An increasingly repressive control of borders

Among the migrants who succeed in crossing the border, some are turned back by the Libyan police which patrols the border zone. But a majority of those who "involuntarily return" from Libya are arrested inside the country and placed for periods that vary greatly (from a few days to several months) in detention camps in deplorable conditions, before they are sent back to Niger without even being able to recover their personal belongings, nor their money, if they have any.

At the EU's service: obstacles to freedom of movement in the Sahel-Saharan space

Trapped between two models for the movement of people and goods (EU, ECO-WAS), Maghreb countries have sought to achieve territorial unity through open regional spaces between northern and sub-Saharan Africa, such as the Community of Sahel-Saharan States (CENSAD) or the African Union (AU).

The principle of free movement between northern African states, which would be in line with age-old practices and the aforementioned agreements, all too often remains in the field of official discourse rather than that of political reality, and it has never really been implemented between the two sides of the Sahara. Between 2003 and 2008, Morocco, Tunisia, Libya and Algeria have adopted new laws on foreigners, that increase sanctions for irregular migrants, and some of them have

57. Collected by J. Brachet, 25/10/2009.

58. G. del Grande, *Spécial Niger. Agadez, carrefour des trafics aux portes du Sahara*, Fortress Europe, 6 July 2009, <http://fortresseurope.blogspot.com/2006/01/special-niger-agadez-carrefour-des.html>

59. G. del Grande, *Escape from Tripoli. Report on the conditions of migrants in transit in Libya*, Fortress Europe, 2007.

signed readmission agreements with each other: in this way, they participate in the externalized management of the control of migration flows towards Europe. However, this U-turn is a long way away from satisfying the neighbouring countries' interests because, among other concerns, it threatens the legal security of their nationals whose travels are thus obstructed for the sake of the EU's externalized interests.

The evolution of the status of foreigners in the Maghreb and in sub-Saharan Africa must also be appraised in relation to international texts such as the 1966 International Covenant on Civil and Political Rights (which confirms the right to leave "any country including one's own") or the 2003 United Nations Convention on the Protection of Migrant Workers and Members of their Families, which lists their rights regardless of the regularity of their status.

Restrictive Libyan legislation threatens relations with neighbouring States

Even while African immigration is tolerated –or even encouraged– in Libya, immigrants generally reside there without individual identification and without a legal administrative status. Their entry into the national territory is only rarely made official by the country's authorities, which do not issue a residence permit, giving rise to a flourishing black market of administrative documents.

In 2005, and then again in 2007, Libya has modified its legislation concerning foreigners⁶⁰, while announcing, as a token of its cooperation with its European partners, its intention to restore entry visas for the totality of African and Arab nationals⁶¹, and established new state institutions for the purpose

of fighting irregular immigration⁶². Sanctions (confiscation, fines, prison) against irregular migrants and any person assisting their entry, residence or their exit from the territory, have been increased.

The case of migrations from Niger

Within the framework of the AENEAS project, two million euros have been allocated to fight irregular migrations just between Niger and Libya, and several millions to control migration movements within these countries. French police officials are currently trying to equip the border posts of Dirkou and Madama with IT material to enable them to record the people who cross the desert and to turn back those who have already undergone checks and were found to be in an irregular situation before they enter Libya.

This same European project also finances the International Organization for Migration (IOM) in Libya in order, among other tasks, to organize the "voluntary returns" of migrants in an irregular situation. However, in view of the extremely informal situation of migrants in this country, it appears that, rather, IOM has the goal of acting in association with the Libyan authorities to send as many black African migrants as possible back to the south of the Sahara.

Faced with this situation, the Nigerien authorities reply that their nationals are "*economic and temporary migrants*" who generally "*do not intend to go to Europe because they stay in Libya to earn some money that they bring back once they return home*". Niger deems that "*closing the borders would harm the country. [...] Nonetheless, cooperation between Libya and Italy (and the EU) continues, and provides more and more components to establish a system*

60. Cf. D. Perrin, *op. cit.*

61. Before backing down in relation to Egyptian and Tunisian citizens, who were exempted from the requirement.

62. Creation of the Agency for border security and the Department against illegal immigration within the interior ministry.



The EU's propaganda against migration, Agadez 2009
(photo: Julien Brachet)

*of border controls and for the criminalization of sub-Saharan migrants in Libya*⁶³”.

3. Arrests and detention in Libyan territory

The disregard for the rights of migrants and refugees in Libya has been criticized by several international organizations that mention the physical violence, prison overcrowding and forced returns. The European Parliament has also expressed its concern for “the deplorable treatment and living condi-

tions of people detained in the camps in Libya”.

Since 2006, Human Rights Watch has criticised the consequences of negotiations between the EU and Libya to stem the flow of migrants, asylum seekers and refugees heading towards Europe, which undermined their fundamental rights. Its report revealed the arbitrary arrests of undocumented foreigners, ill-treatment during their detention and forced returns to countries where some of them risk persecution and torture, all of which was done under pressure from Europe⁶⁴.

63. Extracts from an analysis by APDHA, «Relations dangereuses: le rapprochement italo-libyen et ses effets sur les migrants», *Droits de l'homme en frontière sud 2008* : <http://www.apdha.org/media/FrontiereSud2008.pdf>

64. Human Rights Watch, “Stemming the Flow: Abuses Against Migrants, Asylum Seekers and Refugees”, September 2006.

The ill-treatment suffered by foreigners when they are arrested constitutes a recurring problem: some are violently questioned before their departure by sea in the squats that are prepared by smugglers, others during identity checks, and others still, during the night-time round-ups that have multiplied. Finally, there are others who are stopped during their sea crossing en route to Italy. In all these cases, these foreigners are relieved of their belongings, thrashed, insulted and taken to detention camps where they are held in frightful conditions while they await their expulsion southwards.

“Once they are arrested, illegals have four options. Those who have some money, they bribe the police and get themselves released. It is often the police itself which puts them in touch with some smugglers who lead them back to Tripoli. Those who don't have any money are returned back to their home countries by plane, or loaded into military lorries, with 70-80 people crammed in them and taken towards the southern border: to Kufra, in the southeast, or to Al Qatrun, in the southwest. From there, after a number of months' detention, the lorries carrying migrants leave towards the border, which is completely in the desert. Those who don't have any money are abandoned in the middle of the desert, those who can pay 100 or 200 dollars are brought back, illegally, to the police. The fourth possibility is kidnapping, which is practised mainly in Kufra. Some Libyan citizens buy the freedom of detained migrants by paying the police, and then keep them hostage in their own homes until they receive a ransom payment from their own pockets, or through a Western Union payment by their relatives from abroad⁶⁵”.

The hell of camps: testimonies

“Undocumented migrants in Libya are caught like dogs and taken into centres that are so overcrowded that police officers have to wear a mask over their mouths because of the nauseat-

ing smells⁶⁶”. Foreigners who have spent some time in Libya all describe inhuman treatment in detention; they particularly mention overcrowding, degrading detention conditions, ill-treatment and sexual abuse inflicted by members of the law enforcement, as well as limited access to information about procedures and their rights. It is likewise impossible to consult a lawyer.

There are currently at least 20 detention centres in Libya⁶⁷. In 2007, these camps held around 60,000 migrants⁶⁸, without legal basis or judicial oversight, nor legal assistance, nor the possibility of seeking asylum, in contempt of relevant Libyan and international texts alike, as highlighted by Fortress Europe⁶⁹ or Amnesty International:

“Those whose rights have been violated have no possibility of seeking protection or remedy through the justice system⁷⁰”.

“[None of the detained] has seen a judge or a lawyer. Their detention is not validated by a court, and it is not possible either to appeal or to request political asylum”.

These camps are often “old warehouses fitted out for the purpose of detention and guarded by the police. [...] The accounts talk of detentions that have lasted months and, in some cases, years, without any trial, in unbearable conditions with up to 60 or 70 people in cells measuring six metres by eight, with a single toilet. The

66. «Immigrati, allarme Sisde. Centri in Libia “disumani”», *La Repubblica*, 3 February 2006 (Mario Mori, former director of the Italian civilian information service appears before the Italian parliament), <http://www.meltingpot.org/articolo6613.html>.

67. JRS Malta, “Do they know?” Asylum seekers testify to life in Libya, 2009, <http://www.jrsmalta.org/Do%20They%20Know.pdf>

68. Figure provided by the Libyan authorities to the EU's technical mission, directed by Frontex, in May-June 2007.

69. G. del Grande, *ibid*.

70. Amnesty International, *Libya of tomorrow. What hope for human rights?*, June 2010, www.amnesty.org/en/library/asset/MDE19/007/2010/en/65e2d9ca-3b76-4ea8-968f-5d76e1591b9c/mde190072010en.pdf

65. G. del Grande, *Escape... op. cit.*

women are systematically victims of sexual violence by the police⁷¹”.

Reports are inevitably rare, but they are corroborated by the testimonies from numerous migrants who have passed through these camps⁷².

Misratah detention centre, Libya

“We are 600 detainees in Misratah, all of us Eritreans. There are around a hundred women and fifty children. The first group of 450 people has been inside for a year and a half, the others were taken there four months ago [...] Before taking us to the centre they took everything from us. Some had refugee papers that the police ripped up. Some women were raped by officers. At least seven people have been admitted into hospital with nervous breakdowns. [...] We don’t have any medical care. We sleep on the floor in groups of 60. In the daytime, the heat is unbearable and makes the stench from the toilets rise back up the pipes. We are given three drums of water to drink, for 600 people. At night, it is cold and we don’t have any covers”. Anonymous, Eritrea.

Kufra detention centre, Libya

“There were 78 of us in a cell measuring six metres by eight. [...] We were so hungry. A plate of rice could be shared between eight people”. [...] *There was one toilet for 60 people. [...] “There were lice and fleas everywhere, in the mattress, in the clothes, in your hair. [...] Sometimes, the police came into the room, they picked up a woman and raped her in front of us”.*⁷³ Anonymous.

Sabha detention centre, Libya

“Right now, there are brothers there who are suffering. Some have gone mad. When I was in

Sabha, for example, I saw some Sudanese who had lost their minds”. Elvis, Cameroon

The European Commission’s kindness

In 2004, a report by the European Commission⁷⁴ on a “technical mission” in Libya for the purpose of evaluating possibilities for future cooperation criticized the treatment of foreigners detained by the Jamahiriya for the first time. While the Commission deemed that asylum seekers and refugees were not guaranteed any protection and noted that there was ill-treatment, it nonetheless described detention conditions as “difficult” but “acceptable in view of the general context”.

The Commission then recommended that its relations with the Libyan institutions should be consolidated, in order to make them improve their reception mechanism. As for Italy, it financed the creation of two new detention centres in 2004 and 2005, in Sabha and Kufra.

In May 2007, after carrying out a visit to the centre in Kufra, the Frontex Agency delegation that represented it in Libya did not utter a word about the detention conditions, but said its members were able “to appreciate both the diversity and the vastness of the desert”⁷⁵.

71. G. del Grande, *ibid.*

72. G. del Grande, *ibid.*

73. G. Del Grande, *Border Sahara: the detention centres in the Libyan desert*, Fortress Europe, January 2009. <http://fortresseurope.blogspot.com/2006/01/border-sahara-detention-centres-in.html>

74. www.meltingpot.org/IMG/doc/Libye_commission.doc

75. G. Del Grande, *ibid.*

Endangered asylum seekers and refugees, UNHCR dozes

“Refugees, asylum seekers and migrants, particularly from sub-Saharan countries, live in constant fear in Libya: fear of being arrested and held indefinitely in overcrowded detention centres, fear of being exploited, beaten and abused; and fear of being forcibly returned to an uncertain future where they may face persecution and torture”⁷⁶.

The Jesuit Refugee Service in Malta⁷⁷ confirms this, while it speaks of the ill-treatment that is very close to torture that is suffered in the Libyan camps, and particularly of the lack of protection for asylum seekers, who permanently risk being returned to the countries they have fled.

While it even refuses the “global approach” advocated by the EU, which would force it to adopt a protection mechanism for those who request it, Libya considers the totality of foreigners on its territory as workers in transit, whom it does not hesitate to expel if it deems that their situation is not in order. Some of the country’s officials have even told Human Rights Watch that their country refuses to grant asylum because none of the foreigners who are in Libya needs protection, and also because they feared issuing a message that would “encourage” them: otherwise, foreigners “*would arrive like a swarm of grasshoppers*”⁷⁸.

The United Nations High Commissioner for Refugees has warned against recurring violations of the right to seek asylum enacted by Libya, where it has had an office since 1991. According to UNHCR, 9,000 refugees -mainly Palestinians, Iraqis, Sudanese and Somalis- have been registered in Libya in 2009, of whom 3,700 are asylum seekers,

who prevalently come from Eritrea⁷⁹. Well, they constantly risk being deported towards their home countries or those of transit and, hence, of being exposed to persecutions and death.

Yet the presence of UNHCR in a country that has not signed the 1951 Convention does not deceive anyone: in these conditions, it mainly allows the EU to justify its externalization and expulsion policy at an international level⁸⁰. Moreover, confident as a result of their recent diplomatic achievements, the Libyan authorities ordered that the UNHCR office in Tripoli be shut down and for its phantom activities to cease on 8 June 2010⁸¹, thus highlighting the hypocrisy of various countries.

4. A deadly expulsion policy

According to official figures, the Libyan government repatriated 145,000 foreigners between 2003 and 2005.

From 2004, as a token of goodwill towards its European partner, Libya has proceeded to return 54,000 foreigners to the border. These indiscriminate expulsions largely affect people who have worked in Libya for some years, who were suddenly deemed “illegals”. The 2007 EU mission undertaken by Frontex observed a good sign in this: in 2006, 357 smugglers (including 284 Libyans) were arrested, and the authorities confiscated 51 vehicles, 17 boats and 36 telephones. The Frontex report does not mention the human rights violations without which these deportations could not have been carried out. In the same period, 360 dead bodies of migrants were recovered⁸².

79. Cf. European Parliament Resolution, *op. cit.*

80. Cf. Migreurop statement, “UNHCR-Libya: the bid is rising, migrants pay the price”, 11 June 2010.

81. «Tripoli ferme le Bureau du HCR», *Jeune Afrique*, 8 June 2010.

82. G. del Grande, *ibid.*

76. Amnesty International, *op. cit.*

77. JRS Malta, *op. cit.*, <http://www.jrsmalta.org/Do%20They%20Know.pdf>

78. Human Rights Watch, *op. cit.*



Transport of migrants back from Libya in Ténéré, Niger (2009). On the left, a lorry of migrants expelled without being allowed to collect their belongings; on the right, a lorry of migrants returning “voluntarily”, who carry their possessions and plenty of goods with them (photo: Julien Brachet)

Inhuman and degrading deportations

Following a varying period spent in detention in a prison-camp, “irregular migrants” are sent back to the countries they came from or their home countries either by plane (when there are readmission or repatriation agreements with their home countries) or, more generally, by lorry to the borders with neighbouring countries.

Towards Niger: piled up and abandoned in the desert

While Niger no longer agrees to receive anyone other than its own nationals on its territory, the Libyan authorities -in spite of past agreements- continue returning nationals from several other African countries to the Nigerien Sahara without considering their nationality, particularly English speakers from Nigeria and Ghana. They are transported in lorries to Madama, or Dirkou or even Agadez, with a few CFA Francs in their pockets,

without their belongings, nor even the money that they had earned in Libya.

The conditions in which these deportations are carried out are very hard, the migrants travel for hundreds of kilometres crammed into lorries, and sometime in container trucks.

“We were crammed like animals inside the lorry, with no air and no space to move. I wondered how a child could be put in these conditions. Inside the container it was very hot. The journey lasted 21 hours, from 4 p.m. to 1 p.m. on the following day. We did not have anything to eat. People had to urinate in front of each other. When the drivers stopped to eat or to pray, we placed the child near the container’s narrow window. His name was Adam. We finally arrived in Kufra. When I got out, I stole some bread that was hanging outside the container. We had not eaten since the previous day. There were 110 of us. Including Adam, who was four years old, and his mother⁸³”.

83. G. Del Grande, *ibid.*



The migrants' ghetto in Tinzaouaten (photo: Sara Prestianni)

Moreover, organizations like Amnesty International and Fortress Europe report the abandoning of migrants and refugees in the deserts that are on the Libyan borders with Niger, Chad, Sudan and Egypt. Several among them died after they were abandoned in the desert. *“Many people were abandoned in the desert [...]. It was the period of “voluntary returns”, in 2004, when more than 18,000 migrants were loaded into lorries and left in the desert, and there were several accidents and dozens of victims⁸⁴”*.

Conclusion: the real face of Kadhafi's pan-Africanism

Hence, round-ups, arrests, imprisonment and collective expulsions are at the core of the “immigration management” process in Libya, in spite of the commitment to pan-Africanism that Kadhafi claims. If Libya, following the example of other north African states, accommodates the pressure exercised by its European neighbours, even if this tarnishes its national image as a beacon of resistance to imperialism, this is obviously the price to pay for the aid received from the EU to thank it for its cooperation.

After a lengthy period of *laisser-faire*, the new-style Libyan migration policy now corresponds with a “management” of foreign presence in its territory that, while it disregards numerous international conventions, often reflects a concern to comply with demands

84. G. Del Grande, *ibid.*

expressed by its northern neighbours or to anticipate them, rather than to a genuine wish to stem the movement of people. As they are based far more on circumstances than on principles, the shifts in the Libyan discourse and practices depending on what period it is and on who the audience is, enable Europe to clear itself for a small price for the violation of principles and rights that it subcontracts in this way, so much so that it makes people forget the role that it plays in the current excesses by some of the actors that it engages with in “third countries”. Was it not precisely in Europe that the legal aberration “illegal emigration” was forged for the purposes of promoting a discourse of pre-emptive criminalization of foreigners based on presumed political, economic and cultural risks to the countries they seek to reach? By following this logic, Libya becomes an accomplice of its consequences, namely the degradation of an age-old and truly inter-African migration system.

JB, BE



The asylum seekers centre of Stolnicul, Bucharest

In Romania, the five centres for asylum seekers are rarely full. Migrants who live there meet such material and moral difficulties that many of them do not wait for the uncertain result of an interminable procedure. They try to go to other horizons: this is the case of A., young Tamoul from Sri Lanka, who arrived in 2008. He lodged an asylum claim. While his claim was being considered, he left the country and went to Belgium. Unaware of the Dublin II Regulation, he lodged a new asylum claim and was sent back to Romania, where he was put in a detention centre. At the end of his detention, he left immediately, and this time was arrested in Austria, then sent back to Romania and into detention. Released again, he began a new asylum claim, but without much hope of success. To date, he has spent most of the last two years in areas for the control of migrants, detention centres, asylum seekers centres, closed or semi open, but also in border police stations, transit zones, with different status and features. His way takes a circular shape imposed by European regulations. The only exit seems to blend in the population, somewhere, undocumented.

Poland, Romania: how to be good state members in the enlarged EU

For over 50 years, Poland and Romania were part of a strictly controlled system in which migration was only conceivable between socialist bloc countries, whereas the regime's opponents took irregular routes to seek asylum in "the West". 1989 saw the opening of frontiers and the beginning of greater emigration, but thereafter migratory movements towards these two countries also gained importance and their position became more complex, particularly after they entered the European Union (EU). Poland became a member state in 2004 and entered the Schengen area at the end of 2007. Romania has been a member since 2007 and is set to join Schengen in 2011.

Method. *This report is based on two investigations, conducted by Violaine Jaussaud in Romania and by Paulina Nikiel in Poland, within the framework of the activities of Echanges et Partenariats (Exchanges and Partnerships). For the first one, the work was primarily carried out in Bucharest, and it includes the collection of accounts from migrants, visits to centres for asylum seekers (Radauti and Stolnicul) and to a detention centre (Otopeni), meetings and interviews with different actors concerned with migration and asylum. The second one includes interviews with migrants and jurists in several cities, in open camps (Leonow, Lomza, Bytom and Debak) or detention camps (Lesznawola and Przemysl), and with associations and authorities. It is completed by observations at the Ukrainian border (Medyka).*

I – At the new frontiers: the screening of migration

The Polish and Romanian borders, as they are passage and blocking points along the migration route to western Europe, are at the core of EU security concerns. The pre-accession period represented a key phase for the setting up of their surveillance: for example, Romania received 62 million euros between 1998 and 2003 as part of the EU programme of community assistance to central and eastern European countries (PHARE, Poland and Hungary, Assistance for Restructuring their Economies)¹. These funds were used, in particular, for training personnel and buying sophisticated surveillance equipment. Extensive legislative reforms accompanied the accession process, in order to transpose the Community acquis on immigration matters. Border controls at entry points were developed and a visa requirement was introduced for people arriving from neighbouring countries (Ukraine, Moldova, Russia, Belarus), since 2003 and 2007 respectively.

1. See the website of the Romanian border police, www.politiadefrontiera.ro.

1. Reducing the transit and deserving Schengen

For migrants from Ukraine, Belarus or Moldova, both Poland and Romania are often merely transit countries along the migration route towards western Europe, a transit that is treacherous: reinforced border surveillance, Frontex missions, readmission agreements, difficulties in being recognised as an asylum seeker or in obtaining a residence permit or regularization, the setting up of the detention system. For many people, these countries represent the end of their journey, a dead end. In Poland, there has been a drastic decrease in the number of visas issued (60% less for Belarussians between 2007 and 2008, and around 40% less for Ukrainians). The considerable short-distance migrations have been obstructed to the point that agreements had to be signed with bordering countries² which relaxed the conditions that had to be met to enter Romania and Poland.

The Commission has envisaged allocating 78 million euros between 2007 and 2013 for Poland to reinforce its borders. The projects financed through the European multi-annual programme include: the modernization of infrastructures at passage points; the modernization of consular offices (equipment, software for the collection of biometric data); and the setting up of an IT system to control foreigners' documents³.

As for Romania, it has been granted 560 million euros between 2007 and 2009 by the

“Schengen Implementation” and other European funds⁴. For example, thanks to PHARE funding and with a view to Romanian accession to Schengen, an integrated Black Sea surveillance and observation system (SCOMAR) became operational in April 2009, and it has been working ever since. Romania already implements the parts of the Schengen acquis that are not related to the removal of internal border controls. The control means that are deployed on its external side, to the east, serve as a guarantee in the Schengen evaluation process to which the country is subjected. There were five evaluation missions for this purpose in 2009. Then, the last one in March 2010 concerned the land border.

Schengen has been a fool's game for the new countries which joined from 2004 to 2007. Poland's entry into the area, and Romania's prospective one, entail a redeployment of repressive mechanisms, albeit without the complete disappearance of controls at the western borders (of vehicles and travellers) that affect both EU and non-EU citizens. In effect, Schengen establishes the status of Poland and Romania as buffer states.

2. The border police, Frontex and cooperation with other European states

At present, the borders in Romania are guarded by the border police, while in Poland they are controlled by border guards who are at the Interior Ministry's service.

Under the aegis of Frontex

The European agency for the management of operational cooperation at the external borders, Frontex, based in Warsaw, offers technical assistance to member states. This includes the setting up of “*Rapid Border Intervention*

2. See EC Regulation no. 1931/2006 of the European Parliament and Council of 20 December 2006 setting the rules concerning small border traffic and amending the Schengen Convention, www.ziare.com/articole/acord+mic+trafic+ucraina

3. <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/108&type=HTML&aged=0&language=FR&guiLanguage=en>. The European Fund for external borders is one of the four financial instruments in the general «Solidarity and management of migration flows» programme, alongside the European Fund for the integration of third-country nationals, the European Fund for returns and the European Fund for refugees.

4. See <http://www.schengen.mira.gov.ro/index17.htm>.

	Poland*	Romania**
2009	3,581	1,602
2008	5,797	2,875
2007	3,222	1,754
2006	4,000	1,187
2005	4,526	1,667

Number of foreigners arrested for crossing (or attempting to cross) illegally the border

*www.strazgraniczna.pl/wps/portal/trzesc?WCM_GLOBAL_CONTEXT=pl/serwis-sg/polskie_formacje_graniczne/zestawienie_statystyczne/

** Annual reports of the national authorities for migrants and data published by the Romanian border police.

Teams” (Rabit)⁵ and field missions to reinforce and secure the European Union’s external borders. The deputy director of Frontex⁶ claims that, in 2009, the total number of refusals of entry into EU territory amounted to 114,000 people, 27,000 of which were issued by the Polish authorities. In 2008, according to the agency’s annual report, 3,298 people were arrested in Poland for crossing the border irregularly, and 756 were caught in Romania⁷. Hence, Frontex deemed that it was satisfied by the efforts made by the two countries’ border guards and border police officers, respectively.

Corruption in Romania. *While the Commission worries about corruption in the Romanian public administrations and judicial system, the border police plays the transparency game: it puts lots of information on police cooperation, arrests of migrants and thwarted bribery attempts (“mita”) online. However, corruption remains an endemic problem that is occasionally subject to disclosures⁸. Moreover,*

5. Regulation (EC) no. 863/2007 of the European Parliament.

6. Interview, 19 February 2010.

7. These figures do not correspond with the respective national statistics (see table above).

8. «AC/DC doit payer la “schpaga”, et la Roumanie a “honte” », *Le Monde*, 7 June 2010.

in 2008 Transparency International reported that there were contacts between human traffickers and border police officers.

Several field operations coordinated by Frontex have taken place in Poland in 2009, with a view to strengthening cooperation with various member states and Russia. “Jupiter” was the most important one for controlling entries at the eastern border, whose goal was to detect the passage of migrants holding false entry documents, or through the “green border” (by land), or hidden in vehicles. Overall, Operation Jupiter concerned 14 member states including Poland, Romania (with the border police), Slovakia and Hungary, as well as Ukraine, thus involving countries of origin of irregular migrations and transit countries alike.

Before Jupiter, police officers from 12 member states, Moldova and Ukraine had taken part in the “Euxine 2008” mission in Romania, to reinforce controls in international harbours⁹. Operation “Five borders

9. «Euxine 2008 – joint Frontex operation in the Black Sea and the Danube Delta”, Amos News (Romania), 31 October 2008. http://2008.informatia.ro/_Euxine_2008_operatiune_comuna_FRONTEx_la_Marea_Neagra_si_Delta_Dunarii-259951

2008¹⁰” was carried out in Hungary, Poland, Romania and Slovakia, mobilising a 450,000 euros budget. Its outcome was the arrest of 621 migrants, the detection of 67 fake documents and 2,378 denials of entry. Finally, Frontex has been collaborating with Ukrainian border guards since 2007 in order to set up surveillance operations (Jupiter in 2009) and, according to its president, Belarus was also preparing to sign an agreement with Frontex in 2010¹¹.

Access to EU territory and seeking asylum

The migration routes through Poland and Romania are various and complex. According to observers, migrants from neighbouring countries (Georgia, Russia, Uzbekistan) and also from further away (Pakistan, Afghanistan, Bangladesh, Somalia, etc.) converge in Moldova, Ukraine and Belarus, before attempting to enter the EU through Poland and Romania (apart from Slovakia and Hungary). Moreover, not all the migrants who travel through Turkey (Turks, Kurds, Iranians, Iraqis, Afghans) go to Greece: some go up to Bulgaria and then pass through Romania. Among these people who seek a better life or international protection, few wish to settle in Poland or Romania, but some are forced to end their journey there.

