



HUNGARY:

REFUGEES BETWEEN ARREST AND HOMELESSNESS

Report on year-long research up to February 2012

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Reception Camp Debrecen 2008
Photo: Marc Speer

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FOREWORD

The Iron Curtain shifted eastwards

A BRIEF PREHISTORY BY FERENC KÖSZEG

Born in Budapest in 1939, Ferenc Köszeg survived National Socialism as a small boy under a false name in a Budapest convent. During the Hungarian Uprising in 1956 he distributed pamphlets, was arrested and jailed. From 1963 to 1980 Ferenc Köszeg worked an editor in two literary publishing houses. When in 1986, on the occasion of the 30th anniversary of the suppression of the Hungarian Uprising, he participated in a public statement by Hungarian, Czech, Slovakian, Polish and East German dissidents, his passport was confiscated. It was handed out to him two years later only after he had gone on hunger strike. He was one of the founders of the European Roma Rights Centre and the Hungarian Helsinki Committee, helped to initiate the Independent Legal Aid Service in Hungary, the Fund for the Poor and various other institutions. From 1990 to 1998 he