On the one hand, nationals from countries of the former Soviet Union who seek seasonal employment arrive in Poland, as do people from more distant countries like Armenia or Vietnam. Since the adoption of an asylum law in the 1990s, Poland has become a destination for a number of refugees: Chechens, Ingush, or Georgians. Membership of the EU has also entailed an increase in the number of asylum seekers readmitted from western

countries within the framework of the Dublin II Regulation. Although the number of registered asylum applications have decreased from 2,400 in 2001 to 995 in 2009¹², a similar effect also occurs in Romania over a longer period. Thus, Poland and Romania, which have often been transit countries, may well become destination countries due to the effects of Dublin II, without taking into account their growing need for workers in certain economic sectors.

Crossing the Brest (Belarus) - Terespol (Poland) frontier

Many of the asylum seekers in Poland are Russian citizens (Chechens, Ingush) and Georgians who entered Belarus freely without a visa. They consider it the easiest route into Poland. In theory, they may submit an asylum claim at any checkpoint along the Polish border¹³, but the Brest-Terespol border post (where 90% of claims are made, according to UNHCR) is the most accessible one because it can be reached directly by train from Minsk.

The Terespol post premises can receive around 30 asylum seekers while they complete their applications. As there is not enough space to receive all the applicants, the border guards send some of them back to Brest, telling them to return on the next train. It is then difficult to establish who has priority.

Applicants are interviewed by border guards in their premises. It is a particularly stressful procedure for asylum seekers who often feel that their country's authorities still have the possibility of trying to catch them¹⁴. Once the application has been filed, they must

12. The number of people whose refugee status is recognised is constantly falling as well. See the report by MIRA, *Migratia si azilul in Romania* 2006.

13. A map of border posts: www.strazgraniczna.pl/wps/portal/tresc?WCM_GLOBAL_CONTEXT=pl/serwis-sg/ruch_graniczny/mapa_przejsc/

14. Testimonies from Uzbek and Chechen asylum seekers.

10. www.frontex.europa.eu/examples_of_accomplished_operati.

11. «Belarus border service: Frontex to sign agreement», Belarusian Telegraph Agency, 30/10/2010 (<http://www.belta.by/en/news/president?id=427495>).

use their own means to go to a transit centre, usually Biala Podlaska, which is the nearest one to Terespol. The authorities consider the information that is obtained during the first interview the most “believable” to assess the migrant’s situation, and it must be identical to that given during the second interview, if there is one, or to the information used in the appeal if the request is rejected. According to testimonies, the fear of not saying what is needed, of reprisals against their family that has stayed in their country, or the endless wait without a chance to eat, are all factors that lead to stress.

The hazards of asylum seeking

When migrants are arrested at the Romanian border, they are transferred to the nearest police station and held in custody for a maximum of 24 hours. They are usually not informed of the possibility of applying for asylum¹⁵. The police officers who have briefly interviewed a migrant then contact the Romanian Immigration Office (RIO), which gives them instructions that either support an asylum claim or a readmission without having interviewed the migrant or having gone to the police station. UNHCR has signed a tripartite agreement with the border police and the International Organization for Migrations (IOM) to check compliance with the non-refoulement principle for asylum seekers and for training officers. At the moment, the results are disappointing: in 2009, 30 officers were trained but, following a reorganization of the service, only two still had duties that were related to receiving asylum seekers¹⁶. (A similar agreement between UNHCR and the border guards was signed in Poland in October 2009).

A sizeable part of the migrants arrested at the Hungarian border (or sent back by Hungary) are in fact people who applied for

asylum in Romania and then tried to reach another country. As they face a number of practical difficulties (insufficient financial support, the scarceness of interpreters, the weakness of support communities), a number of them give up the asylum procedure before it finishes. If they are arrested, they are sent back to the reception centre and the procedure continues.

The three statements that are translated below illustrate two types of situation at the Romanian borders: migrants who are turned back even before they cross the border into the country, and people in a regular situation or asylum seekers who are arrested while they try to cross the border of another EU country.

Press release by the Romanian border police, 24/03/09. *The Maramures border police arrested a group of migrants comprising twelve Afghans who illegally crossed the border between Ukraine and Romania by crossing the river Tisa [in northern Romania] in a rubber dinghy. The border police officers had to fire six warning shots in order to stop the group. During the action, three Romanian smugglers were arrested. [...] The Ukrainian authorities were immediately informed and they were then able to stop five other Afghan nationals who were part of the same group in their territory.*

Press release by the Romanian border police, 21/08/09. *On 20 August at 8 pm, border police officers of the Petea Sector [in north-west Romania] on a surveillance mission in a car equipped with thermal imaging, spotted two people who were moving through the fields towards the Hungarian border. They suspected the two of leaving Romania illegally, arrested them and led them to the border police post of the sector for further investigation. They established that the two men were Afghans aged 16 and 22, who had temporary identity documents issued by the Maramures RIO centre on them.*

Press release by the Romanian border police, 10/09/2009. *On 9 September at 11.30 pm, the border police officers of the Petea Sector launched an action against illegal migration in their area of competence, on the basis of information they received. They spotted a group of people whose presence was not justified in the zone near to the Hungarian*

15. Interview with UNHCR in Bucharest, 26 January 2010.

16. *Id.*

border. After these people did not respond to verbal warnings, they had to resort to weapons and fired a vertical warning shot [...]. It was verified that the group was made up of three men, one Cameroonian and two Senegalese, aged between 26 and 38, and that they were asylum seekers in our country. They declared that they wanted to go to western Europe in order to find a job.

The 27,000 refusals of entry into Poland reported by Frontex for 2009 may also concern foreigners in need of international protection. In fact, Georgians, who know that the percentage of their nationals who are granted refugee status in Poland is nil¹⁷, seek to cross that country to arrive in a more welcoming one. Hence, they try to submit their application in a more receptive country, but this proves impossible because they are stopped at the Polish border, which they do not manage to cross. Thus, they do not manage to enter the Polish territory to then move on to another European country¹⁸.

By insisting that its role is only to coordinate control operations and train border guards, Frontex denies any responsibility for the turn back of potential asylum seekers, laying it on the member states. However, when they are stopped in Poland and Romania, migrants are not spontaneously informed by the authorities about the possibility of applying for asylum: the request must come from the foreigner (and in Romania, such prior information is not a legal obligation)¹⁹. In spite of these drawbacks, the local UNHCR office has not recorded any case of turn back to Ukraine in 2009.

17. According to data from the Foreigners' Office in Poland (Statistics concerning asylum applicants: www.udsc.gov.pl/Zestawienia,roczne,233.html).

18. Testimonies by Georgians collected during the research, November 2009-March 2010.

19. Information about Romania obtained during interviews conducted between November 2009 and March 2010. As for Poland, the information was obtained during a telephone conversation with the border guards management in March 2010.

II – Reception and detention centres

In Romania and Poland alike, the management of migrants often relies on placing them in detention or temporary reception sites. Both mechanisms are based on the principle of migration control: immigrants in an irregular situation are supposed to be put in detention centres, and those who are “awaiting” admission into the country should be put in reception centres. The reality is sometimes more complex.

1. The detention of foreigners

Legal framework

On 13 June 2003, Poland adopted two new laws: one on foreigners, and the other one on the protection granted to foreigners. They respectively concerned third-country nationals and the detention of asylum seekers, as well as the treatment of Dublin II cases. They came into force one year before Poland joined the EU and have been amended several times, in particular with the introduction of subsidiary protection in 2008. In Romania, the detention of foreigners is provided for by an urgent governmental ordinance of 2002 about the treatment of foreigners. The country acceded to the Geneva Convention on refugees in 1991 and adopted its first asylum law in 1996, which was thoroughly modified in 2006 with a view to the signing of the EU accession treaty in 2005. This was welcomed by the Commission as an important step that was promising for the implementation of the Community acquis, particularly insofar as procedural matters, the application of the Dublin II Regulation,

and the setting up of the Eurodac fingerprint comparison system²⁰ were concerned.

Ethnic profiling and unfair controls

In Poland, a norm from 1997 establishes that the police must justify an identity check of people who are in the country by invoking special circumstances (i.e. a risk for public order), whereas the 2003 law provides for border guards and the police to also check whether their residence is lawful. Several accounts by migrants describe controls resulting from the colour of their skin or the language that they were speaking, without any other real reason, and arrests in front of their home, in a shopping centre or in public transport vehicles²¹. Controls in people's homes, even at night, followed by immediate detention, are also reportedly a widespread practice²².

An paper in the press reported that an irregular immigrant from Vietnam killed himself by jumping out of his flat's window in Warsaw while border guards were forcing their way in²³.

The paper added that the Freedom of Speech association (which includes members of the former political and cultural opposition) claims that the man feared that he was being sought following a meeting between the Polish police and members of the Vietnamese security forces who are authorised to operate in Poland²⁴. It also noted that capture, iden-

tification and forced return to Vietnam are supervised by Frontex.

In Romania, arresting foreigners in an irregular situation in the RIO offices appears to be a common practice. Not to mention administrative summons used as snares, many foreigners go to the RIO in order to carry out their procedures without being properly informed about their situation and without being accompanied; they then run the risk of immediate arrest.

Testimonies. *After seven months, I was denied asylum and taken back to the RIO in Bucharest. They told me that I would be granted a "tolerated" status if I could produce a rent contract. After renting a room for 400 euros per month, I went back there four days later to obtain a permit as a "tolerated" foreigner, and after a four-hour wait, I was handcuffed and taken to the Otopeni detention centre in a van. Male, Pakistan.*

I tried to leave the country, but the police stopped me at the border. I told them that I was "tolerated" and they put me on a train back to Bucharest²⁵. A month later I went to the RIO to have my status renewed. They arrested me, told me that they knew that the police had caught me at the border and that I had no right to leave Bucharest without informing them. [...] I was taken to the Otopeni detention centre. Male, Pakistan.

Administrative detention

According to the Polish law (sections 101 and 102) and the Romanian Constitution (art.23-3), if foreigners who are stopped do not have a residence permit, they may be held in custody in a police station, respectively, for 48 hours (which may be extended for a thorough identity check) and 24 hours. During that time, they are detained without judicial control. In these places of custody, in Poland or Romania alike, foreigners have access to a

²⁵. Tolerated status is equivalent to being assigned to a place of residence: one is forbidden from leaving one's assigned judet (department, an administrative region) without authorization.

20. Commission Report [COM(2005) 534 final - SEC(2005) 1354].

21. 1,896 foreigners without valid residence permits were arrested in Polish territory in this way in 2009.

22. Interview in Warsaw, February 2010.

23. «The Vietnamese secret services return to Poland», Gazeta Wyborcza, 22 May 2009. http://wyborcza.pl/1,76842,6640878,Wietnamska_bezpieka_w_Polsce.html

24. A clause of the readmission agreement between Poland and Vietnam, signed in 2004 in Hanoi.

fixed telephone or to their mobile phone, but not to a lawyer's contact details, and therefore they cannot contact anyone other than people who they know. Free legal aid does not exist in Poland, but a draft law is being examined to enable associations to provide such assistance. In Romania, there is a legal assistance system, and some legal NGOs usually help foreigners in their steps to benefit from that system.

The Polish police applies to the district court to place a foreigner in a centre in order to organize their expulsion, and it is following a request from the governor of the Voivode (region) that the judge decides whether to place a foreigner in a detention centre. A person may also be placed in a deportation prison (see below) if it is deemed that they do not comply with the rules on conduct in a closed centre. The Romanian police contacts the RIO, which tells the prosecutor whether it recommends that s/he decide to expel a foreigner and place them in detention – in practice, the prosecutor generally follows the RIO's advice, which is notified in Romanian and English. An appeal before the judge may be lodged within five days. In both countries, it appears that the time that passes prior to detention is too short to enable a thorough examination of the foreigner's personal situation.

Detention and expulsion centres

Detention centres in Romania are a more recent development (1999) than in Poland, where their opening coincided with the adoption of the right to asylum. There, the structuring of detention is taking the form of centres, as a result of both the allocation of European funds and the recommendations issued by the Committee for the Prevention of Torture (CPT) which viewed them as a means to improve the material detention conditions. In Poland, some detention centres run by the police have been closed or handed over to the border guards department in 2007-2008.

Four new centres were built in 2008-2009 with a total capacity of 692, which raised the detention capacity in the centres that are currently operating in the country up to 980. Romania has two detention centres, one in Arad (western border) and one in Bucharest, which have a total capacity of 180 detainees, but in practice the centres are not full (257 people were placed in detention in 2007).

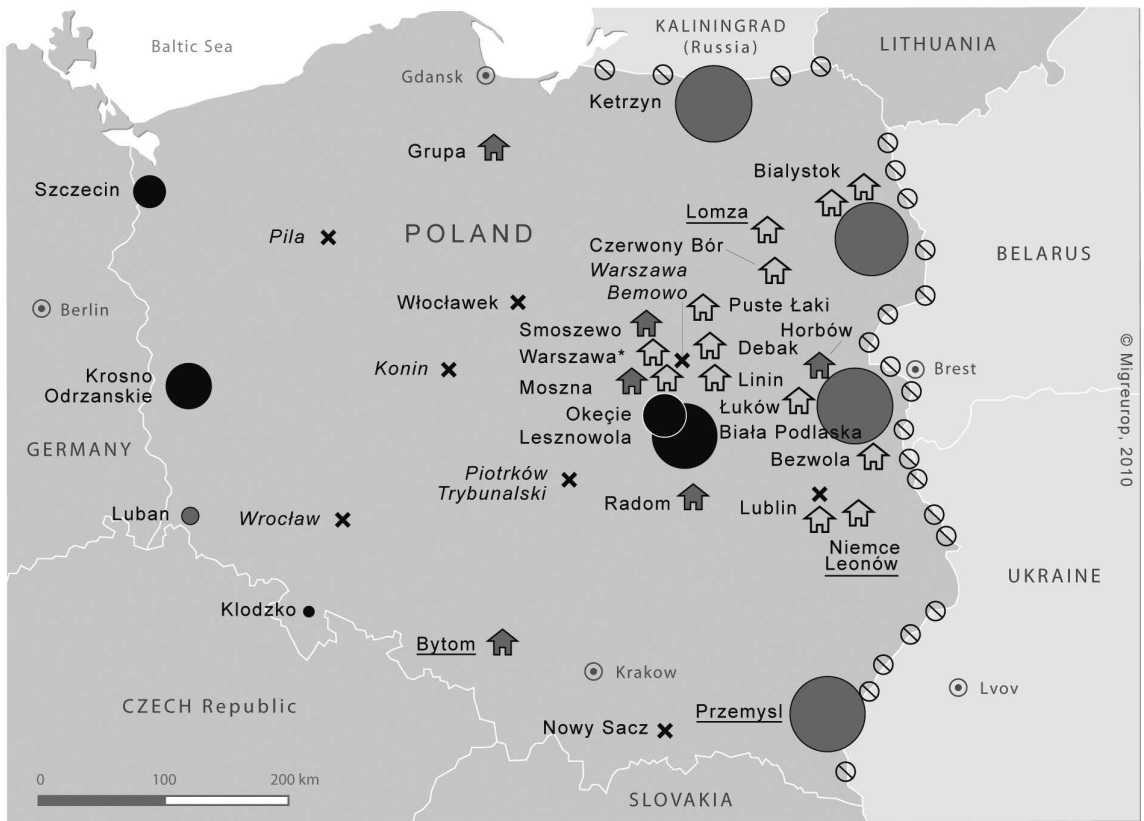
Closed centres and deportation prisons in Poland

There are two types of detention centres in Poland: *closed centres for foreigners* and *deportation prisons*. The regime in the latter resembles prisons, and freedom of movement is strongly hindered, as it is limited to one free hour for a walk in the yard and going to the toilet twice per day.

Living conditions are not as strict in closed centres, but they are very restrictive as well. Detainees can move within the centre, in some authorized areas: for example, they may come and go along the corridor that is adjacent to their cell, they may go to the living room and bathroom which are both in the same "closed wing". Detainees may leave this area three times a day for meals or to go for a walk and, when authorized, to do their laundry, send a fax or to see visitors, the doctor or the psychologist²⁶.

People may be placed in deportation prisons if they are deemed to have behaved aggressively or -more surprisingly- if they have attempted suicide. The decision by the judge following custody may be considered to be practically automatic and hardly ever contradicts the opinion given by the police. For example, in Przemysl, the same management team is running both a closed centre and a deportation prison. According to staff

26. Observation and interviews with staff members of Lesznowola closed centre, 1 March 2010.



Lomza Place visited

○/ Border Checkpoint

🏠 Reception center for asylum seekers (open before 2007)

🏠 Reception center for asylum seekers (open after 2007)

* In Warsaw, one of both centers caters for unaccompanied minors asylum seekers.

Detention camp** for migrants under removal procedures ...

... set up ● before 2007 ● after 2007

... closed after 2007 X

** Names mentioned in Italics are 5 centres that used to be managed by the police. Since 2010, border guards manage all detention centers.

Reception capacity (number of places) 

The integration of Poland into Schengen and an East more and more concerned with migration management

members²⁷, some people are placed in the prison without this being justified.

Detention centres and transit zone in Romania

There are three different categories of foreigners in the Romanian detention centres of Arad (with a capacity of 40 people) and Bucharest (capacity of 140 people) where,

27. Informal interviews with staff members, 1 March 2010.

in theory, the maximum length of detention ranges from six months to 30 years²⁸. “Removable” migrants have been issued a removal order because they do not, or no longer, have a right to stay. If they cannot be removed within 24 hours after questioning, the person may be placed in a detention centre. “Expel-

28. In theory, the law does not prevent so-called “undesirable” foreigners from being held for 30 years if they have been forbidden re-entry for 15 years, and it is renewed once. In practice, the authorities generally manage to return them.



Romania at the doors of Schengen space

lable” migrants have been issued a judicial expulsion order by a judge under the conditions imposed by the penal law because they have committed an offence. Those classified as “undesirable”, always following a decision by a judge, are people who have carried out, carry out or risk carrying out activities of a kind that may endanger national security and public order.

Living conditions and the possibility to exercise one’s rights are a problem, but the situation seems to have improved since 2006, when a detainee filed a case before the European Court of Human Rights (ECtHR), which found Romania guilty of “inhuman

or degrading punishment or treatment²⁹”. At Otopeni centre (Bucharest), rooms and common living spaces are very small and activities are very rare. Detainees are locked in cells with four beds, generally in silence, apart from brief periods (the doors are open for four hours in the morning and two hours in the evening). In fact, living conditions are very similar to those in jails, in contrast with the CPT’s recommendations. Two police officers are always present in the common rooms, very few activities are available, the corridor is used for walks because access to the open-air terrace is restricted to prevent escapes, visits require prior notice and are limited.

29. Article 3 of the European Convention of Human Rights. Ruling of 12 January 2010. <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbk&taction=html&highlight=al-agma&sessionid=48854765&skin=hu-doc-fr>

Testimonies. *I like being outside, walking, seeing the sky. At Otopeni, it was very difficult, it was hard for me to cope with detention. It was the second time that I was detained within a short period, but in the other European country, there were more activities and you could go outside often.* Male, Afghanistan.

During my stay at Otopeni, there was a foreigner who had mental problems. He was nervous and attacked other migrants if he felt he was given a nasty look. He was all alone in his room, but it wasn't a special room. If he didn't stay calm, he would be locked in it, and he would leave it to eat separately at a different time. Male, Pakistan.

The transit zone in Otopeni airport (Bucharest)

When foreigners are stopped at the Romanian border because they do not fulfil the conditions required to enter Romanian territory, they will be deemed not to have entered the country and are held in a “transit zone³⁰” while the authorities’ decision as to whether to let them in or to return them is pending. An asylum procedure at the border was established in 2001, according to which asylum seekers may be detained for up to twenty days while their application is being examined. Beyond that time frame, an asylum seeker is automatically admitted into Romanian territory to undergo the normal asylum procedure. According to UNHCR, 124 asylum applications were lodged in a Romanian international airport between 2001 and 2008 (but there were only five in 2008).

In Bucharest, the transit zone at Baneasa airport, which the CPT described as being “totally unsuitable for long stays of foreign nationals³¹” was closed, except for returns. The one in Otopeni airport was also closed in 2006 after a CPT visit, and only a small detention premise remains. It was described

by UNHCR as a creepy place³². Migrants who we met described the place as dirty, lacking fresh air and with nothing envisaged for detainees’ meals.

Testimony. *I spent one night and one day in the administrative detention facility of Otopeni airport. The place is appalling. Moving from Germany to Romania was like being in another continent. Here, you are not respected as a human being.* Male, Afghanistan.

Through a decision dated 10 December 2009³³, the Romanian government created a new transit zone, found within the Bucharest detention centre facilities. It is called the “Special Reception and Accommodation Centre for Asylum Seekers” and falls under the responsibility of the Romanian Immigration Office (RIO, whereas all the other transit zones are under the responsibility of the border police). However, the transit zone is not in use and may never be, because its location poses a problem regarding which authority is competent to manage it (rivalry with the border police) and there are legal issues as to its theoretical extra-territorial nature.

An excessive length of detention

In Poland, the maximum length of detention set by the 2003 law on foreigners is one year. A foreigner may be placed in detention for 90 days, renewable three times. Detainees have seven days to appeal against their detention after receiving the court’s decision, but they cannot attend the hearing. They are thus left unaware as to the total length of their detention, heightening the stress caused by detention itself. Detained migrants have a right to claim asylum, but many will hesitate to do so, fearing that a decision might be

30. In Romania, the transit zone is equivalent to the French “waiting zone” (Zapi).

31. 2006 CPT Report (only available in French), <http://www.cpt.coe.int/documents/rom/2008-41-inf-fra.pdf>

32. Interview with UNHCR, Bucharest, 26 January 2010.

33. [www.legestart.ro/Ordinul-301-2009-stabilirea-unui-spatiu-functioneaza-Centrul-special-primire-cazare-solicitantilor-azil-avand-regimul-juridic-zonei-tranzit-\(MzQ0MDI1\).html](http://www.legestart.ro/Ordinul-301-2009-stabilirea-unui-spatiu-functioneaza-Centrul-special-primire-cazare-solicitantilor-azil-avand-regimul-juridic-zonei-tranzit-(MzQ0MDI1).html)

made to automatically renew their detention for 90 further days, as is envisaged by the law (art.89).

When the time to appeal expires, detainees may, at any time, ask to be released based on the grounds provided by the same law (art.107): a change in their situation, a risk for their health and security, the cancelling of a removal order, or the granting of refugee status, subsidiary protection, or of a status as a “tolerated” person. The court of first instance examines the request for release. Once released, if migrants are asylum seekers, they can go to the transit centre in Debak and apply for a place in a reception centre.

Always in Poland, asylum seekers may be detained in accordance with the law on the protection of foreigners (art.87), particularly if their identity needs to be checked, if they are deemed to be “bogus” asylum seekers, if they represent a threat to the life, health and security of others, or if they constitute a threat to public order. Asylum seekers may also be arrested if they crossed or attempted to cross the border irregularly. The application of all these criteria appears to be highly arbitrary. According to the same law (art.89), a judge will establish the length of detention, for between 30 and 60 days.

In Romania, the maximum length of detention is six months for irregular migrants, two years for foreigners who have been issued an expulsion order, and up to 30 years for so-called “undesirable” foreigners (see above). The decision to place irregular migrants in detention is decreed for an initial period of 30 days, with a five-day deadline to file an appeal. In Romania, if the judge extends the detention period, migrants know that it will automatically be for five months unless they are returned earlier.

Such lengths of detention are excessive and undermine migrants’ right to free movement. Moreover, they are meaningless, as the authorities themselves acknowledge: the 2007

RIO report notes that, on average, two thirds of the expulsions were carried out before the 16 days had passed. They also seem to contravene the ECHR’s article 5 point 1F, which states that the purpose of detention shall be to remove a person (and it also contravenes article 15 point 4 of the “Returns Directive”³⁴ for the same reasons). However, some nationalities are hardly ever sent back from Romania: Somalis, Iraqis and Afghans. How, then, can their detention for six months be justified other than through a wish to isolate them and please the EU’s repressive approaches? With a view to transposing the returns directive, legislative amendments may occur, unless Romania decides to keep the clause attached to article 2 point 2b of the directive which allows the possibility of excluding foreigners who “have received a punishment under criminal law that envisages their return or for which it is a consequence” from its scope. In this case, the latter could still be detained for longer than 18 months.

Finally, in both countries, it is possible for migrants to be detained several times during the same year and/or for them to experience detention in other European countries (which generally happens to “Dublinees”). For these people -a paradox if they are arrested for attempting to leave the country-, the stress caused by the return is added to by a feeling of insecurity if they stay in Romania or Poland that encourages them to continue their journey.

Self-harm. *To avoid being detained for such a long time, some detainees resort to self-harm to be let out and be transferred to either a hospital or an open centre*³⁵.

In February 2010, several people who were interviewed in the detention centre of

34. Directive 115/2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, which sets the upper limit of detention at 18 months.

35. The first case below is from our interviews at Lesznowola ; the second case was followed by Halina Nic.

Lesznawola (near Warsaw) spoke about someone who attempted to slit their throat a few days earlier. The young woman from Chechnya had arrived in Poland with her five children. She had already been detained for five months. She attempted suicide on the day when she received the order extending her detention for a further three months. She was taken to the hospital, and was transferred to the open centre in Debak a few days later.

In January 2010, a detainee of Georgian origins went on hunger strike in the detention centre of Ketrzyn (in northern Poland). He sewed his lips together. His wife contacted the Halina Niec association to ask for help for her husband. After one month on hunger strike, with help from the jurists, the detainee and his family were released and given a place in an open centre for asylum seekers.

Detention of vulnerable people

The Polish law (art. 121) allows pregnant women, up to the seventh month of pregnancy, to be held in deportation prisons. In guarded centres, there is no provision of specific treatment for pregnant women or single parents with children.

As regards minors, Poland is signatory of the International Convention on the Rights of the Child. Nevertheless, the law on foreigners allows the detention of entire families, including minors. Children do not have access to schooling although education is compulsory for those aged between 7 and 18. The detention of unaccompanied minors is no longer forbidden, and the law (art.101) allows minors to be placed in educational centres, for instance in an orphanage. As reported by Halina Niec, two unaccompanied minors were placed in the closed centre of Krosno Odrzanskie in 2009 (central-western Poland). They came from Afghanistan and were detained for crossing the border irregularly. They applied for asylum. On the basis of what the Foreigners' Office suggested, the province judge designated the police officers as their legal guardians (ad-hoc administrators): hence, the two minors were not transferred

to an orphanage and stayed in Krosno, which has a room that is fitted out for children's leisure activities.

Access to legal assistance in the centres

In Romania, there is an association that regularly visits detention centres to provide legal assistance to detainees and to explain to their situation to migrants (procedural documents are translated in languages other than Romanian, but not necessarily the detainees' mother tongue). The association may also recommend a lawyer or file an appeal for them. In transit zones, another organization is authorized to intervene. The CPT criticized the fact that foreigners who are not allowed entry (including asylum seekers) were not given any information about their rights and the procedures they had to undergo (or it was provided too late)³⁶. When the information reaches them, it is generally in Romanian or English, not in the detainees' mother tongue. In both types of places, help from an interpreter is an exception.

In Poland, foreigners detained in a closed centre or detention prison have a right to contact the Polish authorities, their diplomatic representatives or associations by mail or by telephone. They must be informed of this right in a language that they understand. They have access to a telephone but, in practice, detainees have to buy phone cards, except for very rare cases in which the centre allows free phone calls for the poorest detainees³⁷. Some associations provide legal counseling in detention: it is estimated that there are around twenty jurists in the country who do so. However, due to insufficient funding, the associations do not visit regularly and the advice is often given during telephone conversations. For this purpose, detainees are given a list of associations, but they usually do not

36. 2006 Report, *op. cit.*

37. Depending on the criteria used to assess whether a detainee is poor or not, free access to phone calls may be random and even discriminatory.

know which one they should call, or the kind of assistance that they could provide.

At present, in Romania, the internal regulations of the Otopeni centre are only available in Romanian; however, procedural documents are at least available in English or French (but not in the detainees' home languages). In Poland, expulsion orders and instructions on the means of filing appeals are provided in Polish, and detainees often do not have any information about the return process in a language that they understand. The lack of information, which is an unacceptable obstacle for them to exercise their rights, especially the right of appeal, gives rise to a helplessness and lack of understanding that makes detention even harder to bear.

2. Reception centres: isolating asylum seekers

There are nineteen reception centres for asylum seekers in Poland, and five in Romania. They are generally in the outskirts of cities, so as to avoid tensions with the local population, or (in Poland) in those where the unemployment rate is high, since the location is chosen after a process calling for tenders. In Romania, the centres are close to border areas. Finally, they are mainly found in the poorest areas with high unemployment rates, as running costs are lower there. In Romania, asylum seekers are given a work permit one year after their application is lodged. It is hard to find stable employment with this permit, because it is renewed for very short term periods (every week or fortnight). In Poland, asylum seekers obtain this work permit on request six months after lodging their asylum application.

In Romania, a majority of the centres opened thanks to European funding, often in abandoned interior ministry buildings which have been restructured. Three of them are in urban areas, two others are in small towns close to the northern border, where the eco-

nomous precariousness of asylum seekers is added to by social and geographical isolation. Like in Poland, their marginalization, both in terms of where they live or employment, is even more of a hindrance and hard to cope with on a daily basis because the asylum procedure may last for up to two years in Poland and one and a half years in Romania.

In both countries, accommodation is ensured for asylum seekers if they request it. Yet, to register and follow the procedure, they have to submit a place of residence to the authorities (RIO in Romania, Foreigners' Office in Poland). It is difficult for foreigners to find accommodation in the private sector. Polish centres are run by the Foreigners' Office, which is also responsible for examining asylum applications. In Romania, this task is entrusted to the RIO, a body that is more similar to a police department. Police guards are always present in Romanian centres, as well as video surveillance cameras.

These reception centres are "semi-open", that is, they have a curfew in the evening and one loses one's place if they spend three consecutive nights outside it without prior authorization. In Romania, it is easy to be given one's place back after asking for it back, because the centres are not full. In Poland, after seven days of absence, an asylum seeker will not only lose their place, but their asylum claim will be rejected as well.

In both countries, isolation is heightened by a scarce access to the very limited public transport system, when there is any, which must be paid by users. In Poland, the Foreigners' Office is supposed to refund travel expenses to Warsaw when asylum seekers have to go there for interviews at the Office or to go to a health care centre. In practice, the amount that is refunded is far too small and is paid irregularly. Some asylum seekers do not even have enough money to send their children to school, which is often far away

from the reception centres³⁸. In Romania, asylum seekers receive 105 ron per month (around 25 euros), which are supposed to cover all their expenses, including transport. Eventually, asylum seekers end up paying for their own travel costs each time they are summoned, and wait for several hours to be told that their hearing has been postponed until a few weeks later.

Another consequence of isolation, is the difficulty asylum seekers find to obtain legal assistance. In Poland, associations providing legal advice are not present in all the centres, and they rarely visit those that are far away from cities. The approval and goodwill of centre directors is crucial to provide information about and enable legal counseling by telephone. However, this is not always the case. In Romania, there are mainly serious translation problems, regardless of the language. There are very few interpreters working in this field and they do not always show up for hearings. More generally, the absence of comprehensive regular assistance may have a negative impact on these people's situation (with serious diseases, psychological and social issues remaining unaddressed).

3. "Dublinized" asylum seekers

As first countries of arrival into Europe, Romania and Poland are expected to readmit numerous asylum seekers on their territory in application of the Dublin II Regulation: they may be migrants who just passed through these countries without applying for asylum because they feared reprisals, detention or rejection³⁹, or they may be rejected asylum seekers, or others who did not await the final outcome of the asylum procedure. All these reasons account for numerous returns and expulsions to Poland and Romania alike, that

sometimes turn into serial returns from both countries, depending on the readmission agreements on a bilateral, intergovernmental or EU basis that have been signed with their partners. These expulsions can prove very harmful, either because recognition rates are very low for refugees or nonexistent for some nationalities, meaning that "Dublin-readmissions" can be the first act in the forced return of asylum seekers to their home country or to the one they have come from, without any guarantee that their asylum application has been duly examined.

Back to detention

In Romania, the fate of "Dublinees" varies depending on the status of their asylum application:

- if the decision on their application is pending, they can return to the centre for asylum seekers (direct transfer from the airport or free journey by train), without risking any sanction, and their procedure continues;

- if the asylum procedure has ended (with a rejection), they will be placed in detention upon arrival as irregular migrants;

- if they have never applied for asylum in Romania, they will be placed in detention, but will be automatically released from the centre if they lodge an asylum claim.

Context of a return to Romania. *I spent three months in a centre for asylum seekers in Romania, then I decided to leave the centre to continue along my route to Belgium. I contacted my smuggler again. I managed to reach Belgium, where I spent about one month and ten days. I first spent fifteen days in an open centre in Ghent, then I headed off to Brussels to lodge an asylum claim. I was fingerprinted and they realised that I was already registered in Romania. They put me in Merksplas detention centre for fifteen days, waiting to be transferred to Romania. I did not want to go back there. Upon arrival, I was placed in Otopeni detention centre. I spent six months there. Male, Afghanistan.*

38. Interview with an open centre officer.

39. Interviews with Chechen and Uzbek asylum seekers (11/2009 and 03/2010).

Upon arrival in Poland, readmitted Dubliners are first held in a police station for 48 hours. In the meantime, if their application was rejected, the border guards ask the judge for an order to transfer them to a detention centre. If they are still asylum seekers, their case is theoretically the Foreigners' Office's responsibility again, and they are transferred to the asylum seekers' reception centre although, in a variable proportion of cases, their transfer to a detention centre is requested. Then, according to the associations that provide legal support to migrants, readmitted Dubliners' asylum applications are automatically rejected. It sometimes happens that these serial measures lead to a separation of family members.

Example of the notification of a return order in Poland. *The asylum seeker told us that he had experienced economic problems in his country of origin. [...] Moreover, during the procedure, the asylum seeker irregularly travelled to the Netherlands. This means that he did not seek effective protection in the first country of asylum that he crossed, but that he wanted to go to the West, where he certainly sought a better life. [...] Therefore, it is reasonable to believe that the applicant is an economic migrant.* Foreigners' Office, a Georgian family, 03/2010.

Splitting of families. In September 2008, I crossed the border in Terespol with my two children. We headed off directly to Belgium, where we got ourselves arrested. At first, they held me in a deportation centre, which was like a prison. I stayed there for a month. I did not know where my children were. The police took them, they brought them to another centre, but I did not see them for a month. One month later, I was transferred to the centre where my children were. I was not told why I was separated from my children for a month. Male, Ingushetia (Russia).

Organizing returns

In practice, the Dublin Regulation often turns out to be the first stage of a serial removal, rather than a mere mechanism to determine which state is responsible for examining an asylum claim. For those whose application is deemed inadmissible, removal may be organized straight away: contacting their consulates, issuing of a leave to enter document, booking a flight.

In Romania in 2007, 4,470 return decisions were issued by the RIO, and 431 returns with an escort were carried out (forced return)⁴⁰. In the first semester 2009, there were 3,111 return decisions and 213 returns with an escort⁴¹. Nevertheless, it should be noted that there are very low execution rates of returns for certain nationalities (Afghanistan, Zimbabwe, Sri Lanka and Iraq)⁴². Returning them is unlikely, since the authorities know the difficulties that they will face, but detainees do not know this for certain, which increases their levels of stress during the six months that they spend in detention. One consequence of this, according to detainees, is that some of them ask to be repatriated within the framework of returns that are then called "voluntary" - something that will reinforce the official view according to which they are not "genuine" refugees.

40. Romanian Immigration Office, 2007 Report, March 2008.

41. Romanian Immigration Office website, October 2009. http://ori.mai.gov.ro/api/media/userfiles/InfoStat_Octombrie_2009_text.pdf

42. For instance, in 2007, there were 1,304 return decisions for Moldovan nationals and only 196 were carried out, which amounts to 19%; as for Iraqi nationals, only six out of the 105 removal orders issued were executed, which amounts to an execution rate of 5%.

Requested country/ Dublin II readmissions	Requests	Positive answers	Negative answers	Readmitted persons
Poland	4,300	3,983	205	1,734
Romania	270	211	41	100

Number of requests made to Poland and Romania in 2009 to take back migrants under Dublin II.

[For Poland, data runs from 1/1/2009 to 23/11/2009]

Sources Asylum procedures department of the Foreigners’ Office (Poland); Eurostat (Romania)

III – Returns

Readmission agreements

Poland and Romania are parties to a dozen EU readmission agreements that have come into force⁴³. Separately, Romania has reached thirty-five bilateral agreements of which seven are with non-EU countries⁴⁴, and Poland has struck twenty-eight and five respectively⁴⁵. These agreements simplify the process to remove foreigners who are staying illegally to their country of origin or to a third state in which they have resided legally or through which they have merely passed.

Starting from mid-1990s, readmission agreements were signed between Poland, Slovakia and Hungary on the one hand, and Ukraine on the other. The agreement with Ukraine (May 1993) does not just envisage the return of Ukrainians who stay in Polish territory but do not fulfil the conditions required for entry and residence back to Ukraine, but it also includes a clause that provides for the readmission by Ukraine of

third-country nationals who have passed through its territory.

Forced returns to Ukraine

As the EU and Ukraine signed a readmission agreement in June 2007 that entails the same goals and makes readmissions more effective, Poland and Romania can now use it as a basis for returning people who cross their borders irregularly. Third-country nationals can be readmitted in Ukraine even if they do not have valid entry and residence documents for this country, which means that this is the case even if they risk being placed in detention when they arrive in Ukraine before being removed to another country (serial readmissions).

In application of this agreement, migrants who are intercepted during the 48 hours that follow their crossing from the Ukrainian border can be returned to that country in under 48 hours through a fast-track readmission procedure. In practice, some of these “express” readmissions actually conceal the turning back of asylum seekers. The only way out of this fast-track procedure would be to file an asylum application, but we have been told that some have little chance for it to succeed due to their nationality or the community

43. With the following countries: Albania, Bosnia-Herzegovina, China, Hong Kong, Macao, Macedonia (FYROM), Moldova, Montenegro, Russia, Serbia, Sri Lanka and Ukraine.

44. Albania, Macedonia, Croatia, India, Lebanon, Moldova, Turkey.

45. Macedonia, Croatia, Moldova, Ukraine, Vietnam.

to which they belong⁴⁶, and they are caught while they try to reach a different destination. Yet again, in combination with Dublin II, the readmission system prevents migrants from advancing westwards and choosing the country where they will settle.

The lack of guarantees against turning back is even more worrying as the agreement has been signed with a country like Ukraine, where human right violations are blatant⁴⁷. Ukraine is one of those countries to which, in theory, EU member states should refrain from returning foreigners who seek international protection.

On the ground, we observed that some migrants try to avoid Ukraine by crossing Moldova or Belarus (or even by passing further north), or they use any available means to try to hide the fact that they travelled through these countries, even by saying that they came through Greece in spite of the risk of being subjected to the Dublin Regulation procedure. The explanation for this are the terrible conditions that are prevalent in Ukraine: detention conditions are inhuman and degrading⁴⁸; readmission agreements have been signed with migrants' countries of origin or transit countries⁴⁹; there is a widespread sense of vulnerability and lack of safety among migrants; racist attacks are very common⁵⁰, as are removals⁵¹, and even Chechens are often

refused entry although Russian nationals do not need a visa⁵².

Returns within the framework of the readmission agreement between Poland and Vietnam

For historical reasons related to exchanges between communist states, over the years a Vietnamese community has settled in Poland that now comprises 30,000 people. Some of them have stayed in Poland irregularly and cannot obtain residence permits. According to lawyers who work in detention centres, "it is difficult to help the Vietnamese to regularise their situation; some of them have been living in Poland for 15 to 20 years and they have always worked without documents. They are most often arrested in the "10 years market" in Warsaw or in other marketplaces in large cities. There are also some who come through Russia with a Russian visa. The people who sell them these visas make them believe that they will be able to travel freely in the Schengen area. So, they arrive in Poland and are not even afraid of controls. Once they are in detention, they sometimes try to apply for asylum. But it is almost impossible for these migrants to get protection⁵³.

A readmission agreement was signed with Vietnam in 2004. According to the agreement's provisions, the Vietnamese authorities (consular or diplomatic) may intervene in Poland to help to establish the identity of undocumented people with a view to returning them to Vietnam. The first visit by Vietnamese officials was in 2007. In 2009, there were four visits and 57 persons were sent back. In 2009, 245 Vietnamese nationals were deported, 57 of them as a result of a readmission decision, 183 following an expul-

46. For example, Georgians or Vietnamese in Poland, and Kurds and Iraqis in Romania.

47. See, Ukrainian Refugee Council, The EU-Ukraine readmission agreement: myths, facts and risks www.ecre.org/resources/Press_releases/1530

48. Border Monitoring Project Ukraine, Report on the detention centre of Chop, 03-04/2009 (updated in 01/2010), http://bordermonitoring-ukraine.eu/files/2010/03/BMP_Chop_report_2010_amended.pdf

49. In particular, with Russia, Georgia, Turkmenistan and Vietnam.

50. UNHCR statement on Ukraine, 8 June 2007.

51. ECRS (2007), *Country reports 2007: Belarus, Moldova, Russian Federation and Ukraine. Situation for Refugees, asylum seekers and internally displaced persons* (IDPS).

52. Human Rights Watch, *Ukraine: On the Margins - Rights Violations against Migrants and Asylum Seekers at the New Eastern Border of the European Union*, 30/11/2005.

53. Interviews, November 2009-March 2010.



Ukraine-Romania border

sion order, three of them under the Dublin procedure and two people by other means⁵⁴.

The directorate of the Polish border guards claims that it does not place the people readmitted in Vietnam in danger of persecution, but some activists and researchers openly oppose this cooperation between the Polish government and the Vietnamese authorities. The head of the Paderewski Institute's Far East department in Warsaw⁵⁵ claims that many Vietnamese are scared to apply for asylum because this could lead to them being considered enemies by the Vietnamese government and their families in Vietnam would be in danger. Hence, they prefer to remain undocumented and face the risk of a forced return. He adds that Vietnamese officials only identify people who are in conflict, or are suspected of being in conflict, with the

authorities. The Freedom of Speech association in Warsaw shares these concerns.

Testimony. *Since the 1990s, it sometimes happens [in Vietnam] that the militia makes a proposal to you: either you go to prison or you go abroad. But you have to pay 4,000 dollars. And all these Vietnamese, when they realise that they can go abroad, they are happy. But in Vietnam you earn 20 dollars per month on average, so people have to become indebted to be able to leave. [...] The reimbursement process is very long, [...] it already begins in Moscow. People go to Moscow with a passport or a visa, but they often don't even see these documents. [...] They are directly taken in charge by a team. Their luggage and money are taken. The young men go to work without documents, the young women are exploited. [...] This is the way it has worked for over ten years. [...] They work in Moscow, in Ukraine or in Poland. Their travelling continues and it is always terrible. These people go to Ukraine by bus. Then they cross the forest on foot. They are held captive somewhere over there. The women have to work straight away during the journey. Some wanted to act as witnesses, but*

54. Source: Border guards statistics.

55. R. Krzyszton, *Imigranci – goście czy intruzi* («Migrants – guests or unwanted?») *Przegląd powszechny*, no. 2, 2009.

some others didn't want to. It is estimated that, over the last ten years, 4,000 Vietnamese have crossed the Polish border within a context of human trafficking. We never hear that the police or border guards have discovered the human trade. This means that the trade in humans is very well organized and brings in good money for both parties. [...] Most often, it is the Russians, Ukrainians and Poles who decide which of the Vietnamese will continue the journey or who must work. Sometimes, these people are left in the forest. [Even the police alleges not to know about them when they ask to be rescued.] And thousands of people are paying huge amounts of money, even if there are practically no travel costs. And these people arrive in Poland and become aware that they are stuck in a vicious circle; they have to constantly work to pay back the cost of the journey. And, in Poland, it is impossible for a Vietnamese to obtain refugee status. There may be one positive decision out of 500 asylum applications lodged by Vietnamese people. The Vietnamese know that they don't have this possibility. Moreover, the deportation system allows an "illegal person" to be sent back to Vietnam if the embassy is willing to identify them. And there is no doubt that the embassy will identify a person who says too much or says something against the system. We have already met several people who wanted to testify, but when they went to the police, they were subsequently deported to Vietnam. Extracts from the account by Ton Van Anh, a Freedom of Speech activist⁵⁶.

Vietnamese nationals are not the only ones who are "excluded" from the right to asylum in Poland. Other nationalities such as Georgians, Uzbeks and also, ever-increasingly, Chechens are regularly refused protection. While they sometimes have to wait for a very long time, asylum seekers also face other economic and social problems, as they are not welcome in certain towns.

IV – Intolerance towards migrants and refugees

Beyond the effects of the EU's migration policies, the difficulties faced by migrants in Poland and Romania are a consequence of the specific institutional, economic and social context in these countries. The daily life of people living in these countries, including foreigners, is affected by important constraints resulting from the poverty and unemployment that considerable portions of the population experience. The impact of the scarce social and financial assistance lent to migrants and asylum seekers is very slight insofar as their good integration within the host country or even the possibility of following the asylum application process there are concerned. Furthermore, immigration takes place in a special setting: in view of the almost complete closure of borders for the movement of persons during the communist period, for a long time these countries had not experienced the phenomenon of migration, and even less so in its current globalized form. Like also happens wherever the economic and political situation is not very solid, there is also a tendency to give priority to their own nationals for access to employment and social services, which are limited. In Poland, a part of society is always suspicious of immigrants and sometimes rejects or even competes with the "newcomers".

Difficulties in accessing refugee status in Poland

For asylum seekers coming from Russia through Ukraine or Belarus, Poland is one of the main gateways into Europe. In 2009, 5,726 out of 10,590 asylum applications were lodged by Russian nationals (mainly Chechens): only 102 were granted refugee status and 2,261 received subsidiary protection status, which is an insecure status

56. Published in A. Lipowska-Teutsch and H. Grzymala-Moszczyńska, *Kobiety Wedrownie (Travelling women)*, Cracow, 2008.

because it is temporary⁵⁷. The refugee status recognition rate is still very low compared to other EU countries⁵⁸. There has also been an increase in the number of Georgian refugees (4,217 applications in 2009, compared with 400 between 2002 and 2008), but having this nationality appeared to be a criterion that excluded them from receiving refugee status: under the fast-track procedure, asylum claims by Georgians are examined arbitrarily. After they were deemed to be “unwarranted” at the start of the wave of arrivals, because the reasons that they put forward were considered incompatible with the Geneva Convention, after hundreds of appeals the refusal of refugee status was confirmed because the second declarations contradicted what was said in the first interview⁵⁹.

Testimonies. *I'm on the blacklist of people wanted by the Kadyrov government. [...] In Poland, my children go to school. The whole family wants to live here. However, I have been in the procedure for four years, and I have just received a negative decision and a request to leave the territory within 30 days⁶⁰. Male, Chechnya (Russia).*

When I was first interviewed in Terespol, they asked me if I had any evidence that I was discriminated in Georgia. [...] After Terespol, I immediately left to reach France. But I was arrested in Germany. They sent me back to Poland. Shortly afterwards, I was summoned for an interview. Eight months later, I have not gone there yet. I'm using my illness as an excuse [he has hepatitis]. Because I don't want to go there. I know that Georgians have no chance of obtaining asylum in Poland. I'm staying in the centre without any money, just accommodation and food. But I prefer this rather than returning to Georgia. If one day I have to go back, I will kill myself. Male, Georgia (open camp).

57. Statistics of the Foreigners' Office.

58. Eurostat : http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-QA-09-030/EN/KS-QA-09-030-EN.PDF

59. Interviews with asylum seekers and lawyers, 2009-2010 missions.

60. Interview in Lublin, December 2009.

Security problems for asylum seekers

In the Polish case, one reason for leaving towards another European country before the end of the asylum procedure might be out of fear of being looked for by agents from their home country. In fact, Poland, a country that is very close to Russia, is considered a country that is not very safe. There is a danger of persecution for Chechens which is very difficult to gauge, but, among them, in several central European countries, asylum seekers have been victims of attacks perpetrated by the special agents of president Kadyrov. Several murders in Austria and Poland, as well as kidnappings in Poland, have been reported⁶¹. Chechens are not the only refugees who are at risk of being pursued, this is also true for Uzbek refugees, for example.

Testimonies. *My father fought for independence. He was imprisoned, and then they murdered him. [...] I came to Poland because I want to live in a country where I have a right to say the truth about what happened in Chechnya. [...] But people sent by Kadyrov come to Poland. I received threatening SMSs. They said that they would come to look for me here. My friends have seen them close to my home. They came in big cars, they stopped Chechens in the street and asked them if they knew me. Female, Chechnya.*

In Uzbekistan, this man was arrested several times by activists of religious organizations. [In 2002, he left Tashkent for Austria on his own, but his wife informed him that his family was being threatened: he went back and was imprisoned for a year, obviously due to a cooperation between religious activists and the police]. When he left jail in 2005, he sold his house. His wife and children moved to the grandparents' home. He went to Poland to seek asylum. First he went to Moscow, then to Brest. When he arrived in Terespol, he tried to cross the border three times, but did not succeed. He returned to Moscow. From Moscow, he managed to cross the border with

61. Refugee Forum, *The Asylum System in Poland*, Country sheet no. 13/09, May 2009.

Latvia. He crossed the Baltic Sea by hiding in a boat. When he disembarked in Sweden, he was immediately arrested and placed in detention. He stayed there for three months. Then, he was deported to Russia. He did not have any money to survive in Moscow, so he went back to Uzbekistan. He was imprisoned straight away. In jail, they asked him if he supported Islamic radicals. He was given some papers to sign, but refused to do so. After a month of torture, he was released from prison and then spent a month in hospital. In 2006, he left for Ukraine. He found a job in Kiev cleaning cars. In 2007, his wife and children let him know, once again, that they were being threatened and that they might be murdered if he didn't go back. [After this, there were two more return journeys between Kiev and Tashkent.] Some months later [in 2008], his wife and son managed to go to Ukraine. Then they all went to Poland to seek asylum. His eldest daughter stayed in Uzbekistan with her grandmother. She changed her name. [...] In Poland, the family doesn't feel safe. Secret service people came twice to look for them. The last time, it was in a supermarket next to the open centre where they currently live⁶². Male, Uzbekistan.

Unsettling and stigmatising refugees (Poland)

The poor situation of refugees and asylum seekers in Poland is partly an effect for which the national and local authorities are responsible, for example when they openly oppose the reception of refugees.

Petition for the closure of a reception centre

A significant event occurred in 2009, when Kolakowski, an MP for the Law and Justice party (right-wing) suggested to the Foreigners' Office director that the Lomza (Podlaskie voivodeship/region) reception centre for asylum seekers be shut down to avoid causing conflicts. Due to underemployment in this eastern part of Poland, migrants are practically excluded from the regular labour

market. Thus, their survival depends on seasonal work in agriculture or construction.

With support from some media outlets, the *Ocalenie* Foundation, a local migrant support organization, spoke out against the proposed closure. "*The closure of the camp cannot be a solution if no other alternative is found: where will these 190 people go?*", an *Ocalenie* representative in Lomza explained, stating that they would only support the closure of the camp if all the asylum seekers were relocated in cities that offered them better employment opportunities. In fact, when people obtain their refugee status and leave the camp, their misery often continues for a long time. Apart from integration programmes, their subsistence continues to basically rely on temporary work.

After he was accused of inciting racism, the MP withdrew his proposal, but after this, 800 residents signed a petition for the camp to be closed. "*We are not racists*", one of the women who presented the petition said, even though, in spite of the facts, like other residents, she argued that "*there is a risk that the rate of criminal offences will rise*" and felt that "*Chechens have more support*" than them⁶³. In February 2010, once again, the Lomza residents made it known to refugees that they wanted them to leave. Posters and stickers that read "*Chechens, we don't want you*" were printed and distributed all over the city. The *Ocalenie* Foundation and the voivodeship governor alerted the police. The organizers of the action (three minors) were prosecuted.

The events in Lomza show how conflicts between asylum seekers and long-term residents can arise in a context in which there are economic difficulties, although the Lomza camp was the only one in Poland against which there was a petition. In January 2009, an open camp in Katowice (capital of the

63. «Uchodźcy przeszkadzają. Ciagle» («Refugees disturb. Always»), *Gazeta Wyborcza Białystok*, 31/01/2010. http://bialystok.gazeta.pl/bialystok/1,35250,7513784,Uchodzcy_przeszkadzaja__Ciagle.html

62. Interview in Bytom, January 2010.

Silesia region) was closed down, on request from the local trade unions this time, in order to prevent conflicts between asylum seekers (mainly Chechens) and the neighbourhood's residents. The unions argued that the presence of asylum seekers contributed to the neighbourhood's precariousness, and it was already very poor. The local authorities supported this request.

Poor asylum seekers, be on your way (Romania)

In Romania, applying for asylum is like tackling an assault course, which also reflects the general problems of daily life, and there are many who, discouraged, abandon the procedure and head to another country.

On the one hand, asylum-seekers' living conditions are very hard. The state does provide a shelter for them in one of the country's five centres, but the 25 euros that they are allocated per month is not enough for other expenses. On the other hand, while the administrative stage is quite quick, as protection officers must give an opinion within 30 days⁶⁴, this does not apply to the judicial phase (appeal against a refusal). Hearings are postponed very often, in particular due to a lack of interpreters. Otherwise, Tamils may have Singhalese interpreters, and Kurds may have Turkish ones, and if they refuse to talk in their presence, looking for a suitable translator may take several months. Finally, the asylum procedure is a civil procedure. If the judge grants any sort of protection, the RIO has the power to appeal the decision. In practice, according to what a lawyer told us, this appeal is systematically filed.

“Tolerated”, and that's all

The status as someone who is “tolerated” is issued by the RIO to irregular foreigners who cannot be removed, generally after a six-month detention period during which it was not possible to deport them. It lasts for a maximum of six months and may be renewed. This “status”, whose purpose is to assign its holder compulsory residence in a limited part of the Romanian territory, does not entail any rights: in this sense, it is not a status but a non-status. The other EU states that grant “tolerance” (Poland, Slovakia, the Czech Republic and Germany), all grant more rights than the Romanian non-status which condemns its beneficiary to instability: illegal employment, difficulty in finding accommodation outside the associative sector, degrading living conditions, and a very limited access to health care.

Thus, those who are “tolerated” may live with this status for several years without any prospect of acquiring real rights. Indeed, the Romanian law on foreigners states that “tolerated status [...] may be extended [...] until the reasons for it disappear”, that is, until the return of a tolerated person to their country becomes possible. But, for some people, this return is impossible.

In this context, the integration of migrants into the host society is difficult, and not all of them are able to settle there. If some choose to leave, hoping to find better living conditions or to obtain a residence permit elsewhere, others stay and organize, a step at a time, to claim their rights. Their knowledge and the strength of their claims contribute to reinforcing the local NGOs' action, and the latter are starting to become interested in the fate of asylum seekers and, to a lesser extent, of undocumented migrants.

64. Law no. 122/2006 (art. 52). These 30 days may be renewed once, «if further documents are needed», to examine an asylum application.

V – Embryonic mobilizations

In Poland, people are still not fully aware of the migrants' situation, and mobilizations by migrants and asylum-seekers or their supporters do not have much repercussion. Except for the hunger strikes by Georgian refugees in August 2009 in Biala-Podlaska detention centre and the refugees' movement in Radom in December 2009, their actions have hardly ever received media coverage.

Mobilizations of refugees in Poland in December 2009⁶⁵

On 15 December 2009, some refugees, mainly from Ingushetia and Chechnya, as well as Georgians, left the Radom reception centre and boarded a train with the aim to protest against the poor reception conditions at the ECtHR in Strasbourg. After they were reported by ticket inspectors and blocked at the German border, the refugees refused to get off the train and opened out banners from the windows that read: "SOS", "We are people" and "Stop beating the oppressed". Finally, most of them were taken to a transit centre in Debak, in central Poland, then they were divided into different reception and detention centres (for those whose asylum application was rejected previously). There was a hunger strike to demand the detainees' release, the improvement of reception conditions, the simplifying of the asylum application process and public apologies from president Kaczynski.

This mobilization attracted the attention of the Polish citizens' rights commissioner, who visited the Debak and Radom open centres in December 2009. According to the PAP

press agency⁶⁶, the commissioner intends to study the decisions taken individually so as to find out the reason for so many rejections of asylum applications in Poland. The results of this study have not yet been released.

Testimonies. *We came to Poland two years ago. [Then, there were two rejections and a hasty departure to Austria.] However, in the Czech Republic, the police arrested us. They interned us in a detention centre for a month. I have to say, regardless, that it was clean and well equipped. We had two rooms at our disposal: a dormitory, a living room and the toilets. In Poland, we had never lived in such conditions. But we were locked up there. [...] A month later, we were transferred to Debak. There is nothing here, we are in the middle of the forest, and we are waiting but I don't know what we are waiting for. I'm ill, I had a stroke. I have a child whose two legs are disabled. We're living in a room for 13 people. We don't have any social assistance anymore. The children can't go to school because we don't have any money to buy bus tickets anymore. The people here treat us like dogs, they tell us: "Why did you come here, then? Nobody invited you". With my husband, we are always on hunger strike, I have a big bag of tinned food and that's all we have to eat. The management told us that they won't take care of us. They don't take what we are asking for into account and they don't take us seriously. They say that we are in "a madhouse" and they treat us as if we were sick. Aichata and Rousdan, Chechen nationals with their five children.*

VJ, PN

65. Kalucki Jaroslaw, "Uchodzący opuszcili pociąg" («The refugees got off the train»), *Rzeczpospolita Polska*, 15/12/2009; *Report on border situation in Zgorzelec border crossing*, Halina Niec Legal Aid Centre, 18/12/2009.

66. PAP, «RPO kontroluje ośrodki w Radomiu i w Debaku» («RPO controls the centres in Radom and in Debak»), 21/12/2009. www.rpo.gov.pl/pliki/12614050720.pdf.



**Camp of exiles in Patras (Greece) after its demolition by authorities in July 2009
(photo: Sara Prestianni)**

The process of externalization, denounced by Migreurop, begins even inside the European union: it is the "dublinization" principle which lays down, in the name of 2003 regulation called "Dublin II", that asylum seekers should be returned to the first European country whose borders they have crossed. Because of this legislation, that all observers judge iniquitous, absurd and sometimes murderous, many migrants do not even try to seek asylum where they arrive, fearing a fatal return back to where they came from. Therefore, they become exile. As for Greece, at the doors of Europe, it does not grant any refugee status, thus these people find themselves trapped as in a fishing net. In July 2009, Greek authorities decided to close Patras camp, an informal, overcrowded and unhealthy gathering of people, without offering any alternatives to its inhabitants. While a fire was destroying their barracks, those inhabitants scattered throughout the city, the olive tree fields along the transit roads used by trucks and the ports facing Italy. While awaiting the hypothetical crossing to another European country, they are subjected to frequent persecution by the police, who destroy their shelters and put them again on the road with nowhere to lay their head. Their situation recalls that of the exiles in the jungles of Calais, after the destruction of Sangatte camp, in north-west of France (see below).

The Ionian and Adriatic seas: forced returns between Italy and Greece

Over the last few years, the maritime border between Italy and Greece has become an interesting place if one wishes to understand migrants' new routes and the policies to control their movement in Europe.

Since the consolidation of agreements between Italy and Libya and the turning back at sea to the south of Lampedusa, many migrants who would have previously crossed Libya to reach the Sicilian coasts now seek to enter Europe by passing through Greece, from where they travel to Italy. At present, some refugees from the Horn of Africa head east through the Gulf of Aden, and they cross Greece en route to the ports on the Adriatic Sea. The closure of the border between Morocco and Spain has reinforced this flow.

A new migration route at Europe's gates

The number of potential asylum seekers is very high, and those who seek to "illegally" cross the Greek-Italian border constitute the category that is most affected by the hardening of laws and the bilateral agreements signed by member states. By altering their routes to elude control mechanisms, they join those who have traditionally used the route through Greece to reach the European territory, particularly Afghans, Iraqis and Indians.

Since the turn of the century, the number of asylum seekers in Greece has consistently increased, and rising practically fivefold from 2004 (4,469 applications) to 2007 (25,113

applications). As Greece has been unable to develop a policy of deportation and return to Turkey (like Spain has done with Morocco or Italy has done with Libya and Tunisia), the Greek-Italian route is the only that remains just about practicable for those wishing to migrate to Europe.

Because Greece is, for most migrants, just a place of transit that they must leave as quickly as possible. "This is not the European Union", those who are asked in Greek territory will repeat. In fact, their living conditions appear to be the worst in the entire European Union (EU): forced to live in hiding, they often suffer violence and are detained arbitrarily; contrary to the law, they are sometimes deported to the countries they have fled or to those that they have merely passed through, like Turkey or Afghanistan. Less than 1% of protection requests are granted (0.3% out of 5,000 applications in 2007), while both the 1951 Geneva Convention on the protection of the rights of refugees and Community Directives on asylum and international protection are not respected¹.

Faced with this situation, in a document dated 15 April 2008, UNHCR has expressly recommended that the governments of European countries should refrain from sending people back asylum seekers to Greece on

1. Report by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to Greece, 8-10 December 2008, Strasbourg, 4/02/2009; see also, K. Kopp (Pro Asyl director of European Affairs), *The situation in Greece is out of control, Research into the situation of asylum seekers in Greece*, 20-28/10/2008.

the basis of Regulation 343/2003, known as “Dublin II”, until new instructions are issued, and Amnesty International has renewed its criticism of the Greek government’s actions in relation to asylum seekers².

Hence, it is logical that many migrants, particularly those who would have a right to international protection, try to escape Greece in order to reach Italy. Some attempt to cross the land border on foot, but the sea route towards its Adriatic ports is still the one that is most often used. Thus, there is a large number of migrants in the Greek ports of Igoumenitsa and Patras (and to a lesser extent in Corinth and Corfu), from where ferries heading to Venice, Ancona, Bari and Brindisi leave. They hide inside or under road haulier lorries that board these ferries: it is a very dangerous journey during which they may die due to asphyxia, cold or being crushed. Once they arrive in Italy, the survivors risk being arrested by the border police and returned. In 2008, there were more than 5,000 turning back from Italy to Greece, and they were 3,148 in 2009. It is not uncommon to find people who have attempted the crossing twice or three times without managing to submit an asylum application on Italian territory.

The Greek and Italian port police forces justify these turning back, which do not comply with the Dublin II Regulation, on the basis of a bilateral agreement on the “readmission of people in an irregular situation” that was reached on 30 March 1999 and contradicts Community rules, international conventions and Italian law itself. In fact, several people are turned back from Italy to Greece in violation of rights that are considered fundamental, because they are arbitrarily denied their freedom and their right to defence, forced to sign written documents in a language that they do not understand, and prevented from filing a request for political asylum.

The readmission procedure between Italy and Greece has only recently been publicly condemned by several Italian and Greek associations.

Methodology. *This report is the result of various missions carried out by Migreurop members and partners on the Italian and Greek coasts, completed by research and documentation work:*

- Filippo Furri, PhD student in the *École des hautes études en sciences sociales (EHESS)*: mission to Ancona in February 2010, and contribution to the section on Venice;
- Regina Mantanika: mission in Greece, jointly between Migreurop and the associations Diktio and Antigone, within the framework of the programmes of the French association “Echanges et Partenariats” (Exchanges and Partnerships);
- Sara Prestianni, coordinator of the Migreurop network: missions to Ancona in February 2010, and to Patras and Igoumenitsa in March 2010;
- Alessandra Sciarba, of the Italian association *Melting Pot*: several missions to Greece in 2009 and in March 2010 (Adriatic border and the port of Venice).

2. Amnesty International, *The Dublin II trap. Transfers of asylum seekers to Greece*, March 2010.

I – Controlling and blocking

Migrations have transformed the maritime traffic between Greece and the Italian ports on the Adriatic Sea. Many drivers of articulated lorries carrying merchandise between the two shores are obsessed about migrants hiding on board of their vehicle. Others have a strategy of complicity with smugglers' networks. At the same time, crew members of the boats are forced to lend assistance to the police forces' controls, or even to carry them out.

All the ports on both shores have been militarized: high fencing, control posts, scanners for heavy vehicles. The number of police officers deployed to check vehicles on ferries, upon departure from Greece or arrival into Italy, has increased. This happened in spite of it being an internal border in the Schengen area, and thus subject to Regulation 562, which sets apart its control regime from that for external borders and states that "internal borders may be crossed at any point without checks on people being carried out, regardless of their nationality" (art. 20). Of course, it notes that this does not prevent "the exercise of the competencies of the police force that has authority within the member states in accordance with national law", but this applies "to the extent whereby the exercise of these competencies does not have an equivalent effect to that of border controls". For this reason, controls at borders within the Schengen area may only be carried out, for example, if there are "possible threats for public security" or "on the basis of checks that have been carried out randomly" (art.21). Now, in Italian and Greek ports and in the boats alike, the control system is the same one as that which is in place at the EU's external borders, and the searches to which heavy vehicles in transit are subjected are far more than mere "random" controls.

The strong police presence in the ports, far from slowing down "irregular" mobility, has actually given rise to a strategy for passing, while it has also encouraged corruption. Until now, the possibility of reaching Italy inside a heavy vehicle setting off from Greece depended mainly on the migrants' ability: an accumulation of knowledge, experience and techniques to elude police controls. Over these last two years, the number of those leaving directly from Athens appears to have increased. The cost of a ticket towards an EU country (except for Italy, which is also perceived as a transit country) has reached 3,000 euros, and international carriers only leave Athens after they have collected dozens of migrants who will stay locked in the lorry or container until arrival. The driver's complicity is needed, and often that of the port police as well. Another strategy: making entire families travel (Afghans and more so Kurds) in stolen cars with forged documents.

It is mostly the poorest and most isolated people, who are often minors, who continue to leave from Greek port cities by hiding beneath or inside articulated lorries without the drivers knowing it; they run great risks, and are most often discovered, arrested and returned.

1. Controls in Greece

The national immigration policy is that of "zero tolerance": reinforced surveillance of entry by land at the Greek-Turkish border and blocking departures by air or sea. Alongside Athens airport, Patras and Igoumenitsa are among the country's leading departure gates.

Control and blocking systems have evolved towards a strong militarization of ports, accompanied by the reinforcement of police patrols in port areas and in the gathering places used by migrants in an irregular situation. After the destruction of the Afghan camp in Patras in July 2009, the situation has chan-



Igoumenitsa port in Greece, ferryboat to Italy (photo: Sara Prestianni)

ged: entering through the port has become harder, and the crossing is organized directly from the city, becoming more dangerous and expensive.

The Patras port plays an important role in the economic life of the city and the entire country; it receives half of the total maritime traffic heading abroad. It is surrounded by two fenced enclosures, and its international area is subject to particularly close surveillance. For both migrants and people who do not have a ticket, entry is difficult during certain hours of the day, especially at boarding times. But the patrols are not limited to that area. The civil protection ministry has ordered the police to reinforce controls in the neighbourhoods near the port. Mobile units travel all around the city: “at the bus station, at the train station, at the ticket counters, at the parking lots for lorries”, according to the police

prefect. The highway³ entry point to the city is also controlled, where the 7 kilometres area that refugees call “the jungle” begins. Two service stations that are used as parking lots for lorries are targeted by patrols, often on request from a section of the population.

On the road from Athens, there are one or two police vehicles stationed at strategic entry points to the city, forcing migrants to hide.

In Igoumenitsa, patrols are organized in the same way. Police cars chase the migrants who gather at the foot of the hill⁴ and all along the port area. At boarding times, two queues of vehicles form, one of which comes from the city, and the other from Egnatia, controlled by the lorry drivers and police patrols. All

3. Many people wait by the traffic lights of the new highway that goes towards the port, where the vehicles have to slow down, that is, at the traffic lights at the city's entrance or exit points.

4. The hill, which is at the exit of the road from Egnatia, is at the port entrance. Lorries queue up to get through the police controls before entering the port.

along the port area, the places where migrants gather to observe the lorries are combed by the police, which sometimes causes their dispersal by throwing stones at them. It also conducts checks at the bus station and on board of the buses to Athens. According to migrants, taking the bus at night is dangerous, because there are regular controls during the journey, especially while they travel across cities. The new port was created to provide a direct connection with the other EU countries. It is smaller than the one in Patras and does not appear to be as militarized, but it is almost impossible to enter for migrants.

In both Patras and Igoumenitsa, there is a reception area for passengers, with cafés, a duty free shop and sea transport companies. In Patras, this area is reserved for travellers, who are controlled at the entrance to the port zone by the coastguard and by special police units: “We are technically equipped to be able to identify any false documents during boarding controls”, says the police prefect, who adds that groups of police officers have provided joint controls with coastguard units since November 2009. He claims that, “since November, the police has entered the port, and it only carries out normal police controls, not controls of identity documents”. Controls are also carried out by non-police member staff: lorry drivers, ship captains, private company employees responsible for the ships. “Some private companies are used for port security and are paid by the Patras port administration”, the prefect adds.

In Igoumenitsa, the port area also serves as a meeting place for the local population, which often sees people being arrested, handcuffed and led to coastguard offices before they are transferred to detention centres. The police is always present, not to check passengers but to prevent the entry of migrants. The “commandos”, or coastguards, conduct a first filtering process, then they operate within the port by checking the lorries. A final control is carried out by captains during boarding.

New detention centres, or “*screening centres*”⁵ have been planned in Patras and Igoumenitsa to identify the migrants who live in these cities and to dissuade them from staying. All these measures are set to be replaced within a wider context (Greek, Italian, Cypriot and Maltese), that is marked by the opening of the first Frontex regional office, an ad hoc⁶ centre called the “eastern maritime borders centre”, created to carry out joint initiatives in the eastern Mediterranean (or even beyond).

2. Controls at sea

The accounts given by several migrants who were asked during the mission enable an understanding of a key stage of the control system at the Adriatic border: the ferries boarded by lorries heading towards Italian ports.

The length of the journey varies depending on its destination: 16 hours from Igoumenitsa to Ancona, 22 hours from Patras to Ancona, 27 hours from Igoumenitsa to Venice. During the journey, migrants climb out of the lorries and hide between their wheels: they are often spotted by cameras at this point, and are caught by the ships’ security services, placed in detention facilities and taken back to Greece, violating various fundamental rights. They are not given the chance to seek asylum and they are readmitted without their situation being examined. It is impossible to know how many migrants have been readmitted because they are not recorded anywhere, as if they had never left Greece. Thus, a new border is created between Italy and Greece: the ship.

5. Filtering centres for foreigners who have entered Greece illegally (c.f. the chapter “Greece-Turkey”, note 20).

6. *Study on the feasibility of establishing specialised branches of Frontex*, Final report, 11/12/2009.



Patras port in Greece (photo: Sara Prestianni)

3. Controls in Italian ports

Venice

Venice has a tourist port where a majority of the immigrants are intercepted, and a commercial port (in Marghera), where a significant percentage of migrants certainly arrives. It is difficult to obtain reliable information about controls and interceptions because the port border is separated from the rest of the city, and the public is not aware about the procedures used by the border police.

The dock where the cargos of ships arriving from Greece are unloaded is around two kilometres away from the entrance of the tourist port. The office of the Italian Council for Refugees (CIR), which is officially entrusted by the Venice prefecture to guarantee access to asylum procedures to the migrants who are intercepted, is very close to the entrance,

that is, it is far away from the place where the heavy vehicles that are disembarking are checked. CIR offices are only open from 9:00 to 13:00 from Mondays to Fridays and for three hours and upon request on Saturdays; therefore, its members are not in a position to intervene every time there is an arrival from Greece and, moreover, they are not allowed to board the ferries. During its opening times, their intervention is dependent on a request from the border police. CIR does not have a branch in the commercial port where boats that come mainly from Corinth dock, leading the service for urgent assistance to refugees of the Venice mayor's office, which had assisted CIR inside the port in 2008, to put an end to its cooperation after a few months.

In the tourist port, the controls on arrival are carried out by the police and by the customs authority (Guardia di Finanza). After disembarking, heavy vehicles stop in a canvas marquee fitted on a metal structure, and wait to be searched.

In 2009, new modes of passage on boats coming from Greece appeared: families with children arrived in cars with false documents, purchasing expensive “travel packages” that made the trip less dangerous for women and children. Francesca Cucchi, who is in charge of CIR in Venice, speaks of a “de facto family reunion”, as many of these women sought to join their husbands or partners in Scandinavia or Germany. Certain families preferred not to apply for asylum in Italy when they were questioned by CIR and returned to Greece, so as not to leave their fingerprints in a country that they did not wish to stay in. This was the case of several families (60 people including 28 children) that were discovered on a boat coming from Patras in June 2009. An operation carried out by the Venice police led to the arrest of some Kurdish smugglers, putting an end to these arrivals of families.

The migrants caught during controls are taken to the port terminal. Many interrogations that seek to establish whether the drivers of heavy vehicles are involved, or whether any smugglers are present, are exclusively conducted by the border police, which sometimes calls upon interpreters. Several immigrants who were spoken to in Greece after they were turned back from the Venice port declared that when interrogations were exclusively conducted by the police, it was impossible to submit an asylum claim, even when people who understood their language were present.

According to the coordinator of CIR-Venice, unlike for 2008, data is not available for 2009 on the number of migrants who were intercepted and then turned back to Greece. A statement by the president of the Venice port authority claims that between January and August 2008, “850 illegals were discovered in the Venice port”, while CIR has only met 110 “users” in the same period. From 22 January to 31 December 2009, CIR had access to 132 “users” among those who arrived in the tourist port, the commercial port and the airport border; over the same period,

3,148 people were turned back from the ports on the Adriatic Sea. According to testimonies from people expelled from these ports and claims by the Igoumenitsa port police, in Venice (as well as in Ancona, Brindisi and Bari), the system of controls has been extended beyond the port area; some migrants were arrested several kilometres away from the disembarking area and put back on boats travelling to Greece.

Ancona

Since 2006, the dock of the port of Ancona has been isolated from the rest of the city by a three-metres-high metal enclosure that is one kilometre long, where there are only two passage points that are kept under surveillance. A passage for cruise ship passengers and for lorry drivers in transit who wish to go to the city during their stop has been installed at the point where the area for passengers to disembark is. Except for these passageways, the port area has been separate from the urban centre since the “eastern gate” facing the eastern Adriatic Sea was closed by a decree of 6 November 2007 which envisages that, in ports, movement can be forbidden in protected areas and they may be isolated.

The argument of security that is invoked is misleading, because the port area is effectively separated from the urban area by an integrated defensive system, and the raising of the barriers, in cases involving emergencies or incidents, does not add anything in terms of security. On the contrary, this barrier around the port area would be an added obstacle for emergency services if the area had to be evacuated.

Locked out, locked in

Accounts given by lorry drivers and owners of bars in the port area claim that transit through the port of Ancona has become even harder: the barriers stop residents from moving freely towards the city

and dockside checks increase the time it takes to disembark. In the context of an economic crisis and a decrease in commercial traffic, rather than protecting the port area and those who pass there, the barrier seems to accompany a reduction in freight, which has fallen from 9,427,104 tons in 2008 to 8,772,956 tons in 2009, and in the number of lorries, which has fallen from 209,071 to 189,916 over the same period. While for tourist traffic the impact of controls and barriers is relative, in contrast, for merchandise, inspected when it is unloaded and during the journey, the intensification of controls and the lengthening of transit times entail changes in commercial routes and, consequently, of the routes used by migrants.

The latter's strategies adapt to the evolution of technologies and procedures in the port areas and on the ferries. The same applies to the networks that speculate on "illegal" immigration: the number of "suction pad boys" who hang on to the bottom of lorries seems to be diminishing at present, replaced by the crossing of more organized groups which pay higher prices and rely on the lorry drivers' connivance (and sometimes on that of the ferries' employees).

According to associations that support migrants, the purpose of the Ancona enclosure is to stop the passage of undocumented foreigners. On the basis of data concerning arrivals and checks on migrants in the port area, and taking into account the techniques to cross the border that they use to reach Italy (or rather, to leave Greece and seek to continue travelling towards northern Europe), one could certainly believe that they were conceived to close off the disembarking area and to stop these foreigners from reaching the city.

We feel that this explanation is inadequate. The number of people who are intercepted in the port area after disembarking and during dockside controls, or when they leave the enclosure, is relatively small. We do not

have figures concerning these controls (which are scattered between the border police and police stations), but this phenomenon does not appear to be the key concern of the security forces. Rather, the enclosure is a screen that conceals the activity of the border police, of the Guardia di Finanza and of CIR from the population and associations, by confining them in areas that, while they are not extra-territorial (like waiting areas in France), fall under the exclusive competence of security forces and can only be entered by bodies (like CIR) that have negotiated their presence there with the authorities. In this way, conditions are created for discretionary management of control operations.

The information collected on the control system that has been set up inside the enclosed area comes from different sources, rather than from direct observation: official data from the border police and CIR-Ancona, the local and national press, interviews (in Greece) with youths who have been returned or received in facilities for asylum seekers, conversations with residents and ferry passengers.

The structure of the port of Ancona displays a clear separation between exclusively commercial areas (on the northern and southern sides) where containers are unloaded, and the central area (the historical port) where the ferries dock and where a majority of control operations are carried out. The border police offices and those of CIR face this central area, in a multi-purpose complex that also hosts the port authority offices and maritime transport agencies, restaurants and shops. The fence has been erected below this structure, so as to make it accessible from the city side. In the middle of the complex, there is a series of zones to which access by the public is forbidden, and the offices (on the first two floors) mark the border that limits an area that can only be entered by "authorized" personnel.

The docking zone for ferries is divided so as to separate vehicles arriving from the



- EU country
 - Applicant state to EU membership
 - Country of the "South and East" Mediterranean
 - Closed camp
 - Main port of the Adriatic, Ionian and Aegean seas
 - Ferry connection
- © Migreurop, 2010

Adriatic sea and Ionian sea : an important border zone of the EU

Schengen area (Patras, Igoumenitsa) run by the companies Anek Lines, Minoan Lines and Superfast Ferries, from those coming from Croatia, Albania, Montenegro and, once a week during the summer, from Turkey (Çeşme). For vehicles arriving from the Schengen area, the border police operates below the disembarking zones. It conducts controls using probes on vehicles that arrive and through searches that CIR representatives in Ancona claim are random. They told us of an "exemplary" case of a van inspected "by intuition" and "by chance": a hole in the driver's cabin enabled the ventilation of a space measuring a few square metres in which people were hiding.

The use of advanced technologies is not systematic: the scanner (Mobix), which is owned by the customs authority that intervenes after the first dockside controls, is only

occasionally moved to the area where the ferries moor. Avian, a system that identifies heartbeats and can inspect a vehicle in 15 seconds, cannot be used due to the high level of noise pollution in the port area (due to its closeness to road traffic and to a railway line). The border police appears to act on a "case-by-case" basis, and some in-depth checks subsequently take place in the customs area. This double control system, as well as relatively rare communication between the two forces, may help to explain possible incoherences as to the number of irregular migrants who are identified and stopped in the Ancona port area as a whole.

The information about control practices comes from CIR, which only works on the dock during office hours (from Monday to Saturday until 17:30), and whose employees only intervene when they are requested to do

so by the border police. According to accounts given by youths who have been returned from the port of Ancona, control operations take place during the early disembarking phases, without CIR's intervention being requested⁷.

CIR's presence in the port of Ancona dates back to 2002. It was interrupted in 2008 and delegated to the Red Cross, before it started again in 2009 with different modalities: while CIR employees previously had a right to intervene freely and to board ferries, from then on, although their presence on the dockside is allowed during mooring phases, their direct intervention must take place with the border police as an intermediary.

According to data provided by CIR for 2009, there were 1,107 "searches" conducted by the border police and 800 interventions by CIR; 79 people were recorded as unaccompanied minors (70 of whom came from Afghanistan). There was a total of 949 readmissions into Greece, while 65 people had access to the procedure to request asylum (or they explicitly requested to do so). The 93 people who are recorded in the "other" category are unaccompanied minors for whom the city of Ancona has taken charge although they had not filed a request for protection, or people who were admitted for various reasons, particularly health reasons.

The difference between the border police figure (1,497 intercepted people) and that in the CIR report (only 1,107), meaning that there are 390 "invisible people", appears to show that a part of the controls are conducted without CIR being present, within or even outside the port.

7. To understand the control system in the port of Ancona, see the publication by the Ambasciata dei Diritti (Embassy of Rights) of Ancona, *Il porto sequestrato*, <http://ambasciatadeidiritti.blogspot.com/>.

II – Turning back and readmission

Among others, Amnesty International has criticized the practice of readmissions into Greece of people who are sent there from other European countries on the basis of the Dublin Convention. As for UNHCR, it has recommended that member states derogate the Convention's application in cases involving returns to Greece of people requesting international protection, because the country does not offer any guarantees on the right to asylum and the fundamental rights of migrants.

1. Arbitrary practices and violation of rights

However, what happens on the Adriatic Sea borders escapes any clear legal framework and largely rests upon arbitrary practices. As has been stated above, the bilateral agreement between Italy and Greece (1999) and the practices that have resulted from it contravene a number of fundamental rights that are guaranteed at a national, Community and international level.

The readmission procedures in Adriatic ports towards Greece are defined as "readmission without formalities entrusted to the captain" on the basis of this agreement. The latter, which is a hierarchically inferior source of law to Community Regulations such as Dublin II (2003) and the Schengen Border Code (2006), also contravenes the Italian legislative decree n° 25 (2008), which abolishes discretionary border police powers to reach a decision as to the admissibility of asylum applications. Hence, migrants are not correctly informed about their rights, particularly the right to an independent interpreter. This is even more serious because the people arriving at the Adriatic borders are mostly potential asylum seekers, or people recognized

as such on the basis of documents published by humanitarian organizations: Afghans, Iraqis, Kurds, Somalis, Sudanese or Eritreans.

For example, the Schengen Border Code requires respect for basic human rights, particularly as they are recognized by the EU's Charter for Fundamental Rights, at external and internal borders alike. The 2003 Regulation provides further guarantees to migrants against a rejection procedure based on the 1999 bilateral agreement and it applies to decisions by a Commission that evaluates the cases of asylum seekers who enter a European state for the first time *ad personam*, on condition that they have submitted a request. On the contrary, readmissions that are carried out in the Adriatic ports are often the outcome of collective rejections that are forbidden by the European Convention on Human Rights (ECHR), which do not take migrants' individual positions into account; they are a violation of the *non-refoulement principle* that is established by the Geneva Convention (art. 33).

While it refuses to grant migrants intercepted during controls access to information and to linguistic mediation, the Italy-Greece agreement denies them the possibility of filing an asylum request. The expelled people are not issued any legal document, while they are often made to sign a police record that is not translated (and hence they cannot understand) which merely notes their request to be readmitted. In March 2010, during an interview with the Melting Pot association, the Igoumenitsa port police noted that the procedure enacted by the Italian police often made it difficult to draw a distinction between "readmissions" -the term used in the police records handed to the captains of boats- and "returns".

It is true that the Italian authorities have now become more prudent insofar as these returns are concerned. After an earlier period during which the port authorities and border

police in Adriatic ports announced that they had "returned illegals" arriving from Greece on an almost daily basis, it became possible to observe a change in both the language and the quantity of the information that was made public. In 2008, after work to collect the police records was carried out by the Venetian network *Tuttiidiritiumanipertutti*⁸, a complaint before the European Court in Strasbourg (ECtHR) against Italy and Greece officially challenged the procedure of returns. Several associations spoke out in articles and television programmes in very critical terms about the activity of the border police in the Adriatic ports. However, an effect of this was that it subsequently became harder to obtain reliable data about turning back. This is why, if one wishes to understand what happens in the Italian ports on the Adriatic Sea, paradoxically, it has become necessary to return to Greece to find evidence, ask the Greek police questions and interview the hundreds of migrants who have been expelled from Italy.

2. The port of Venice: collective returns

According to a press statement by the Venice port authority, 850 "illegals" were turned back from January to August 2008. Although there is no available official data for 2009, one may presume that a large part of the 3,148 people who were expelled from Italian ports on the Adriatic Sea in 2009 according to the Igoumenitsa port police, were intercepted in Venice and sent back on the same boats in which they had arrived. In comparison with previous years, it seemed that the number of migrants received at the border increased, even without CIR's direct intervention. The theory that turning back continue is supported by dozens of interviews conducted by the Melting Pot Europe edito-

8. Literally (in one word), the network "Every human right for everyone".

rial team during its latest mission to Greece in March 2010, as well as by official data.

In an interview with Melting Pot on 12 March, the Igoumenitsa port police (through Varelas Anastasios, second officer) mentions minutes dated 6 March recording the arrival in the port of 30 people expelled from Venice. On 5 March, tens of migrants were discovered in a container by the Venice port police when the Europa Pallas ferry arrived, after leaving Igoumenitsa on 4 March, and they were immediately re-embarked on the same boat to be returned.

Some days after the Melting Pot website published this item of news, a CIR press statement stated:

Following the reports published on Melting Pot, doubt remains as to the number of readmissions into Greece; it has been confirmed that between 5 and 6 March, 30 people arriving from the port of Venice were returned (Iraqis, Palestinians, Afghans, Somalis, Syrians and Eritreans), as confirmed by the documents of the Igoumenitsa border police.

On 6 March, the Igoumenitsa police recorded their readmission into Greece, but what happened on the previous day in Venice? On 5 March, at around 12:45, the CIR agent was contacted by the border police, as some people had been found on board a lorry that had disembarked from the ferry arriving from Greece that morning in the port, some of whom were taken to hospital to be examined.

However, the agent was unable to interview the expelled foreigners, because most of them, as we learned later, were returned to Greece in the same ferry.

On the next day, the agent [...] received two faxes confirming receipt of the request for international protection filed by two Eritrean nationals, one Iraqi national, a Palestinian, and of the reception of two unaccompanied minors.

How did it happen that the interview with the foreigners was conducted without the agent,

considering that he has the required expertise and is a linguistic-cultural mediator?

Why was the agent not informed immediately that four people were accepted, in order to immediately provide them the necessary assistance?

The unlikely cooperation between CIR and Melting Pot enabled scrutiny of this operation by the border police. The confirmation of the collective deportation appears to show that these practices are commonplace, even if they are rarely made public in order to avoid reactions from associations and movements, particularly after the complaint against the Italian state (see above) before the ECtHR that was declared admissible.

3. The port of Ancona

We have seen that there was a considerable difference between the figures held by CIR and those of the border police concerning the protection requests that were received and the total number of irregular migrants stopped in Ancona. It is necessary to distinguish between a first turning back phase that may be defined as arbitrary, and a second one that is certified by CIR in the absence of the conditions required to apply for protection.

We include control operations as part of the first phase, because they are enacted while applying the bilateral agreement between Italy and Greece according to which “readmissions” take place without CIR members being involved. One may presume, on the basis of CIR data and of the testimonies gathered in Greece (which are challenged by the border police), and while taking into account the “costs” that reception entails and the need to produce “figures”, that a large part of the deportations affect minors. One may also suppose that the police does not deem it necessary to make CIR intervene once a request for protection has been deemed unfounded, or once it has been established that the person in

an irregular situation would not, in any case, be able to enjoy this right.

The second phase implies resorting to CIR. The intervention by CIR staff, subject to its office hours and required in exceptional cases, also depends on the presence of the official translators. Thus, it happens that it may be impossible for the interview to take place, or when it does, for it to be conducted in poor conditions, with translators unable to always accurately understand the dialect of the person with whom they are speaking, or who speak languages other than those of the home country of the person who is being questioned. The matter of interrogation (which takes place on board of the ferries, in rooms that are available for this purpose) depends on a number of factors: the health conditions and frame of mind of the person who is interviewed (fatigue, stress, fear), the number of people who must be interviewed (for groups, interviews are quicker and, in the worst cases, collective), available time or the behaviour of security force officers during the interview. All of this does not guarantee an objective assessment of the migrants' situation, of their wishes, of the reasons for their journey, etc. If one adds the wish to "unmask" false asylum seekers through some trick questions to this, it is evident that, in fact, the interview becomes a "summary" procedure: firstly, in order to evaluate the situation quickly (due to a staff shortages, or in exceptional situations); then, to reach a decision without giving the interviewed person the time to settle and to give reasoned answers, and without informing them of their rights to apply for protection.

Account of a turning back procedure

In May 2010, two Italian journalists witnessed a procedure for a readmission from the port of Ancona to Greece. The content of the interview was transcribed⁹:

Translator: Name: Hussan; surname: Ramzik; born on 23 February 1977

Maiulo: In what city?

Answer: Gaza

Tr: Name of your father and mother?

Ans: Abdullah, the father's name; Khadija, the mother's name

CIR: When did you leave Palestine?

Tr: Around two and a half years ago

CIR: Where did you go during this period?

Tr: A little while in Lebanon, a little time in Syria, and a little...

Hussan continues talking...

Tr: Then he said: Greece

CIR: Did they take your fingerprints in Greece?

Tr: Yes

CIR: Where were you going?

Hussan's answer is longer than the translation

Tr: To Belgium

CIR: Do you have some family there?

Tr: He only has some friends

CIR: Why were you going to Belgium?

Tr: Because there is nothing to eat in Greece, nothing, no support, he didn't have an income, that's why he wanted to leave Greece

CIR: What kind of income? From work?

Tr: No, in the sense that there is no social assistance, they did not give him any...

Hussan continues talking

Tr: He says that it was very difficult, that there wasn't any work, that there was nothing to eat...

CIR: If you were to go to Belgium, what would want to do?

Tr: He says that he's going there to look for a job, to find a job

Hussan continues talking

Tr: He says that it doesn't matter much where he goes...

9. See the article "The port of eternal return", www.meltingpot.org/articolo15539.html

CIR: It's enough for him to find a job, to...

The CIR representative sits down and writes the report. Long pause. During this time, Hussan chats with the translator. Pause

CIR: Listen, have you ever come to Italy before?

Tr: No, it's the first time.

Silence, during which the CIR representative writes the report of the interrogation. The first police officer asks where the other officer (Fabio) has gone, as he has no longer been in the room since the start of the interview. Ms. Maiulo says that she doesn't know, he disappeared after going to look for the translator...

Hussan asks the translator what city he's in. The translator answers Ancona.

CIR: Did you pay for the journey or did you do it on your own?

Tr: He didn't pay, he climbed on by himself... he embarked on his own...

CIR: OK

Journalist: What route did you take to arrive in Greece?

Tr: From Palestine, he went to Lebanon, then to Syria, and after that to Turkey and then to Greece

Jour.: Why did you decide to come to Europe? Did you know before leaving that from Greece, you land in Italy? Had you heard about this in your country?

Hussan speaks at length

The second police officer returns and asks "Is it over?"

Tr: He knew it since he left... on his own...

Jour: Do you have a wife, children, a family?

Tr: No, he doesn't have a family

Jour: Did you leave on your own, or in a group?

Tr: Until Turkey, he was with some friends, then they separated

Jour: Was it difficult to cross the border between Turkey and Greece?

Tr: Quite difficult

Jour.: How did you do it?

Tr: By sea, in a boat...

Jour: Did you land on an island?

Tr: Yes, on an island...

CIR: Why did you not stop earlier in Syria, in Lebanon or in Turkey?

Tr: He says, because there are no human rights there... I don't know... He says, we came here to look for our rights

CIR: What kind of rights?

Tr: All the rights that a human being needs, like a job, to eat, these things...

CIR: OK...

The CIR agent and lawyer stand up, we all leave the room.

Jour: Will he be returned?

CIR: No... I did everything I could, but he was always repeating house, work, house, work... he never spoke of...

Jour: So the magic words didn't come out?

CIR (softly): No...

4. Forced return to Greece

Concerning removals in this area, three procedures can be identified:

- deportation from Italy or from the Adriatic Sea towards Greek ports;
- return to Greece within the framework of the Dublin II Regulation;
- transfer from one detention centre to another.

The language used is misleading: the majority of asylum seekers have experienced what the Italian authorities call "readmissions", enacted in application of the agreement between Italy and Greece, and the effects of which are the same as those of returns in application of Dublin II.

A large number of readmissions take place outside of any legal context; they affect people who are caught outside of Italian port areas or at sea during the journey, and who are prevented from filing an asylum application once they arrive on Italian soil. According to the Igoumenitsa police prefect, between 10 and 40 people are readmitted every day from



Migrants squatting abandoned wagons (photo: Regina Mantanika)

Italy. The Patras prefect claims that the number of people expelled has decreased since November 2009.

We have personally observed that a large number of people held in the detention facilities in Igoumenitsa had been readmitted, just like a majority of those who we met in the squats in Igoumenitsa and Patras. “I was sent to Athens in application of the Dublin II Regulation. I was so desperate that I did not go out for a month. Once I was in Igoumenitsa, during the first 50 days I managed to reach Italy six times, and I was sent back to Greece every time. I lost hope, and that was when I was asked if I wanted to stay here to work. I accepted and I started working in a shop¹⁰”.

Migrants moving around Europe are partly a result of the Dublin II Regulation, an essential tool to limit the “porosity” of Europe’s internal borders.

Greece, a country through which migrants reach Europe, receives a large number of “Dubliners”. It is also a country where the Dublin II Regulation might now be modified by a law. Readmission agreements that have been negotiated with third countries make it possible to reduce the importance of deportations envisaged by Dublin II, all the more so since the externalization of European border controls reduces the pressure on the European countries that are the first ones that are reached.

Nearly half the people we met in Igoumenitsa and Patras were victims of Dublin II, so much so that the park near the Patras port could be christened “Dubliners’ park”. During our visit, around twenty Africans lived there, and several others passed through. All the people we met there were expelled to Greece from Norway, Germany, France, England, Austria, and they already had a valid or expired “pink card” [indicating that they have applied for asylum]. “I arrived in Greece, in Pagani, and I was recorded as a 25-year-old

10. An Iraqi Kurd, Igoumenitsa, February 2010.

Afghan, whereas I was a 16-year-old Iranian Kurd. I arrived in England, where I stayed for two years until I was transferred to Pagani when I was 18 years old. I had everything in England, I went to school, I had a girlfriend, everything". He looks at the English flag and says: "What a nice image!¹¹".

The local authorities carry out a low-key turning back by chasing migrants from the urban area of port cities. In the words spoken by the Igoumenitsa police prefect, this message is repeated: "Our role is to prevent the arrival of illegal migrants in Igoumenitsa, especially in the port area. We try to discourage and dissuade them". The people we met in Igoumenitsa often talk of a place that is around a hundred kilometres away from the city, on the Albanian border, a camp where there isn't anything in the middle of the desert (it is a ghost prison that only the migrants appear to know anything about). The police removes people stopped in Igoumenitsa there. Most of them, who do not have any money, walk back. "Sometimes, the police takes us into the mountains close to Albania and leaves us there in the middle of nowhere. Those who have a little bit of money wait for the buses. But hardly anyone has any money and we walk for 110 km to return to Igoumenitsa¹²".

The mass transfers from Patras and Igoumenitsa to Turkey reached their peak in the summer of 2009, and they have now been replaced by continuous transfers from one detention centre to another, making it impossible to follow migrants' tracks and making them easier to expel, or to be returned within the framework of the readmission agreement between Greece and Turkey, which was reactivated by a new bilateral agreement on 24 May 2010.

11. An Iranian Kurd, Igoumenitsa, February 2010.

12. A Moroccan, Igoumenitsa, January 2010.

III - Detention

1. At the borders and at sea: areas beyond legality

In the region of the Greek Adriatic ports, where hundreds of migrants try to hide inside or beneath lorries that are leaving for Italy, there are several detention sites or camps that have been set up as a result of their strategic position. Among them, there are "camps" that are more or less self-managed where the lack of freedom is not due to the presence of guards, walls or barbed wire fences; they are the only places where migrants can stop without risking controls or being arbitrarily stopped. The Patras camp, which became sadly famous in 2008 before it was dismantled by a brutal police operation in July 2009, is an emblematic example of them. It could almost be considered an Italian enclave in Greek territory, because the thousands of people who have passed through there all wanted to go to Italy, just like the migrants who hide in the mountains around Igoumenitsa. These areas are an integral part of the Italian-Greek border, and they only exist because of the migrants' wish to cross that border.

At sea, between the Greek and Italian coasts, migrants are not safe from detention: those who are discovered by crews are held in facilities that have been fitted for this purpose. We have learned from the coordinator of CIR Ancona that such areas exist officially on ferries for those returned from Italy to Greece. Two of the three companies that cover the route, Anek and Superfast, use one of the halls as a detention area, which is isolated during the crossing by a security door with a surveillance window. Minoan Line has created a veritable detention cell at the level of the lorry hold, comprising a metal cage furnished with a single metal bed and without hygienic facilities, where people may be kept for

up to 24 hours without drinking or eating. Ventouris Ferries has turned some toilets into places of detention measuring around 2.5 square metres in which up to six people may be placed.

During turning back, migrants are “entrusted to the captain” until they are “handed over” to the Greek police. As is true of any situation in which deprivation of freedom is not based on a criminal law procedure, arbitrariness prevails: people are locked up, with or without being given water or food for a journey that last between 20 and 35 hours, they are sometimes handcuffed, or even beaten, and one comes across these cases during interviews, as well as in the statements by those who have filed a complaint before the ECtHR.

In the port areas, the detainees are held in spaces that do not comply with regulations, in the terminal or in the customs offices, in containers or in buildings. In these places, detention may last for some days or months without a decision by the justice system.

2. Detention in Italy

Ancona

In the port area in Ancona, there is no zone that is reserved for the detention of irregular migrants. As the checks take place at the quay or in ferries prior to docking, it is rare for “illegals” to be caught in the port enclosure after disembarking. It is not known where those who are intercepted during controls in the customs area are detained; there is no precise information that makes it possible to know who the “illegals” arrested outside of the enclosure are (for example, near the train station). Before a possible anthropometric exam (x-ray scan of the wrist), minors are put in the charge of the facilities of the city of Ancona, but there is no information about adults. However, it is likely that they are pla-

ced in identification and expulsion centres (CIEs) or sent back to Greece in boats.

Increasingly often, the interviews conducted by CIR staff take place in the boarding halls: in the absence of structures that are suitable for detention, they are thus used as a temporary detention area because, during loading and unloading operations, irregular migrants who are arrested are detained and questioned there.

Out of the 800 migrants interviewed by CIR in 2009 (representing around half of the people who were stopped), only a few more than 150 were able to apply for protection or were received in municipal facilities. Some of those who are in an irregular situation and who are caught do not disembark on Italian soil, but rather they are held on board of the ferries. Others may be seen by CIR agents. After the interview, as the case may be, the police can proceed to the turning back, while an indefinite number (390 in 2009, according to unofficial sources) stays on board of the ferries in spaces that are specifically used for them to be kept isolated prior to their turning back. This obscure phase of operations, during which control, turning back and detention blend into a single process in the same place, makes it impossible to learn, other than through testimonies collected in Greece, about the illtreatment that may be inflicted by the members of law enforcement services or security agents.

Venice

As also happens in the other Italian ports on the Adriatic Sea, migrants are held for as long as it takes to put them back onto the ship on which they arrived. It appears that in late 2008, controls and summary identity checks (detailed in the reports handed to boat captains) used to take place in a warehouse in the port or in the police office; since 2009, they take place inside the terminal, near the dock.

It has happened that, like in the case of the families that arrived in cars and almost all of which were returned in June 2009 (see above), some people were held in the port area, including overnight, to subsequently be re-embarked onto a different boat from the one that had brought them there.

3. Detention in Greece

When asked about the concentration of an unsettled population in his city, the Igoumenitsa police prefect answered: “What we need most, are detention centres¹³”. He views detention as providing assistance, a place with heating at night. In Greece, using detention as a pretext for providing humanitarian assistance is the authorities’ response to demands for basic human rights to be upheld.

Being a migrant in an irregular situation is a sufficient reason to be arrested and held while awaiting deportation, without factors such as conditions in one’s home country or one’s age being taken into account¹⁴. Once the decision is made, migrants stay in detention until their deportation. In most cases, the deportation does not happen and the migrant is released with an order to leave the country within a month. This order is copied in the migrant’s language on a “white card”, a document that becomes the equivalent of a residence permit (at least for thirty days) and is considered a precious safeguard that may protect them from a further detention and deportation (although, in practice, this is not always the case). Thus, while the law does not envisage the detention of irregular migrants other than in exceptional cases, in fact, it has become the norm. In Igoumenitsa, according

to the mentioned prefect, there have been 2,210 arrests followed by a deportation order in 2009.

The system of transfers from one detention site to another fits into a logic of control and dispersal of these unsettled populations. When people are stopped, they are attributed a status as “not free” that may last all the way until the Greek-Turkish border.

Many arrests take place in areas where they assemble, in shelters, in the streets or stations. Migrants in an irregular situation who are arrested when they try to leave the country are held in the transit zone of Athens airport, in facilities in the port areas, or in police stations in Igoumenitsa and Patras, for those who want to attempt the sea crossing. An Algerian we met in one of the makeshift shelters set up in the trains in Patras told us about detention conditions in Athens airport: “I was arrested at the airport. While they took us to the place of detention, they forced us to keep our heads down to stop us from looking around and recognizing the place. I was detained in the centre in the airport for 13 days, there were 30 of us in [a space of] around 15 square metres. If you could pay (87 euros), you would leave, otherwise you stayed there. Among us, there were also some minors who were 15, 16 and 17 years old”.

The people who try to reach Italy are arrested because they travel with false documents, and they may be accused of having committed an offence. The detention of minors and women is made lawful and enables the authorities to use a humanitarian discourse, as is shown by this explanation given by a coastguard concerning the detention facilities in Igoumenitsa: “It is neither a detention centre nor a reception centre. I don’t know exactly what it is. It is a place where there are some people, while they wait for the authorities to decide on their transfer. It is a lodge, the minors are protected here. We have fitted in some bars because otherwise they could jump

13. Prefect V. Miaris, on 25/10/2010.

14. Law no. 3386 of 2005 allows the detention of migrants in an irregular situation whose deportation is pending, particularly if the foreigner is “suspected of wishing to escape or considered dangerous for public order”. Cf. Eleni Spathana, *Thematic national legal study on rights of irregular immigrants in voluntary and involuntary return procedures*.



Migrants in Igoumenitsa waiting for a lorry boarding to Italy (photo: Regina Mantanika)

into the sea. They are young kids, they are not aware of the danger... their mothers don't care about their fate".

A Médecins sans frontières (MSF) report denounces the poor detention conditions in Athens airport¹⁵. The people who are arrested below, on top or inside lorries are held for between a few hours and some days, but it can also happen that they are released. On the other hand, people expelled from Italy remain in detention, first on the boats, then in the port detention facilities, and they are finally either released or transferred to other centres.

Detention in Igoumenitsa mainly takes place in the port area and the police station. Sometimes people are also held for some hours or days in the coastguard building. We saw some handcuffed men and women there,

sitting on the floor in the main entrance near to the offices, and some mattresses that had apparently been used at night¹⁶. In the port area, two cabins that resembled cages from the outside served as places of detention, one of them for minors and the other for women with children. The men are placed in two small cells. There are no sanitary structures, the spaces are always overcrowded and there may be up to sixty detainees in them¹⁷. As we have said earlier, the people we met in Igoumenitsa also told us of a detention site at the Albanian border.

15. Statement of 11/05/2010, www.msf.gr/index.php?option=com_content&task=view&id=2283&Itemid=235

16. On the day of our visit, an Afghan minor who had been arrested in the port was taken, handcuffed, to the coastguard building, with a view to transferring him to the port detention facilities, where he stayed for some days as he awaited a decision by the police. He was then sent back to his family thanks to the intervention of local civil society.

17. On the day of our visit, in the port detention facility there were nine minors, 20 women and nine men in the first cell, and 18 people in the other one.



Migrants from Sudan and the Horn of Africa living, beside Patras port, in abandoned wagons (photo: Regina Mantanika)

In Patras, the key detention site is the one in the police station in the town centre. It comprises four basement cells, which are overcrowded most of the time. As the June 2008 earthquake destroyed the Patras coastguard's detention facilities, two container cabins have been used to detain people arrested in the port area. The Patras police prefect claims that they are no longer used, following a decision decreeing that migrants in an irregular situation may only be detained in a police station. However, according to testimonies, the container cabins still exist. The length of detention, which is shorter than it had been, may last for between four hours and one or two days, the time needed for the authorities to decide whether to transfer or release the migrants – some people told us that they were held in a container for a month. As the competence of the Patras police applies throughout the Achaia region, police stations in neighbouring towns and villages also serve as places of detention.

As we have seen, detention may begin on board of the boat that makes the crossing to

Greece. “I was arrested in Italy and expelled to Igoumenitsa. They found me in the port of Ancona and expelled me in the following boat. They locked me in the toilets with two other refugees and gave us some cardboard to sleep on. When we arrived in Igoumenitsa, I was detained for fifteen days in a building in the port. I had a document that proved I was a minor. I was transferred to the prison in Kozani, where I stayed for a month. When I was freed, I was given all my money back, around 100 euros, and my mobile phone. Then I was transferred to the reception centre for minors, where I stayed for another month. It wasn't so bad there. In Kozani, the situation was far worse: almost all of us were ill, we had scabies, we couldn't leave, and every time someone complained they would be hit”, a Somali on the hill of Igoumenitsa tells us.

According to the migrants we met, the detention of those expelled from Italy to Patras is not very long, lasting up to two days; it also happens that some people who are informed of a deportation order against them are then released. On the contrary, detention

lasts longer in Igoumenitsa, first in facilities in the port area, then in other facilities.

Several unaccompanied minors spend over a month in detention (a situation that we noted in both cities). The facilities are overcrowded and hygienic standards are inadequate: detention conditions are so poor that, in Patras, the police trade union protested against their detention in police stations (see below). People are not given any information about their rights, in most cases there is no interpreter, and they are asked to sign documents whose content they do not understand.

“At present, we have between 150 and 200 refugees in Igoumenitsa, and the problems start when we get beyond 200. They wander all around the city..., if the police does not intervene, there will be 400 there. Earlier, only Kurds used to arrive, and they cooperated more than those who are here today, Somalis, Palestinians, Albanians and Macedonians. Immigration problems in Igoumenitsa are nothing new; they date back to ten years ago. The situation in the detention centres is tragic, we do not have the means to receive everybody and we transfer them to other centres. Most of the detainees were expelled from Italy: every day, 10, 20 or 40 people are caught in their ports. The population puts us under pressure. It’s funny that there hasn’t been a revolt yet. All these migrants whose numbers we do not control, this will end up causing racism in our region. Our task is to stop them reaching the port. We need more detention centres, far from Igoumenitsa so that they will not be able to return once they are released”, the prefect of Igoumenitsa added (see above).

Screening centres that will be created in Patras and Igoumenitsa are planned to enable the identification and classification of

migrants in an irregular situation¹⁸. Vulnerable groups and those who have a right to seek asylum will be sent to open centres managed by the health ministry, but the construction of such camps is not envisaged in the short term. Individuals who “*must be rejected*” will be sent to closed centres and wait for the processing of their deportation procedure. A revealing conclusion by the Secretary of State for Civil Protection on the rationale behind the creation of all these centres on the Adriatic border: “Particularly in Patras, we have managed to permanently discourage people who seek to group together to reach Italy. Controls have been strengthened in order to stop illegal departures from the port”.

IV – Some cruel situations

1. In Greece

Once they are in Europe for the first time, it is often in Greece that migrants in transit are labelled as being “in an irregular situation”, and this takes on its full meaning in this precise moment: now they are trapped, “*stuck in limbo*”, in a country in which the refugee status recognition rate is the lowest in Europe, approaching 0%. Waiting, wandering and violence are key features of their situation.

In Patras, after the Afghans’ camp was demolished, police round-ups intensified, increasing insecurity. There were raids in the Africans’ squats as well: on 24 March 2010, the police carried out a large “combing operation”, arresting around 70 migrants. In the “jungle” area (see above) that spreads out

18. In a statement, the Secretary of State for Civil protection replied in this way to an article in the local press: “Such a centre in Patras, even if it is necessary, is only temporary and has the purpose of enabling us to learn more about the migrant population that lives there in miserable conditions”.



Injuries following police violence in Igoumenitsa (photo: Regina Mantanika)

over six kilometres, it is forbidden to build makeshift shelters; the police comes regularly to destroy any construction that seems durable. Our visit on the ground was during the middle of winter, during the rainy period. We met a 16-year-old minor and his father, whose shelter had been destroyed the day before. The local solidarity group and associations could not penetrate this area. It is difficult to get to know a population that hides, the associations do not know how many people stayed there or came later, or how to locate them easily.

The authorities enact a dissuasive tactic to make the migrants invisible; police patrols prevent them from gathering in public spaces in the city. After a short while, they speak of the violence by owners of service stations near the jungle. An Afghan minor we met in the park in Patras tells us that he was attacked by their dogs.

Violence by the police in Igoumenitsa

Several cases of people who suffered violence by police and coastguard officers were reported.

Testimonies. *“I tried to climb onto a ferry with a rope. The police officers saw me and tried to stop me. They started throwing objects at me, then they managed to make me fall and I hurt my leg. I spent ten days in hospital, then the doctors told me that I had to leave. They did not give me neither a certificate, nor a prescription for medicines. It hurts a lot, especially at night”.* A Moroccan, Igoumenitsa, 01/2010.

“I left Germany in March 2009. The police has caught me ten times since then, and they always give me an deportation order with the same date stamped on it. What can I do? Each time they stop me, they hold me for a few days, then they let me leave”. An Iraqi, Igoumenitsa, 02/2010.

In Igoumenitsa, the migrants in hiding experience total isolation, living in makeshift shelters that are camouflaged in the middle of olive tree fields in order for them not to be seen¹⁹. Some residents of the neighbouring village have threatened them with their rifles before calling the police, and they have signed a petition to demand their removal. Periodic round-ups contribute to making this population invisible²⁰.

The wait and the wandering, per se, give rise to inhumane situations. The wandering stems from the wait: migrants must find alternative passageways, and they wander around in port cities, sometimes venturing into Athens. Those who have been blocked for a long time look for the resources to enable them to survive and continue their journey. They move to work in seasonal agriculture, in conditions of great exploitation. The wandering also stems from the manhunt that the police authorities carry out.

Testimonies. *“I used to work in Vrahati for the grape harvests. I was paid 15-20 euros for 14 hours’ work per day”*. A Moroccan, Igoumenitsa, 01/2010.

“In Kasteli it was very hard; the people in the village did not like migrants. Most of them treated us like animals. They set our makeshift shelters on fire while we slept, the police watched and didn’t do anything”. A Moroccan, Igoumenitsa, 02/2010.

The turning back causes wandering, just like readmissions from Italy and Dublin II

19. On the situation of migrants in an irregular situation in the city of Igoumenitsa, see S. Stroux, R. Mantanika, *Schengendangle, undocumented refugees in the city of Igoumenitsa* (report drafted after a visit on the ground on 27 January 2010), schengendangle.jogspace.net/files/2010/02/schengendangle.pdf.

20. In the local press of Igoumenitsa, it was stated in late January 2010 that “180 migrants in an irregular situation were arrested over the last five days.[...] As the detention facilities were full, the people were transferred to other regions.[...] The goal is to change the situation in the port area by the end of the month”.

returns. In this case, we are dealing with people who had a life elsewhere and were made to leave it, subsequently losing any hope of obtaining a legal status. In 2010, the asylum procedure was “frozen” in Greece, because it was a transitional phase prior to approval of a new asylum law. Migrants wishing to submit their application in Athens have to queue up overnight at the police service in Petrou Ralli, without being certain that they will be seen on the following day.

A different form of wandering that is far more visible, results from random transfers from one detention centre to another. Migrants are sometimes released in the countryside, exhausted by the length of their detention and without any resources. This new logic of transfers serves a number of purposes. The fact that it is enacted in different phases: holding-detaining, turning back-readmitting, dehumanizing-exhausting (or even killing), constitutes a new kind of detention “in movement”, it may be said. In a certain sense, detention becomes a shifting status. It leads to serial deportations in a way that does not risk attracting criticism from civil society. Detainees who are transferred are more difficult to spot, their tracks are easily lost, and a possible deportation may go unnoticed. We feel that this logic of transfers lies at the foundations of the *screening centres*: there will be a shift from an informal system for the deprivation of freedom to an institutionalized system, using the pretext of modernizing structures that did not exist previously.

Once they are arrested, the migrants no longer constitute a “problem” for the city. They are not recognized as individuals who have rights, but rather, as indistinct masses of invaders whose nationality is often deemed to be false. “They are all the same, you can’t even tell them apart. They are all called Ali or Mustafa”, a police officer said about Kurds during a round-up near the port of Igoumenitsa in February 2010. The most dehumanizing experience of all results from the trivializa-

tion of instability, of placement in detention and of violence, up to the point where these situations are perceived as something that cannot be separated from the “condition” of a migrant in an irregular situation, an asylum seeker or a refugee.

2. In Italy

In Venice, Zaher’s death

In December 2008, Zaher Rezaï was fifteen and was travelling on his own towards Venice, hidden under a lorry that was loaded onto a ferry in Patras. He had clung on using his belt between the wheels and, although his friend Rahmat, who was also hidden beneath the lorry, was discovered before departure, he was nonetheless pleased because he had reached Italy and would never return to the hell of the camp in Patras where they had waited together for some months. Zaher Rezaï was found dead on the via Orlanda road in Mestre, eight kilometres away from the Venice port. His belt had broken. It took a long time to establish his age because his body, which was crushed by the wheels, was unrecognizable²¹.

His death lifted the smokescreen that had shrouded the Venice port for some years. Why was an Afghan child forced to travel in these conditions? Because, he was afraid of being returned; like many other Afghan children before him.

There were four plastic animals and some poems in his pockets. One in particular is difficult to forget: “Gardener, open the gate to your garden. I am not a flower thief”.

In Ancona

In Ancona, there is no available information about possible incidents or accidents

resulting from violence during controls. CIR agents have informed us of cases of telephone “calls for assistance” to the law enforcement agencies by migrants closed in containers in the port area. The searches did not make it possible (according to CIR) to find out where the calls had come from.

Inquiries by two journalists from Ancona report several deaths in the city’s port. In 2008, Arab Khalil Khalid, a 15-year-old Afghan, died near Forlì, under the wheels of a lorry that disembarked in Ancona below which he had clung. In March 2009, a 28-year-old Algerian (who initially passed himself off as an Iraqi) died in the same way. A third case remains a mystery: on 23 June 2009, Amir Rohol, a 19-year-old Afghan, was crushed by the wheels of a heavy vehicle under which he was travelling. He died during surgery in the hospital in Ancona, where he was admitted in a critical condition. In all of these cases, it was impossible to establish responsibility for the deaths. A year later, Amir Rohol’s body, which was identified thanks to a document found in his clothes, was still awaiting burial (or repatriation) in the hospital morgue²². An African migrant was also found dead, this time in the tank of a lorry on a boat arriving from Igoumenitsa that was heading to Ancona. The recently created Igoumenitsa Antiracist Movement claims that there are around 400 migrants in and around Igoumenitsa who are hiding in the nearby mountains or in the city, waiting to be transported to Italy. Several of them supposedly have medical problems, such as angina and pneumonia, during the winter, and they have skin infections during the summer. Some are injured after having been hit by the police or by knocks they received in the lorries in which they travelled. Around

21. Cf. F. Grisot, “Zaher Rezaï, dreams and hopes in the form of a poem”, *Le grand soir*, 24/12/2008, <http://www.legrandsoir.info>

22. M. Benedettelli, G. Mastromatteo, “Morto due volte. Dall’Afghanistan al porto di Ancon”, *Diritti Globali*, 03/06/2010, www.dirittiglobali.it/component/content/article/45-storie/564-morto-due-volte-dallafghanistan-al-porto-di-ancona.html

20% of them are under-18s and most of them are stuck in the area.

V - Mobilizations

1. In Venice

Criticism of the turning back to Greece began in Venice in June 2008, in the first press conference by the network *Tuttiidirittiumanipertutti*, after the death of a boy who had hidden under a heavy vehicle coming from Greece. This boy had already been turned back from Venice at the time of his previous attempt and he would have stayed alive if he had been allowed to apply for asylum. In December 2008, the death of Zaher Rezaï in similar circumstances outraged the city (see above).

This is how a counter-information initiative started, which resulted in two public meetings in November 2008 and March 2009²³. A delegation of the network, with support from Melting Pot, travelled to Patras in February 2009, where some police records and statements were gathered to be used, among other purposes, for the action undertaken before the ECtHR. Out of this trip, the documentary “Rights denied: stories of asylum denial between Greece and Italy” also arose. Its images were broadcast by several national and local television channels, and it was shown throughout Italy. The accounts of initiatives and the documents of the *Tuttiidirittiumanipertutti* network were brought together in “The port of suspended fates” (Carta, 2009).

Following the mobilizations, and in parallel to this counter-information operation “from below”, the local and national media

divulged information about the living conditions of migrants in Greece and also about turning back from Italian ports, and thanks to this the media stopped talking about “clandestinos” (“illegals”) and “readmissions” covered by the law. The Italian government denied and sought to impose a silence about the turning back, and the consequence was that immigrants intercepted by the border police no longer received any official information.

In March 2010, the *Tuttiidirittiumanipertutti* network and Melting Pot returned to Greece, to Patras and Igoumenitsa, to show that in spite of the silence by the press, the turning back continued in the ports on the Adriatic coast. This mission also allowed the collection of data in Igoumenitsa concerning turning back in 2009, about which it had been impossible to obtain figures in Italy. These trips to Greece helped to build up and strengthen ties with migrant and refugee support movements, some of whose members were able to participate in meetings and initiatives organized by the Migreurop network.

2. In Ancona

The association Embassy for Rights of the Marches (the region whose capital is Ancona) was created in February 2006 to provide a space and a voice to all those “invisible” citizens who live in our cities, and to fight against the daily violations of the dignity of human beings. It is an information and assistance website to which any foreign citizens can subscribe, including those whose documents are not in order, to obtain information and assistance concerning entry and residence procedures, family reunion, asylum, procedures concerning employment, sport, etc., free of charge. In April 2009, the meeting “Denied rights” was organized in Ancona, in cooperation with the *Tuttiidirittiumanipertutti* network and the *Kinisi* association (Patras). A delegation travelled to Patras in May 2009

23. See the reports on the Melting Pot website: *Rights denied*, www.meltingpot.org/articolo13720.html and *In front of the port*, www.meltingpot.org/articolo14221.html.



Migrants facing Patras port. Since 2009, the fence separating the city from the port has been strengthened and covered with barbed wires (photo: Sara Prestianni)

to meet the Afghans who lived in the city's camp. On 20 June, International Refugee Day, the observatory *Faro sul porto* ("Spotlight on the port") was launched during a press conference organized by the Embassy for Rights of Ancona and Falconara; a flag bearing the message *Io non respingo* ("I don't send back") was hung on the security fence. *Faro sul porto* is an independent resource that seeks to give residents and associations their voice back, and to ask the institutions and border police about readmissions and the treatment that migrants receive. It has published "The confiscated port", which deals with the security system and those who arrive in Ancona.

During the days of mobilization on 8 and 9 July 2009, some actions in the port protested against the turning back and the conditions enacted to secure the port area. The Embassy for Rights has several other offices in the region (Falconara, Jesi, Fabriano and Macerata), in which free Italian language

courses for migrants are organized. The association has taken part in the round table for the drafting of the regional law on immigration.

In Ancona itself, thanks to a strong bond with the Assata Shakur anti-racist association, it works with around a hundred migrants and organizes meetings with associations of Peruvian, Argentinian, Cameroonian, Senegalese, Albanian, Romanian, Bengali, Moroccan, Bolivian, Tunisian, Brazilian, Sudanese people, and other nationalities. It helps migrants to find places in which to meet.

3. In Greece

The self-organization by migrants demonstrates their resistance to national and European fear-mongering policies towards migration, and this results in different survival strategies, in which a body of knowledge

is consolidated that lends them expertise on the ways of moving within irregularity.

Living conditions, the journey and solidarity between people who have left their countries promote consciousness of their situation and of the constant violation of their rights. This was the case when the Patras camp was demolished. In the night of 13 March 2010, 35 detainees set the detention centre of the police station on fire to protest against their detention and its conditions. In the next few days, the *Kinisi* collective, on occasion of negotiations with the police prefect, obtained permission to regularly enter detention facilities as well as those in the Achaea prefecture to exercise a right of access there.

Kinisi is a refugee and migrant support group²⁴ that was created in 2008 when the Afghans' camp first came under threat of being demolished. It is a political group that insists on carrying out actions that have a social character: Greek language courses in a social centre, maintaining a presence in squats, distributing food and clothes and providing legal advice.

In January 2010, a migrant solidarity group was formed in Igoumenitsa that brought together different political sensibilities that spoke out since 2009, when a Kurdish refugee was beaten to death by a coastguard. Like Kinisi in Patras, this group is regularly present in the places where migrants meet. It organized a demonstration against the detention of migrants in February 2010, outside the Igoumenitsa port detention facility.

In Athens, far from the Adriatic coast, some groups carry out actions linked to migrants' defence. The group of lawyers supporting the rights of refugees and migrants offers permanent legal assistance and works as a network. *Diktio* (a network to fight for social and political rights)²⁵ is a collective that has been struggling for around twenty

years to "expand the spaces of freedom and social movements". One of its components, *Diktio metanaston*, a social support network created in 1995, works specifically to "ensure the rights of migrants and refugees" and to promote "concerted action against racism and nationalism".

FF, RM, SP, AS

24. <http://kinisiyperaspisis.blogspot.com/>

25. www.diktio.org/



The former detention centre in Peplos - Greece (photo: Lola Schulmann)

Peplos detention centre, in Greece, is located a few metres away from the Evros river which borders Turkey. This is the main crossing point for migrants between both countries and a dangerous area since the latter turned it into a mine field during the 1974 conflict. During our visit in March 2010, the centre was closed. The authorities decided to re-open it only in case the upper limit capacity in the neighbouring centres is met. According to the Greek human rights league, the centre can hold up to 150 people and is run by the border police guard. It is based in a hangar off a railway, and it is comprised of four large rooms with the light only filtering through the dormer window, and up a wall through fanlights; there is no heating. The bathrooms in each room don't seem to be well-maintained. Scriptures in different languages (including Chinese and Arabic) cover the walls and show that many people have transited here".

Ping-pong at the Greco-Turkish border

According to the Frontex Agency, the Greco-Turkish border has become the main point of entry for migrants into the European Union (EU).

The maritime border remains a subject of tension between the two countries. Several Greek islands in the Aegean Sea are only a few kilometres from the Turkish coast. In 2009, Greek coastguards claim to have arrested 10,165 migrants in the Aegean, with the islands of Samos and Lesbos, close to Turkey, most targeted, with 3,854 and 3,361 people arrested respectively¹.

The land border is marked by the Evros River, 80 km long, and by a strip of land 12 km long. Mines, laid after the events of 1974 and the intervention of the Turkish army in Cyprus, have not been removed yet by Greece.

A chapter in an earlier Migreurop report² dealt with the Greco-Turkish border. Key elements were identified: illegal deportations, violations of the rights of people detained, the de-humanisation of migrants during their journey.

This year, two volunteers from the programme Echanges et partenariats set off to do an update. Regina Mantanika was sent to the Athens-based NGOs Antigone and Diktio. Lola Schulmann worked with HCA-RASP (Helsinki Citizens Assembly-Refugee Advocacy and Support Program) in Istanbul.

Down with “irregular immigration”!

The practices of Greek and Turkish police in the Evros region, criticised in recent years, have not ceased: “push-back”³, deportations, carried out either illegally or as part of the readmission agreement between Greece and Turkey. These practices have had effects on migratory routes. Today, migrants are much more likely to take the route across the Greco-Turkish land border. Beyond their mutual grievances, both countries are in agreement on an objective dictated by the EU: the need to fight irregular immigration.

In Greece, in the regions of eastern Macedonia and Thrace, the number of arrests has risen by 167% between 2009 and 2010. On the islands of the northern Aegean, on the other hand, arrests have dropped by 51 %⁴. Frontex is set to open a regional bureau in Piraeus for the Mediterranean region (Greece, Italy, Cyprus, Malta) to centralise information and organize cooperation. It is a move which promises a reinforcement of the European agency’s activities in the region.

The change of government in October 2009 and the arrival in power of the left led to an evolution in the official rhetoric on immigration. A law permitting the children of migrants resident in Greece to be naturalised and long-term foreigners residents to vote in local elections was passed on 16 March 2010. The new rhetoric makes a very strong distinc-

1. AFP, « Grèce : plus de 10 000 clandestins arrêtés », 19/1/2010.

2. *Europe murderous borders*, Migreurop Report, 2009.

3. People are not given access to Greek territory: they are intercepted and sent directly back to Turkey, or held in Greece without being registered.

4. In gr, 10 June 2010, <http://news.in.gr/greece/article/?aid=1231048141>

tion between legal and illegal immigration, a distinction which goes hand in hand with legalising police practices of blocking and sending back irregular immigrants. The phrase of the Interior Minister, G. Ragousis, “we are closing our borders to open our hearts”, sums up this logic perfectly. In fact, Greece is assuming its role as the guarantor of the externalisation of European borders.

In Turkey, a new circular was adopted in March 2010 to “combat irregular immigration.” A “coordination office” has been set up for the purpose. Hence for the first time, Turkey is employing European terminology and showing its willingness to collaborate more closely with the EU on the issue of what it is now calling “immigration.”

*The city of Izmir, example of a maritime border*⁵

Izmir (Smyrna) occupies a strategic position at the edge of the Aegean Sea on the way to the Greek islands. All the migrants there live in the Basmane neighbourhood close to the eponymous railway station, in the city centre but isolated from the rest of the city by major thoroughfares. Like many cities on the borders of the EU, Izmir is both a transit zone for migrants trying to cross into Greece and an informal camp for those who do not have the money to afford the crossing. It also acts as an unofficial place of readmission for those expelled from Greece (see below).

Testimony. *Before arriving in Turkey, this Mauritanian spent two years in Libya. He wants to go to Greece but doesn't have the money for the crossing, which costs US\$ 1,200. He works in a hotel where other migrants live. He cleans. In exchange, the owner provides him with a bedroom of his own. He no longer sleeps, and does nothing with his days apart from sitting in this tiny bedroom and watching Turkish television. He has already been arrested three times by the police. He is stuck*

5. Information gathered mainly by Multeci Der (see below), an NGO which helps migrants, as well as from individual migrants

here, in this neighbourhood, waiting to find a way to cross the border. M. has lived in Turkey for 5 years.

Detention: the reign of arbitrariness

In Turkey, the March 2010 circular changed the name of Turkish detention centres, called today “geri gönderme merkezi” or “removal centres.” Their aim is to speed up deportations, before legal provisions can be explicitly invoked. Similar centres will be built in provinces where there are none today. There are also plans to open seven “administrative reception and detention centres” for asylum seekers in the near future.

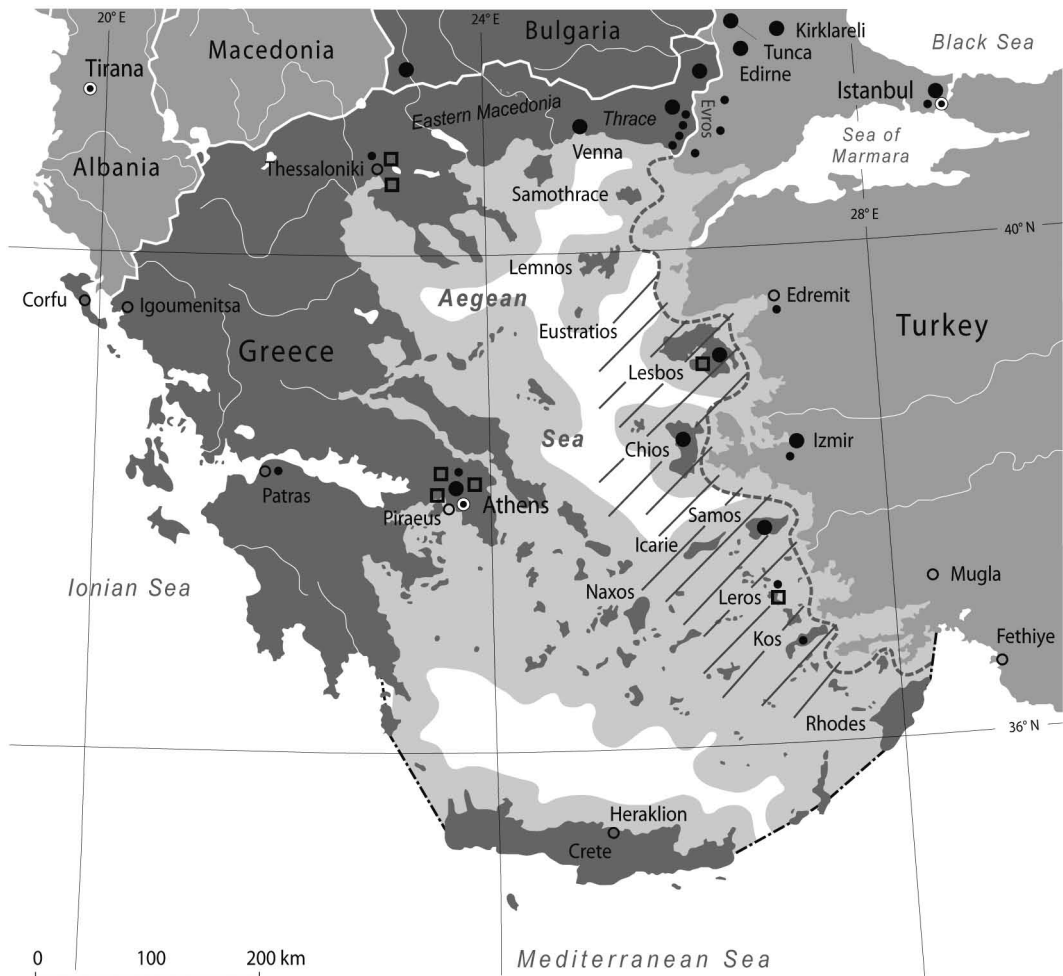
Plans to build two entirely EU-financed turning back centres are still on the agenda. The two will be Pehlivan köy and Edirne, close to the border with Greece and Bulgaria. (In 2010, the Tunca detention centre had been more or less entirely closed for a year because of poor conditions there.) The centres will both have a capacity of 750. They are part of an EU project financed to the tune of 1.2 million euros by the United Kingdom to “combat illegal immigration” at source, but the objective is openly to oblige Turkey and Greece to work hand in hand⁶.

However, Turkey has twice been ruled against by the European Court of Human Rights (ECHR), on 22 September 2009 (Abdokhani et Karimnia case)⁷ and 19 January 2010 (Z. N. S. case)⁸. The Abdokhani et Karimnia case concerned the detention of two Iranians who were given no access to the asylum process and faced deportation to Iran.

6. www.hurriyetdailynews.com/n.php?n=turkey-greece-join-eu-project-to-share-burden-on-illegal-immigration-2010-03-12

7. <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=854351&portal=hbkm&source=externalbydocnumber&tabl>

8. www.unhcr.org/refworld/country,,,TUR,4562d8b62,4b56d5cf2,0.html



0 100 200 km

- Member state of the EU
- Neighbouring state of the EU
- Territorial sea*
- Maritime border between Turkey and Greece
- Limit of the Aegean and Mediterranean seas
- Open camp
- Closed camp
- Police station used as a detention centre
- Intergovernmental cooperation mission Poseidon, coordinated by Frontex

* On the Greek side, territorial sea is represented according to the 12 nautical mile rule.

Datas: Associations Antigone, Diktio (Athènes) et HCA-RASP (Helsinki Citizens Assembly-Refugee Advocacy and Support Program / Istanbul), Philippe Rekacewicz (1997) Prétentions grecques et turques sur la mer Egée, <http://www.monde-diplomatique.fr/cartes/mergeemd1997>, Andrew Wilson (1979) The Aegean Question, Adelphi Papers, n°155, London.

© Migreurop, 2010

Aegean zones affected by increasingly restricted passage

The Court ruled against Turkey not only for failing to permit a detained person to demand asylum⁹, but because of a lack of legal recourse against detention decisions and / or against the risk of deportation.

The Kirklareli centre. *In March 2009 Migreurop was able to visit the detention centre at Kirklareli, situated close to the Bulgarian border¹⁰, with the permission of the Turkish Interior Ministry. Access to the facilities was not permitted, but interviews were held with the director of the centre and the director of the bureau of foreigners in Kirklareli as well as with detainees in the police station. The 14 people interviewed told us of the terrible conditions in which they lived, dilapidated facilities, heating only occasionally working, no drinking water and inappropriate food. Some complained of the incompetence of the doctor, whose prescriptions they said were poor or non-existent, and even of violence against migrants. They are given absolutely no information either about their rights or about release dates. While the authorities deny it, both minors and families are held.*

In Greece, the legal framework defining the management of detention is very vague: although surveillance is the job of the police, the direction of these centres is not linked to a specific organization. Finances for running them come from the Interior Minister via prefects. Law 3386 of 24 August 2005 foresees the creation, at the country's borders, of so-called "special permit zones for foreigners".

According to our observations, the length of the detention of undocumented migrants varies randomly, according to the capacity of sites. The average length is 22 days, with the maximum length fixed at three months by law 3386/2005 [art.76]. Planned modifications to this law foresee a maximum length of six months. In cases where migrants refuse

to cooperate or where it proves impossible to obtain the documents necessary to expel them, detention periods can be extended up to twelve months¹¹.

Detention or holding areas on the land border (districts of Evros and Rhodope) can take three distinct forms¹² :

- detention centres controlled by police by financed by the district authorities;
- detention areas inside police stations belonging to the border police;
- detention areas controlled by the border police.

Detention centres on the maritime border, like on the land border, take variable forms: detention centres, "special residence centres for foreigners" (on Lesbos, Chios and Samos), former barracks, police stations, hotels (on Kos). Migrants in these centres scattered among the Greek islands are not necessarily new arrivals: they may have been transferred from other islands, or deported from another European country under the Dublin II regulations. The ECHR ruled against Greece on 22 July 2010 (A.A. case) for inhuman or degrading conditions of detention on Samos.

Being held on the island of Leros. *Historically, the island of Leros has been used to isolate certain categories of people: a psychiatric hospital from 1959, and then a prison for political prisoners between 1967 and 1974. The arrival of the first migrants on the island raised fears among locals that their home would once again become a place of exile. Slowly, though, thanks to the efforts of a small group of activists to sensitize the public, but also for reasons linked to the geography and economy of the island, locals stopped seeing*

11. For more information : <http://combatsdroitshomme.blog.lemonde.fr/2009/07/13/legislation-grecque-sur-immigration-xenophobie-nest-il-pas-un-mot-grec-parhronis-poniopoulos/>

12. We were denied access by the Ministry for Citizens' Protection. The descriptions of the centres close to the land border with Turkey come from the report from the Greek League for Human Rights: *Retention centres for irregular migrants in Rhodope and Evros*, Thessaloniki, 11/12/2009.

9. On the asylum procedure in Turkey, cf. Migreurop, *Europe's murderous...*, *op. cit.*

10. For information on the history of the Kirklareli detention centre: <http://emi-cfd.com/echanges-partenariats6/spip.php?article29>



Detention centre of Venna, Greece (photo: Sara Prestianni)

migrants as a threat. The holding centre on Leros is an open camp, and police presence is reduced to an absolute minimum: an officer comes every afternoon to do a head count; in summer, a policeman guards the centre. Formerly a luxury hotel - with bungalows - it has been turned into a retention centre. In the summer, when the number of people goes up, two hotels are used. Food is prepared by three restaurants. "The locals need money, Leros isn't a very touristy island", says one member of the solidarity group on Leros. The only thing hinting at detention is the frustration of migrants stuck on the island. When we visited, there were 43 people, 16 of whom were later transferred to Athens.

There have been two changes since last year:

- the logic of transfers¹³: previously, migrants arrested on the islands were detained

there until a removal order - what they called "a white paper" - was delivered, giving them 30 days to leave Greece. Today, removal orders are no longer handed out by retention centres on the islands but by Athens, once people are transferred there.

- the role of the Frontex agency: in the centre on Samos, a Frontex employee works as translator. According to the local solidarity group, he makes a selection between potential asylum seekers and those considered "expellable". On Chios, an article published by the local press states that "two representatives of Frontex settled in recently at the Mersinidi centre. The reason for their visit is to analyse information given by irregular migrants arriving in the country"¹⁴.

13. On logic of transfers, see the precise description in the chapter on the Adriatic and Ionian border between Italy and Greece.

14. Newspaper *Alltheia* (Chios), 31/03/2010.

Selective expulsions and random readmissions

A new bilateral agreement concerning the return to Turkey of irregular migrants arriving on Greek coasts was signed on 12 May 2010 by Greece and Turkey. It foresees in particular the “efficient application” of a readmission protocol signed ten years ago, which Athens had reproached Ankara for not respecting. Turkey should designate a port, Izmir or another in the region, “to open within three months a border post that will be used to readmit illegal immigrants”, according to the Greek Ministry for Citizens’ Protection. Turkey has agreed to accept “at least 1000 readmission demands per year”.

Another agreement has been signed by Greece and Bulgaria for transborder police cooperation¹⁵. The two states also discussed the possibility of setting up a joint control mechanism at all crossing points on their shared border. On 9 April 2010, 60 people were transferred from the island of Samos to a detention centre, apparently in preparation for expulsion.

New policies and practices in Greece

Starting in the summer of 2009, police crack-downs multiplied throughout Greece¹⁶, particularly in the Athens centre and in Patras (where, in July 2009, a camp set up by Afghans was demolished). During this period, massive illegal deportations to Turkey became

common practice, condemned in the reports of several international organizations¹⁷.

The arrival of a new government after the legislative elections of 4 October 2009 changed the situation. The practice of “ping-pong”¹⁸ still exists, but there has been a drop in mass expulsions. A system of transferring people from one holding centre to another is being put in place, both to render them less visible and to discourage them¹⁹.

There are plans to open a new type of centre, “*screening centres*”, along the maritime and land borders. In these *screening centres*, actually “processing centres”²⁰, migrants will be registered and classified into different categories: asylum seekers, vulnerable people (minors, women, victims of violence), and those in the process of being expelled. Maximum stay is due to be set at 15 days. After 15 days, if the individual is recognised as vulnerable or an asylum seeker, he or she will be put in an open reception centre (whose construction, so far, has not begun). While their exact positions have still to be determined by a committee of experts, *screening centres* are planned for the islands of Samos, Lesbos and Chios, Evros, the Dodecanese, Athens, Patras, Igoumenitsa, Thessaloniki, Volos and Crete.

17. UNHCR, *Observations on Greece as a country of asylum*, december 2009, www.unhcr.org/refworld/pdfid/4b4b3fc82.pdf. For more information about illegals deportations from Greece, see Norwegian Helsinki Committee (NHC), Norwegian organization for asylum seekers (NOAS) ; Aitima (association grecque) : *Out of the backdoor : the Dublin II regulation and illegal deportations from Greece*.

18. By “ping-pong”, we mean the turning back, both by land and sea, of people intercepted on Greek territory and sent directly back onto Turkish territory without any legal procedure, with the risk that they will not be admitted into Turkey either (cf. testimony below).

19. Cf. chapter on the Adriatic and Ionian border between Italy and Greece.

20. The literal translation of the Greek name for these centres (Κέντρα Πρώτης Υποδοχής για τους εισερχόμενους στην Ελλάδα αλλοδαπούς χωρίς τις νόμιμες διατυπώσεις) in English would be “Primary reception centres for foreigners entering Greece without legal formalities.”

15. In. gr, 10/06/2010, <http://news.in.gr/greece/article/?aid=1231048141>

16. This phenomenon has been accompanied by a rise of the extreme right in Greece, with the emergence of ever stronger racist nationalist groups, some of which have attacked migrants and destroyed their temporary shelters.

Expulsions organized by Frontex

The Frontex agency has been present in Greece since 2005. The inter-governmental cooperation mission Poseidon operates particularly in the Aegean islands. The aim of the mission is to identify intercepted people. Identification work is also planned to take place in *screening centres*, where determining the “real” origin of people registered will play a key role in the decision as to whether or not they should be expelled. Frontex’s role, growing in the region, rounds off with the expulsion of migrants: that is the aim of the Chronos mission, initiated in 2010²¹.

Greece participated in four common charter flights in 2009: these flights had stopped off in different member states before stopping at Athens. 164 people were expelled to Nigeria and Georgia during these operations.

Testimony. *At the end of 2009, a group of Afghans were “given” Iranian nationality to facilitate their expulsion under a readmission agreement between Greece and Turkey.*

Roughly 20 of us left the Turkish coast between 8 and 10 December 2009: 13 Afghans, 3 Arabs and 3 other people whose origins I don’t know. We reached the island of Samos in Greece and went to see the police. Policemen, without translators, made us sign papers. We gave our names and our nationalities. Personally, I said I was Afghan and that I was 18 years old. The police registered me as 19. A translator came just after and said that the papers we had to sign were for our release. We stayed in the centre on Samos for 37 days. Then we were transferred to the detention centre in Athens (Petrou Rali) and from there to the centre at Venna. One morning, very early, they put us on a bus and took us to the Evros River, on the Turkish border. There, Turkish policemen arrived from the other side of the river. They began to ask each of us: “originate?” We replied several times “Afghanistan!”. They didn’t accept us and we were sent back to the Venna centre by the Greek police. M., Afghan.

On the Turkish side

On 4 December 2009, a meeting in Ankara between Turkey and members of the European Commission marked the start of a new stage in negotiations aimed towards the signing of a readmission agreement between the EU and Turkey. Mandated by the Council, the Commission had been trying to negotiate since 2002 in the face of Turkish opposition. Today, following the Commission’s proposal to ease visa issues (except to students), the signing of the agreement appears more likely. The Commission is also pushing Turkey to sign “upstream” readmission agreements with countries of origin or countries through which migrants transit.

Deportations on Turkey’s eastern border continue to be frequent: migrants are taken in private buses as far as the Iranian border. Iraqis, Iranians and Afghans are thus expelled from Turkey, without even the most elementary of formalities such as a nationality check or report of the absence of an asylum seeker’s certificate on the part of the expelled person.

Reactions to a degrading and sometimes murderous situation

Aggravating the arbitrariness

The summer of 2009 marks a turning point in the aggravation of the situation of migrants in Greece. The logic of transfers has begun to be put in place, slowly at first and then regularly since October. The effect is that people are moved from centre to centre and the result is longer detentions. People have no information about their rights, the length of their detention or where they are being transferred to. Organizations defending migrants lose trace of people whose files they were following. Furthermore, the latter risk falling victim to lawyers who offer them a rapid exit from the centres in return for large sums of money. People freed after numerous

21. Statement of Ilkka Laitinen, director of Frontex.

transfers are let out “in the middle of nowhere”, without money.

Deaths at borders

The information gathered is not exhaustive and is only related to deaths that are known because they were published in the media. It can be assumed that the real figures are higher. Nonetheless, the number of migrants dying at the border between Greece and Turkey is increasing. According to the Forum of Migrants of Greece, 512 people drowned in the Aegean sea between 2007 and 2009. In September 2009, eight migrants drowned near the island of Lesbos. Early January 2010, 17 migrants were found drowned near Alexandroupolis harbour. On the land border the Evros River region is also a dangerous passing point because it is heavily mined. Between 2000 and 2006, more than 90 people died, and most of them were migrants. On the eastern border of Turkey, 10 Nigerians died from the cold while crossing the border between Georgia and Turkey.

Assistance, support, resistance

In the field, in both countries, aid to immigrants is divided between political, humanitarian and legal aid: there has been a growth of activity in recent years.

In Turkey, the following organizations can be mentioned:

– Multeci Der²², set up by activists from Amnesty International Turkey in 2007, which works both to help migrants and asylum seekers, both on a legal and social level;

– Göçmen Dayanışma Ağı-Migrant Solidarity Network²³. A network of activists based in Istanbul, it was set up in September 2009. In February 2010, a campaign was launched against detention centres, “*not criminals but*

migrants”, whose aim is both to inform about the reality of the camps, sensitize Turkish society on these issues and support migrants in detention;

– Refugee Advocacy and Support Program (HCA/RASP)²⁴. The NGO, based in Istanbul since 2004, provides legal aid to asylum seekers.

In Greece, the following NGOs and associations:

- Médecins sans frontières (MSF), which has unlimited access to the detention centres of Venna and Filakio;

– the lawyers’ group of Thessaloniki, which mobilised after the revolts in the Venna detention centre. They have organized visits for people involved in the revolt to different detention centres.

– the Xanadu group at Venna²⁵: following the revolts in the Venna detention centre (see below), a group of activists got together to show solidarity with migrants. The basis of their struggle is:

1. the demand for the closure of the Venna detention centre, part of a broader policy of demanding the closure of all detention centres;

2. combating repression faced by people who participated in the revolts at Venna

– a solidarity group on Samos, which gained limited access to the centre. It works to support detainees.

– the Lathra²⁶ solidarity group on Chios, which also brings out publications.

Revolts at the Venna and Samos centres

There were two revolts in the Venna detention centre. The first was organized at the end of December 2009 by people arrested when

24. www.hyd.org.tr/?sid=23

25. <http://venna.espivblogs.net>

26. www.lathra.gr/index.php

22. www.multeci.org.tr

23. www.gocmendayanisma.org

they were on their way to Italy. They were freed at the end of the revolt. The second, at the beginning of January 2010, was the work of a group of six Iraqis who had just been told they were to be expelled. Other detainees supported this rebellion. All migrants involved in this affair were put on trial and imprisoned. They have been scattered across other centres in the region.

There have also been revolts in the detention centre on the island of Samos, in particular in August 2009, when 580 migrants began a hunger strike to demand the issue of documents that would enable them to travel to Athens and then Central Europe. In April 2010, 170 people, including minors and women, began a second hunger strike, after learning that departures from the centre were in fact random transfers. The hunger strikers wrote and circulated a letter with their demands:

- they will no longer accept moves organized by the police without being given “white papers”, in other words the expulsion demand;

- they demand the presence of a translator for the signing of any official document;

- they demand information about and a means of controlling the nationality such as registered by the police;

- finally, they protest the fact that the conditions of their detention prevent them from making successful asylum demands.

The Samos rebellion had direct consequences on national politics: it coincided with the creation of new *screening centres*. Furthermore, it led to the authorities giving support groups permission to have access to detention centres.

LS, RM



Calais : squats occupied by migrants from Middle east (photo: Sara Prestianni)

The Sangatte centre, created in September 1999 to deport wandering migrants in and around Calais (north-west France), has been used for three years as a springboard, by 67 000 migrants to cross over Great Britain, according to the Red cross (entrusted by the French government with its management). In December 2002, the French Ministry of interior closed the camp, a symptomatic wart and a symbol of the disorder caused by the migration and asylum policies of European union states - countries always being prompted to deport exile to their neighbors or preferably outside of Europe. Predictably, because no other sustainable solution has been anticipated other than repression of migrants, the closure of Sangatte camp has only moved the "problem" while pretending to solve it, and worsened the situation of those who would like to set a foot in Great Britain. Like the surrounding areas of Patras or Ceuta (see above), like everywhere that protective fences are built against migrants, precarious solutions multiply, such as the "squats", "ghettos" or "jungles", under police harassment more or less constantly. In the jungle of Calais, but also in places where they are deported, the exiled are ruthlessly hounded. The more the French authorities want to make them invisible, the more they find people from all political sides within the local community, who are indignant and who help them.

Dismantling the Calais jungle: a deceptive operation

“*We will dismantle the jungle*”¹, the French Minister of Immigration promised in April 2009, shortly after he took up his new position. As Nicolas Sarkozy had done seven years before when he closed Sangatte camp, Eric Besson is trying to pass off as efficient management the harassment and marginalisation of exiles who reach northwestern France after a long migration. It is a short-term response that has proved no more successful at getting rid of the phenomenon than the closure of Sangatte. In its analysis of the situation in this emblematic French region², basing itself mainly on interviews done with migrants and local actors at the start of 2010, together with press coverage, Migreurop offers an insight into the French government’s heavily-publicised operation to “dismantle the jungle” in the autumn of 2009 and its consequences.

On 22 September 2009, at around 7.30 in the morning, hundreds of police officers surrounded the camp sites called the “Pashtun jungle”, most of which were near the port of Calais, and removed the mostly Afghan migrants and the activists who were supporting them. The evacuation was backed up by “*three bulldozers, a dozen trucks and a lumberjacking company in order to return the field*

to its natural state and prevent resettlements”. There was an impressive number of security officers: the media reported the presence of 500 riot policemen, border police and mobile gendarmes³. According to official sources, 276 people were arrested.

The context of harassment. *The 22 September operation constitutes a mediatised high point in a general context of harassment of migrants in the region. The same period saw:*

In August 2009

- *the destruction of the “Hazara camp” and several cabins in the Palestinian camp in Calais. Dogs and tear gas were reportedly used.*

In September, as well as the dismantling of the “Pashtun jungle”:

- *the destruction of the Vietnamese camp at Angre;*

- *the arrest of 33 people on motorway service stations in the Calais region and 11 near Saint-Omer ;*

- *Arrests in Loon-Plage.*

In October :

- *the arrest of Egyptians, Sudanese, Eritreans and Ethiopians on the quays at Calais port;*

- *the destruction of a squat in rue de Verdun, Calais.*

In November :

- *the destruction of camps at Loon-Plage (30-40 arrests).*

In January 2010:

- *the destruction of “the African squat.”*

1. The word “jungle” is used to designate places in North West of France temporarily occupied by migrants and exiles: they can be natural shelters, disused buildings or camps, sometimes built out of wood or stone, set up in places well out of town.

2. Cf. “Calais and North of France : rowing zone, England doors”, in Migreurop Report *Europe’s murderous borders*, 2009.

3. « La “jungle” de Calais évacuée et rasée », *Ouest France*, 23/09/2009.

I - The declared objectives of the 22 September 2009 operation

Three types of arguments were put forward by the French government to justify these “cleansing” operations.

Rendering the Franco-British border impenetrable

On one hand, France is obliged to play an active role in the fight against irregular immigration towards the United Kingdom, due to the British decision not to join Schengen, “*requiring today the creation of a very expensive border control*”⁴. Dissuading migrants from coming to the region is one aspect of this task, alongside the implementation of a plan assuring that both port and tunnel are as “water-tight” as possible and the creation of a “*fast track*” system enabling lorries equipped with an electronic system which can detect intruders to benefit from lighter controls than other vehicles.

Drying up the criminal networks

This policy of dissuasion also aims to dry up criminal activities that have grown up around the crossing of the Channel, “*because only the clear and credible message that the English border cannot be crossed will dissuade in the long term smuggling rings from setting up in Calais*”⁵.

“Freeing Calais”

Finally, it is about freeing Calais and the surrounding region from “the extraordinary pressure of clandestine immigration”⁶ that it faces and the disadvantages that that implies

for the local population. In his speech of 23 April 2009, Eric Besson did not hesitate to blatantly contradict himself to make his case. Even as he congratulated the population of Calais for having maintained, despite this pressure, “*this very particular form of social harmony*” despite the fact that “*the world economic crisis has not spared this region, and has sparked among some of our European neighbours reactions laced with xenophobia*”, he listed the negative effects caused by migrants in the region: the growth around Calais of squats and unofficial camps, even the construction of “temporary mosque”; “cases of tuberculosis and scabies”; “inter-communal fights”, with stabbings and shootings; growing pressure on employees in companies based close to the port of Calais: thefts, assaults, “stone throwing.” It is an apocalyptic analysis which ends with Besson pledging the people of Calais that “the state will not abandon them”, that, faced with the scourge of these “jungles”, everything possible will be done to “reconquer these lawless zones.”

In the face of these solemn promises, rounded off for good measure with the promise of humanitarian aid for people who need it (asylum seekers, the sick, minors), the reality turned out to be more brutal. The way the intervention - heavily mediated and characterised, as will be seen, by violence and trickery - and its aftermath was pushed through made it clear that “the dismantling of the Calais jungle” was fueled by aims other than those declared by the Ministry. Far from resolving problems, it became clear within a few months of the operation that - while sending messages to public opinion and the British government - it had succeeded only in displacing migrants temporarily while making their living conditions worse.

4. Speech of Eric Besson at Calais, Thursday 23 April 2009, available on the site of the Immigration Ministry.

5. *Ibid.*

6. *Ibid.*

II - The real objectives of dismantling the jungle

The mayor of Calais, Natacha Bouchart, put it bluntly: “*Sending the problem somewhere else is fine by me! After all we have been through for eight years! (...) At least sending the problem somewhere else will take the heat off us for a couple of months or years. It won't be our problem any more. It will be other people's turn to face it. We are not parked for life in Calais for the sole purpose of welcoming migrants!*”⁷. It would be difficult better to express the main concern of the French authorities since the end of the 1990s: making migrants who keep on coming into northwest France disappear. The intention was already there when the hangar at Sangatte was opened to ensure that migrants didn't become too visible in the streets and parks of Calais. The same reasons were behind the closure of the same hangar three years later, when growing media interest began casting an uncomfortable light on this proof of the inefficiency of France's migratory policies. Closing your eyes so as not to see a problem you don't know how to deal with, that is what appears to pass for policy in the region of Calais. At the risk of contenting yourself with appearances. It is something one 15 year old Afghan who cycles to collect free food while his compatriots, on foot, get chased by the police, has understood very well: if you cycle, he explains, they assume you are a French kid coming home from school.

Like indigents in the Middle Ages, like the inhabitants of the “housing estates” today, the tendency is to turn urban centres into sanctuaries by sidelining undesirables, the poor, foreigners, outsiders. “*For [the inhabitants of Calais], the important thing is that immigrants don't wander around the town or the suburbs.*”

To ensure this definitively, beyond acts of dissuasion and repression on the part of the forces of order, I repeat that I see only one solution: immigrants mustn't come to Calais”⁸.

Nobody has been taken in by the decision of the Ministry of Immigration and National Identity to close down the “jungle.” It justifies what is essentially a communication operation aimed at public opinion by the “rapid rise of petty crime in the Calais region”, by the creation of “smuggling rings” and “zones beyond the law” which have become “epicentres of human trafficking”, and by an epidemic of scabies. In all likelihood, however, the solution it proposes will only move the problems elsewhere in France or in Europe. The Calais “jungle” is today only one of numerous encampments scattered along the coast from Roscoff to Ostende.

It won't be long before the refugees create for themselves new places to move forward and to wait, just as the routes via the Spanish enclaves in Morocco, Ceuta and Melilla, were abandoned in favour of the more dangerous crossing to the Canaries after sea controls were tightened in the Mediterranean.

Carine Fouteau, « Exilés : la destruction de la “jungle” ou le fantasme de l'invisibilité » [“Exiles: the destruction of the ‘jungle’ or the fantasy of invisibility”], *MediaPart*, 22/09/2009.

Criminalizing

In April 2009, the French government justified its actions thus: “*The first and legitimate concern of the inhabitants [of Calais] is naturally security*”⁹. The measures put in place in June, when the group No Border organized a solidarity camp for migrants, fitted into this logic. For H el ene Flautre, MEP from the Europe-Ecology group, the camp was an opportunity to “*stir up public opinion: there were marksmen on roofs and the security turn out was unbelievable. It was as if they were doing a dry run for the siege of a town*”. Lily Boillet, president of Terre d'errance, an NGO based at Norrent-Fontes, said “*the entire town was locked down*”

8. Speech of Eric Besson at Calais, *ibid*.

9. *Ibid*.

7. *Metro*, 17/09/2009



African House, the African migrants squat in Calais. It was closed for good by the police in July 2010 (photo: Sara Prestianni)

and anybody even vaguely resembling a protester stopped from going in. The mounted police were aggressive. There were between 3,000 and 6,000 security force members for the entire week, with dogs, horses and water cannon.”

And yet a visitor is not struck by the overwhelming thirst of the people of Calais for security. “You can live in Calais without being aware that there are migrants and a migration problem”, one hotel employee interviewed in January said. Indeed, it is striking how a sense of solidarity has woven a dense web which has offered migrants a little humanity and material support for more than ten years. But the linking, in official discourse, of migrants and petty crime, and the threats of legal action against those offering disinterested help to

the exiles¹⁰, has led to a criminalisation of the phenomenon, to which the conditions in which the operation of 22 September, compared by some observers to a police round-up, have contributed. The fact, as we will see, that nothing came of it is irrelevant: it is the mass arrest of migrants, described as “traffickers”, and clearly dangerous in view of the means used, that will be remembered.

10. French law punishes “any person or persons who, directly or indirectly, has / have helped or tried to help a foreigner in entering, travelling within or staying [in the country]” (art. L. 622-1 of the Law on the entry and residence of foreigners).

Making them believe

Making French public opinion believe that the “problem” of migrants in the Calais region can efficiently be solved with a sweep of the brush, that is the third objective behind the “dismantling of the jungle.” Yet, if the aim really was to put an end to known criminal activities, would the operation have been announced to all several weeks beforehand, enabling those with the means to leave? “*The aim of all the publicity was to move them out... temporarily,*” says one activist. “*Less than a third of the migrants were present for the dismantling. It is true that it is more difficult to manage 900 people, to respect procedures for so many people.*”

But the message was also destined for the British authorities, as a mark of French diligence following the administrative arrangement signed by the two countries on 6 July 2009, whereby they mutually promised to “secure” the shared border “*so as to make it impermeable to the circulation of goods and people in irregular conditions*” and to reduce “*migratory pressure on the shared border and surrounding region.*” And yet, “*many crossed over [into the UK] the day before the dismantling*”, says one activist in Angres, a village which had a “jungle” of migrants from Vietnam next to it. “*It is as if the flood gates had been opened*”, agrees another. “*The destruction of the jungle was a media event staged for Great Britain*”, says H el ene Flautre. “*Migrants must carry on crossing over, but there is also a need for France to show that it is doing something.*”

III - The Modus Operandi: brutality and trickery

Most witnesses and the press confirm the brutality with which the 22 September operation was organized, starting with the stage management preceding it: numerous men in uniform, police vans lined up immediately outside the camp, use of force to remove occupiers (migrants and activists), immediate intervention of bulldozers...

In the words of activists who came from Lille to join the migrants at the jungle:

We all have memories shared with these migrants, the moments spent with them in our minds. We had kids of fifteen or sixteen hanging on to us, terrified and in tears, while the police tried to separate us. (...) We formed a human chain that the police broke up by pulling us by the arms, the shoulders, the heads, anything they could grab hold of. Some activists, Rue 89, 23/09/2009.

There is nothing new about using strong-arm tactics to clear out migrants in the region: the abandoned buildings they occupy are regularly destroyed by the authorities which then burn everything, personal documents and clothes and bedding handed out by local NGOs. The same thing happens in the woods where they often take shelter: following police raids, temporary shelters are taken down and burned without giving migrants the time to save their personal effects, leaving them stripped of everything in a region where winter temperatures regularly hover barely above zero. In urban areas, the destruction of lodgings sometimes takes place without respecting standard demolition procedures (for asbestos, for example). The aim is to move fast to avoid re-use, pushing migrants to burrow yet deeper to hide. “*Migration is rapidly remodeling the urban landscape*”, says Lily Boillet.

What characterises the dismantling of the Calais jungle more than anything else, however, is the multiple irregularities committed by the authorities. Some, like the legal fiasco that followed the police operation, were uncovered by lawyers and magistrates: of 276 people arrested, 151 of them adults, 22 were immediately freed once their papers were checked. Placed in administrative detention centres in preparation for their removal from French territory, all the rest were freed over the following days. Judges concluded either that detaining migrants constituted a breach of their rights or that their personal situation meant that they should not have been forced out of their temporary homes in the first place.

The response of magistrates angered the Immigration Minister, who saw it, rightly, as a criticism of his management. The government did not take long to respond: in March 2010 it put forward plans to reform the law on foreigners which foresaw, among other things, a weakening of procedural guarantees for foreigners arrested and placed in administrative detention by delaying the intervention of judges and reducing their power of oversight.

The observations of NGO actors who followed the arrests and subsequent procedure cast light on other skulduggery: the fact, for example, that only migrants of Afghan nationality appeared to “interest” the police at the times of the raids, while others whose appearance or language implied another origin were pushed to one side. It is a selection that can be linked to the aborted project to organize, immediately after 22 September, a Franco-British “group flight” (in other words a charter) of Afghans to Kabul.

Another manoeuvre of the authorities, the scattering of people arrested to different towns right across France, had two consequences: first, the long coach journeys to their new homes deprived migrants of rights reco-

gnised by the law for foreigners immediately following their detention (a telephone call to a lawyer, an NGO or a relative); second, the fact they appeared in courts across the country made it more difficult to organize lawyers, weakening their defence. There is no doubt the decision to scatter them was deliberate: there was nothing to stop them being placed in detention centres near Calais, far from full.

There is also the problem of interpreters, deficient, sometimes present, sometimes not. Sometimes, even their independence from the police seemed to be in doubt: on one occasion we witnessed an interpreter leave an interrogation room at the very moment when a migrant appeared to be facing violence, and then go back in as though nothing was amiss. Another odd detail came out during the court sessions, when it became clear that many of the migrants in the dock had been born on 1 January 1991, making them 18 years and 9 months old at time of arrest. By coincidence, only foreigners older than 18 can face expulsion.

IV - What next?

We have already seen that none of the adults arrested on 22 September 2009 ended up being detained or expelled. That fact alone stands as a sharp retort to the declarations of the Immigration minister who, on the one hand, had announced on 24 September that “*those people not claiming asylum or accepting voluntary return will be forcibly returned*” and, on the other, had linked the operation to the government’s battle against human trafficking networks. Seen from this perspective, the dismantling of the Calais jungle was a resounding failure, even if the minister later tried to save face by claiming that the aim of the operation “*was not to arrest as many migrants as possible (but to) destroy an unsanitary camp*



Migrants in Calais waiting for the lunch distribution (photo: Sara Prestianni)

and a base for networks smuggling people to England”¹¹.

In the region, some have doubts about just how determined the authorities are to protect migrants from those trying to exploit them, so prompt are they to muddle together migrants and smugglers. In Angres, members of the group Fraternité migrants tell :

Last spring (2009), every month, the mafia came to extort camp dwellers. On the night of 3-4 September 2009, there was a mafia attack, the so-called “cow track raid”, in which several people were wounded and two migrants kidnapped. The police said that if [the kidnapped migrants] went it was because they were in cahoots [with the mafia]. The wounded were taken to hospital before being taken to the police station.

The next Tuesday, the police raided the camp: there were 82 migrants then, and they were all taken away. Volunteers collected their stuff, because the camp had been burned. After the camp was destroyed, the police

stood permanent guard for 8-10 days. When the mafia attacked, they hadn’t wanted to stay there.

When the Chechen mafia came back, the Vietnamese defended themselves, and caught six of them. When the police came, they handed them over. It was the Vietnamese who caught the Chechens, not the police.

One of the mafiosi was beaten up by the Vietnamese, legitimate defence against a man holding a kalashnikov. There was an inquest and the Vietnamese were questioned several times. One of the mafiosi was imprisoned for 3 years. Since the rebellion, the mafia threat has disappeared. Interview of 25 January 2010.

On the issue of those recognised as minors, it is worth noting that of the 125 sent to homes scattered around different regions of France, 30 disappeared within a few hours of their arrival. Not that that appeared to concern the authorities over much. *“The police arrested me on 22 September and took*

11. AFP, 1/10/2009.

me to Rennes, but I came back”, says Alokze, 17, who claims he walked for 14 hours, and took two trains to get back to Calais. “Just last night, I was arrested four times, and each time set free. Nobody understands what they are looking for”¹².

If some migrants were able to benefit from the “opening of the flood gates” apparently organized just before the evacuation of the Calais jungle to get into the UK, many stayed, or rather came back as soon as they could. According to local observers, “symbolically, they had to be made to disappear, [...] but people rapidly said they were still here. [...] On 23 September [the day after the crack-down], there were new arrivals in Calais.” According to the website of the daily *Le Monde*, “three days after the evacuation of the jungle, organizations began to see a return of migrants to Calais. By Thursday, organizations noted that after two days of lower numbers, the numbers of people coming for free food were as great as in the days preceding the dismantling of the jungle.” According to Jean-Claude Lenoir, of the organization Salam, “in the queue for the evening meal, there were even minors who had appeared on the television on Tuesday to say that the centre they had just arrived in near Metz was nice”.

Even if it failed to stop the activity of the mafia, even if none of the migrants arrested on 22 September proved expellable, even if the northwest of France remains a magnet for migrants, did the dismantling of the Calais jungle at the very least serve to protect those whose needs it was supposed to uncover? The humanitarian side of the operation was to offer arrested migrants two alternatives to expulsion: the possibility to claim asylum, and assistance in voluntary repatriation. The first looks like a trap; the second, like an illusion.

The trap of asylum

The Immigration Minister is happy to emphasise the fact that only a small proportion of the Calais migrants is claiming asylum, thereby categorising the others as “illegals” interested only in using France as a trampoline towards the United Kingdom. By doing so, he is deliberately forgetting that, under Dublin II, a claim can mean being returned to Greece or Italy, where the conditions of examination and attribution of refugee status have been criticised for a long time by international organizations. The procedure there is also very slow, depriving claimants of all assistance¹³.

A. is a young Afghan of 27 who has lived in the Calais “jungle”: “I had an accident after trying to get into England inside a lorry. Discovered by the police, I fell while getting out of the lorry and broke both wrists. I was given emergency care, and then released. Activists put me up while I was recovering. That was when I decided to claim asylum. My claim has been going now for a year and a half. I’ve been “Dublinised”, stuck in France, asylum seeker, but with neither lodging or financial support to enable me to survive while I’m forbidden to work. I’ve tried... but all I can do is wait!” Interview, 26 January 2010.

Since May 2009, it has been possible to make asylum claims at the prefecture of Calais (before claimants had to go to Arras, 98 kilometres away), but the back-up is very poor. With the arrival in Calais of the organization France terre d’asile (FTDA) and the UNHCR, there is now a 24-hour asylum applications office in Calais. But in January 2010, FTDA had only one employee in place and the UNHCR representative admitted she was not an expert on asylum procedure or legislation. Furthermore, those who make a claim at Calais have no hope of being taken care of or lodged, unless they leave the town.

12. *Le Parisien*, 30/09/2009.

13. Cf. on this issue the inter-organizational declaration « *Détruire les jungles : une fausse solution* », 21 septembre 2009, <http://www.gisti.org/spip.php?article1696>



Exiles in Calais port (photo: Sara Prestianni)

The illusion of assisted repatriation

Organizations have expressed concern that assisted return had been put forward as an alternative during the dismantling of the jungle. *“The government is suggesting help for voluntary repatriation to countries at war or dictatorships. How many people would accept to go back to Afghanistan, Iraq, Iran, Somalia, Sudan or Eritrea..., knowing as they do that returning to some of these countries, whether voluntarily or under duress, is impossible?”*¹⁴. Thus, after the destruction of the camp at Angres on 8 September 2009, 60 Vietnamese were put into detention at Coquelles centre; but their embassy didn't want to give them a laissez-passer permitting them to be returned to Vietnam.

A programme of “assistance for voluntary repatriation and reintegration” was set up in January 2008 in partnership with the International Organization of Migration (IOM).

It concerns nationals from Afghanistan, Bangladesh, Djibouti, Ethiopia, India, Iraq, Iran, Kenya, Kosovo, Pakistan, Serbia, Sudan and Sri Lanka fitting specific criteria of eligibility. According to the Minister of Immigration, 180 people have accepted this offer in two years. 36 volunteers returned to Afghanistan as part of an earlier programme, in 2002-2003. The numbers are so tiny that it is impossible to talk seriously about a “policy” of return.

NK

14. *Ibid.*

Migreurop network

Migreurop was created in 2002 as a network of associations, activists and researchers from various countries in Europe, Maghreb (North Africa), Sub-Saharan Africa and in the Near East. Its goal is to identify and communicate on the texts and practices of the European Union (EU) aiming to isolate or keep away from Europe those foreigners considered undesirable, and to oppose those policies. Since 2005, Migreurop is an association registered in France with its own website : www.migreurop.org/

The network finds its origins in the concern among many activists after the closure of the Sangatte centre (northwest France), which from 1999 to 2002 was figuring the growing European policy of confinement of third country nationals in places away from one's eyes and where the rule of law is non-existent or restricted. Sangatte was an open centre that, for three years, tens of thousands of migrants and asylum seekers used as a springboard on their way to England. Viewed as a "camp" by Migreurop, it seemed to be reflecting the new policy spreading throughout Europe, based on administrative confinement of migrants either when arriving on EU soil, or pending their removal/deportation/expulsion. In reaction to this, the network began to document this process. This resulted in a map called *The encampment of foreigners in Europe*, which is regularly updated and has led to further publications and reports, as well as to an *Atlas of migrants in Europe* (see website).

To Migreurop, the notion of "camp" goes beyond the classic idea of a place surrounded by a wall and barbed wire. Camps of foreigners in the EU can have different forms: real prisons, "detention centres" (i.e. for foreigners pending their removal) which often remain away any judicial control, or finally places where undesirable migrants, constantly expelled everywhere, are more or less spontaneously brought together as an emergency solution (formal reception centres, transit centres, shelters, but also informal places such as ghettos, jungles, squats etc.). This variety of places all have in common that the occupiers have generally no other choice than to be there.

However, "the camp" can even become an intangible process of endless moving around, a kind of no-house arrest, if one may say so when increasingly foreigners are dispersed on purpose, aiming the authorities to avoid the creation of new magnet effects. Harassment by the police, restless destruction of makeshift shelters, and finally forced invisibility therefore turn into immaterial fences and lead to the perpetual movement of exiles that European societies refuse to see and to welcome. Thus, even those persons who cannot be deported on ground of their age (minors), their status, their nationality, or due to the activism of NGOs offering assistance to migrants, are put into orbit at the margins of the frontiers of Europe.

"At the margins" we say, and even beyond them, for European governments are now subcontracting the isolation and detention policy of foreigners to an increasing number of neighbouring countries, if not even further. Since 2003, Migreurop has put at the centre of its concern the process of "externalization" - a word borrowed from economic language - by which EU countries have come to outsource the monitoring of migration flows to "third states", commanded whether to stop migrants at the very outset or on their way, or to readmit expelled migrants who were coming from their soil or only had crossed it. Consequently, would-be migrants find themselves trapped in places where they don't necessarily originate from, while governments of these buffer states gradually set up additional borders to serve Europe's xenophobia. As a result, camps and areas to keep "cheaters" in are constructed, and laws are modified, would it be offending against international treaties to which these states are signatory, and according to which "everyone has the right to leave any country, including his own, and to return to his country".

Annexes

Knocking down walls and defending the right to migrate

Migreurop network members meeting, 27th and 28th November 2009, Paris

(Migreurop press release, 23rd November 2009)

La chute du mur de Berlin sonne aujourd'hui comme un appel à combattre les oppressions, à abattre les murs qui, à travers le monde, divisent encore des villes, des territoires, des peuples¹.

Nicolas Sarkozy

No podemos perder de vista que hay otros muros en el mundo que deben caer².

José Luis Rodríguez Zapatero

Since it was set up in 2002, the Migreurop network³, a collection of more than forty organizations on both sides of the Mediterranean, has been denouncing the imprisonment of migrants, the militarization of the European Union's borders and its policies of control and repression of emigration. Understandably, therefore, we wish to see in official declarations calling for walls to be knocked down, like Nicolas Sarkozy's "Berlin appeal", signs of a turning away from what is in effect a war being fought against migrants⁴. For too long, this war has shaped European Union migration policies, and it has caused thousands of victims.

Many of the more than 40,000 kilometres of closed borders (nearly 18,000 kilometres of which are "walled") came into being after 1989. Not all of these are alike : physical similarities can hide differences of function. But there are sometimes overlaps. Anti-migrant barriers are often nearly indistinguishable from some front lines, or from walls designed to render occupation permanent (as in the case with the border between India and Bangladesh). But they are also the most unusual in the long history of geopolitical walls and the most symbolic of modern globalization. They mark an evolution in the use of walls. In the years of conflict between East and West, walls stopped people leaving. Now they stop people getting in, the child of relations between North and South increasingly determined by the migratory policies of wealthy countries. But as the emblematic case of the wall between the United States and Mexico shows, this distinction is often inadequate to describe the diplomatic stakes of borders that are often closed twice over : Mexico is the United States' policeman when it comes to migration from Central America, and it is both the timid defender of its own emigrant citizens and the jailer of a part of its population.

On the "frontline" between Europe and Africa, of course, physical walls only exist at a few of the European Union's entry points, in the (post-) colonial enclaves of Ceuta and Melilla, on Moroccan

1. The fall of the Berlin Wall was a liberation, but it sounds today as an appeal, an appeal for all of us to fight oppression, to knock down the walls which still divide cities, lands, people across the world.

2. We should not forget that other walls have to fall in the world.

3. For more information about the network : <http://www.migreurop.org/rubrique54.html>

4. Migreurop, *Guerre aux migrants. Le livre noir de Ceuta et Melilla*, Syllepse, 2007.

soil. But these are only one element of a general policy of closing down what are increasingly dematerialized and externalized European borders, a policy based on undermining the fundamental right - recognised by article 13 of the Universal Declaration of Human Rights⁵ - to leave one's own country. France's agreements on the "coordinated management of migratory flows", Italy's bilateral agreements, Spain's REVA : all require southern countries to participate in controlling the movements of their own citizens (going as far as criminalising emigration in certain countries like Morocco and Algeria) and to accept "readmission clauses" for citizens of theirs in an irregular situation in European Union countries⁶.

As the nets around migrants trying to cross the fortified borders of Europe tighten, so a key mechanism of anti-migratory globalization - camps for foreigners in transit, awaiting expulsion or a respectful "welcome" for their rights - grows in number. Shape-shifting and multi-functional, these camps⁷, like the new walls of shame, are a symptom of an evil which did not disappear with the fall of the Berlin Wall : the privileging of (flawed) national interest over respect for human rights.

5. See analysis and illustrations in Migreurop, *Atlas des migrants en Europe. Géographie critique des politiques migratoires*, Paris, Armand Colin, 2009.

6. See programme for the international meeting, "Readmission agreements or expulsion blackmail ?", 27th Novembre 2009, Paris : <http://www.migreurop.org/article1481.html>

7. See maps of camps in Europe and in Mediterranean region : <http://www.migreurop.org/rubrique266.html>

UNHCR-Libya : the bid is rising, migrants pay the price

(Migreurop press release, 11 June 2010)

The UNHCR has just announced that the Libyan government asks him to close its office and stop activities in Libya.

To the indignation of people who, in the name of help given by the UNHCR to asylum seekers, deplore this injunction ; Migreurop puts up its doubts : which price will Europe pay so that Mouammar Kadhafi authorizes again the presence of the UNHCR on his territory ?

Indeed, the decision to evict the UNHCR is reached while the seventh round of negotiations on a partnership between EU and Tripoli began this Tuesday, 8th June. The main issues to be solved should focus on illegal immigration and the recognition of the International Court of Justice. To bring forward negotiations, Libya requires additional funding and equipment for monitoring land and sea borders. Beyond many control systems funding in this country since the early 2000s, how far the EU is ready to go ?

In this haggling, the UNHCR plays an essential role : he endorses the crucial position occupied by Libya in the European policy on migration management for external borders. Thanks to the UNHCR's presence in Tripoli, Italy, which signed an agreement with Libya in August 2008, and Europe, pretend that boats-people pushed back to Libya found minimum security and protection. Everyone knows perfectly well that it is a 'smoke screen' : the conditions under which migrants are treated in Libya are well documented and perfectly known by European authorities and institutions. Libya, which has not signed the Geneva Convention on refugees, abuses, locks up and deports thousands of migrants every year¹. Its southern border, where Europe invests to padlock it better, is already a cemetery for African Sub-Saharanans trying to cross it.

Melissa Fleming, the UNHCR spokesperson, acknowledges the role assigned to her institution : "all European governments using Libya as a place where people, fleeing from persecutions, could be received, would have to review this carefully, if UNHCR is no longer present there." We could not be more explicit : the presence of UNHCR in Libya allowed foremost to justify the outsourcing and deportation policy carried by the EU², which is now caught at its own game. Libya raises the bidding and the UNHCR is a part to these sordid negotiations : his return to Tripoli is already planned³.

Migreurop denounces the hypocritical attitude of the European Union and UNHCR, claiming to provide protection to asylum seekers, while real issues are elsewhere : to make Colonel Kadhafi the gendarme of European borders and the jailer of migrants seeking international protection or a better life.

1. See the website Fortress Europe <http://fortresseurope.blogspot.com/>

2. In July 2009, the IOM and the UNHCR signed an agreement with Tripoli to "satisfy the needs of migrants, refugees and asylum seekers in Libya". <http://www.iom.int/jahia/Jahia/media/press-briefing-notes/pbnAF/cache/offonce/lang/fr?entryId=25842>

3. "Libya : the UNHCR ready to discuss with Tripoli".

All for the closure of camps for migrants, in Europe and beyond

(Migreurop press release, April 2010)

In member states of the European Union, as well as in neighbouring countries (Libya, Morocco, Turkey, Ukraine) and beyond (Mauritania, Lebanon), the presence of an ever increasing number of zones of detention conceals policies and practices contrary to international commitments which some of these states are bound to (the United Nation Convention relating to the Status of Refugees, the International Convention on the Rights of the Child, etc.). In Cyprus, Greece, Italy, Malta, migrants are automatically placed in detention, whatever their humanitarian and/or legal situation is, including those rescued or intercepted at sea after long journeys.

Whatever name we may give them¹, these camps for foreigners have become a prized tool to manage migrant populations. People are detained without trial or sentence, in prison-like conditions, sometimes even confined in cells. Such detention sanctions those who did not respect laws relative to border crossing or length of stay in a country, though these can be contrary to international law, for instance in the case of the protection of refugees. In some cases, mistreatment and physical or psychological violence are commonplace. Frequent incidents (riots, hunger strikes, voluntary fire), with sometimes tragic consequences (suicides, deaths), serve to show how inappropriate the detention system is for the people it targets.

The proliferation of camps has come hand in hand with an increase in the length of detention², which often exceeds the time required to organise deportations. Behind the official objectives stated (rationalization of migration management), the institutionalization of the detention of migrants is part of a deterrence policy which criminalizes those considered undesirable. This policy, which runs contrary to democratic principles, comes with exorbitant costs : not only at a human level, but also with regards to the police and administrative forces it mobilizes, which it is estimated exceeds several billion Euros for EU member states³.

Since 2002, the Migreurop network endeavours to document and denounce the consequences of the EU migration policies, first and foremost with regards to the confinement of migrants⁴. In 2004, its members called for a collective action against the creation of camps at the borders of Europe⁵. Since then, numerous reports have been issued by UN agencies, by the CPT (European Committee for the Prevention of Torture), by the Council of Europe Commissioner for Human Rights, by parliamentary missions, by international organizations or NGOs. The reports and field observations all conclude that the detention of migrants leads by its very nature

1. The camps we refer to include “closed camps” or “centri di identificazione ed espulsione”, but also of “waiting zones”, “transit centres”, even “reception centres”.

2. The “return directive” adopted by the European Council in December 2008 allows for detention stretching up to 18 months.

3. In 2008, “the annual cost of deportations carried out in France are estimated at a cost of more than 700 million Euros at least”. Migreurop (2009) *Atlas des migrants en Europe. Géographie critique des politiques migratoires*, Paris, Armand Colin, p. 91.

4. See Migreurop’s map “Encampment” in Europe and in Mediterranean area, www.migreurop.org/rubrique266.html Carte des camps

5. www.migreurop.org/article656.html

to the violation of human rights : in the first instance on the freedom of movement, but also a right to asylum, the right of respect for private and family life, the right to protection against inhuman or degrading treatments, or rights specific to vulnerable people such as children. In 2007, a report solicited by the European Parliament stated that : “The deprivation of freedom and the conditions in detention centres create or aggravate psychological or psychiatric disorders. (...) Depriving children of their freedom can however have a particularly harmful impact on these children and lead to the onset of psychological disorders in the short or long-term”⁶.

Very often, no effective judicial control is exercised in practice with regards to confinement, although infringement of individual liberties are at stake.

The large-scale confinement of migrants which has been developed in the framework of European asylum and immigration policy proves to be ineffective in relation to its supposed objectives of “controlling migration flows”. It is incongruous to attempt to resolve the issue of so-called “irregular” migration from a security angle. Participating to the stigmatization of migrants as “guilty”, and propagating the idea that to exercising one’s right to circulate freely is a crime, it is at the roots of recurrent violations of human rights and serves to feed racism and xenophobia.

Migreurop demands that governments of EU member states and its neighbouring countries to stop resorting to detention as a tool for controlling migration flows, and calls for civil society to oppose the system of detention of migrants.

Summary of problems identified in detention zones for migrants

Certain issues are repeatedly highlighted in the reports issued by different organizations or observatory missions in camps where migrants are detained. In January 2008, the summary report of the UN Working Group on Arbitrary Detention⁷, based on field missions reports carried over the previous months, gives a very clear overview of the main issues faced in zones of detention, and of the subsequent violation of human rights they entail:

- *lack of a legal framework, whether it be for immigration and asylum procedures, or with regards to detention if the case may be;*
- *the use of detention without any judicial procedure, for identification procedures only or to act as a deterrence tool;*
- *the disproportionate length of detention, with sometimes no official time limit attached to it;*
- *the detention, in certain countries, of asylum seekers, of minors, of sick and handicapped people;*
- *the “trying” and “deplorable” conditions some migrants are sometimes faced to.*

Other matters of serious concern should also be mentioned, such as the frequency of specific mental or health problems, especially psychiatric problems, which many detained migrants are suffering from, whatever country or detention conditions they find themselves in.

6. European Parliament, “*The conditions in centres for third country nationals (detention camps, open centres as well as transit centres and transit zones) with a particular focus on provisions and facilities for persons with special needs in the 25 EU member states*”, IP/C/LIBE/IC/2006-181, December 2007.

7. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/100/92/PDF/G0810092.pdf?OpenElement>

Italia and Libya: hand in hand

by Stefano Liberti, Wednesday 25 August 2010 (<http://blog.mondediplo.net/2010-08-25-L-Italie-et-la-Libye-main-dans-la-main>)

This is a major historical agreement: 300 million Euros to protect Libya's southern border. Tender was won by Selex Systems Integration, associated with Finmeccanica firm mandated by the Italian state. Radar stations to divide into squares and watch over the vast desert which separates Libya from its neighbours (Sudan, Chad and Niger) is under discussion. The agreement, which was signed in October 2009, should be implemented within the next three years. Funds "for the reinforcement of the southern border in Libya" will be allocated...by the Italian government and the European Union.

This operation, a blatant example of the externalization of border control, is explicitly mentioned in the Treaty of friendship, partnership and cooperation signed in Benghazi between the Libyan "leader" Muammar Gaddafi and the Italian president of the Council, Silvio Berlusconi, on 30 August, 2008. This agreement contributes to turning the page of the colonial dispute while shaping the frames of a new strategy against the so-called irregular immigration.

Italy will be in charge of the reinforcement of the southern border in Libya with an Italian firm to manage it. Libya, in return, will accept "direct turning back" on its territory. Since May 2009, boats apprehended in the Sicily channel are sent back to Libya without passengers being able to step onto European soil.

No matter that potential asylum seekers may be on board or that Tripoli never signed the Geneva Convention on refugees. M. Berlusconi himself posited it very clearly, when the Treaty was signed: "We will have more oil and fewer stowaways."

See also:

- "Fortress Europe sets its ramparts further out. The EU's expulsion machine", by Alain Morice & Claire Rodier, *Le Monde diplomatique*, June 2010 (<http://mondediplo.com/2010/06/12expulsions>) ; (in French) « Comment l'Union européenne enferme ses voisins » (<http://www.monde-diplomatique.fr/2010/06/MORICE/19190>)

- "The EU's expulsion machine, Maps", by Olivier Clochard and Philippe Rekacewicz, *Le Monde diplomatique*, June 2010 (<http://mondediplo.com/maps/euexpulsionmachine>); (in French) « Les camps d'étrangers, symbole d'une politique », by Olivier Clochard, *Visions cartographiques*, 1 June 2010 (<http://blog.mondediplo.net/2010-06-01-Les-camps-d-etrange-symbole-d-une-politique>)

- « L'Égypte veille sur les frontières d'Israël », by Alain Morice, *Visions cartographiques*, 4 June 2010 (<http://blog.mondediplo.net/2010-06-04-L-Egypte-veille-sur-les-frontieres-d-Israel>)

Roma people victims of the French government xenophobia

(Migreurop press release, 31 août 2010)

Using the incidents that happened in the centre of France in July 18th 2010 as a pretext, the French President asked for a meeting about “problems that arises behaviour from some people inside Travellers and Roma” in order, among others, “to decide the deportation of all camps in an irregular situation”. With statements reiterated and fully repeated in the media, French government reactivates a common confusion between two categories inside different populations, both of them are stigmatized : on one hand the “Travellers” (according to an expression that points out someone subjected to an administrative document called “livret de circulation”, literally a “movement record book”) and on the other hand, “Roma” coming from Bulgaria and mostly from Romania.

Roma from central Europe are, once again, targeted, considered as “irregular” or even more as “illegal”. Though, they benefit from freedom of movement inside the European Union even if France keeps them in a “transitional” status. Migreurop network is concerned about amalgams and stereotypes provided by French State’s highest bodies concerning people which are already widely victims of discrimination.

Following suit Italian government and despite heated protests from foreign countries and France (even in their own political party), French authorities have announced the deportation of 850 Roma before the end of August. “We are not inclined to welcome in France all Roma from Romania and Bulgaria” said Minister of Home Affairs in an interview for the French newspaper, *Le Monde* (22-23/8/10). Effectively, the camps’ evacuation by force, then the injunction to people, saying that they have to return to their country without taking into consideration their personal and familial situation, have been widely supported on those supposed common condition of “Roma”. These deportations, against all obviousness, presented as “humanitarian” and “voluntary” are opposite to the principle that forbids collective deportation.

Which indications were given to the police in sight to distinguish a Romanian “Roma” from another Romanian ? Do Roma people wear a star on their clothes as a sign of distinction ? Fortunately it is not provided by French law or EU texts. How a member of the government (who was in addition condemned recently for his racist declaration toward Arabs) can with impunity designate undesirable foreigners because of their ethnicity ? The latter, claimed or not by people to be summonsed, would not base a public policy or allow to derogate to the rule of equality of treatment. The defamatory use of the word “Roma” is an indicator of a new escalation in the scapegoat policy. More generally, Migreurop becomes alarmed of a possible use of any form of ethnicity by European law, at the risk, even under the pretext to protect them, of designating populations as guilty to exist, as it seems to be the case for Roma in several countries in Europe.

Writing staff:

(p. 3) Alain Morice
(p.7) SOS Racismo, APDHA, CEAR, Andalucía Acoge, ACSUR-Las Segovias
(p. 17) Gwenaëlle de Jacquelot, Anne-Sophie Wender ; Sara Prestianni ; Julien Brachet, Brigitte Espuche
(p. 47) Violaine Jaussaud, Paulina Nikiel
(p. 73) Filippo Furri, Regina Mantanika, Sara Prestianni, Alessandra Sciorba
(p. 101) Lola Schulmann, Regina Mantanika
(p. 111) Nadia Khrouz

Editorial staff:

Peio M. Aierbe, AMDH, AME, Emmanuel Blanchard, Sara Casella Colombeu, Brigitte Espuche, Caroline Intrand, Marine Gacem, Alain Morice, Eva Ottavy, Sara Prestianni, Roselyne Rochereau, Claire Rodier, Isabelle Saint-Saëns, Lola Schulmann, Maud Steuperaert

Translations French to English and revision by:

Nicholas Birch, Julien Brachet, Nurdane Bourcier, Isabelle Caillol, Olivier Clochard, Yasha Maccanico, Marie Martin, Nicole Mayer, Lola Schulmann, Alain Morice, Eva Ottavy, Alexandra Strang

Mapping : Olivier Clochard

Layout : Caroline Maillary

Many thanks to all voluntary participants to this Migreurop Report's 2nd edition

Cover picture:

Demonstration in front of the open centre of Ceuta (picture: Benedettelli-Mastromatteo-Zerbetto)

This report is supported by:



Based on evidences from field surveys as well as the 2009 edition, this second Migreurop annual report is a criticism towards the externalization of migration policies implemented by the now enlarged 27 member states European Union. In the framework of a containment strategy to keep migrants away from European borders, “externalization” by EU here signifies, on the one hand, the outsourcing to third states the responsibility for stopping by all means departures to Europe and, on the other hand, obliging them to take back all those considered as undesirable people. This twofold injunction is now exerted further and further on, away from EU. It is financially bargained and negotiated with third states, as it is proved in the case study on Sahelian and Saharan countries presented in this volume.

The externalization keeps weighing down heavily on the inner border countries of EU, which are challenged as first transit destinations, and requested by the Union to stop the so-called “illegal” migrants on their soil: thus Poland, Romania, Greece (for a long time) but also Ceuta, all countries located at the frontline of the war waged against migrants and are now in charge of dealing with asylum claims through rejection, detention or indefinite pending periods, as shown in the cover picture, where migrants trapped in Ceuta protest in placards such as: “2 years here. Too much time here. Why? Why do we are not free?”

It is also within Europe itself that, in accordance with legally dubious bilateral agreements or with the “Dublin II” regulation, migrants in exile end up in an endless wandering process with nowhere to go, like on the coasts along the sea that separates Italy and Greece. The situation in France and Belgium, where migrants are constantly chased at England’s gates, is not much different.

Before such a stream of distress, wandering, and too often deaths caused by European anti-migrant policies, Migreurop recalls that the first and foremost goal is to ensure the respect of the imprescriptible right of the people, such as recognized by international treaties, to leave one’s country and to seek protection elsewhere, even in Europe.

October 2010

Migreurop

21ter rue Voltaire 75011 Paris

Tél : +33 1 53 27 87 81

Fax : +33 1 43 67 16 42 - contact@migreurop.org

www.migreurop.org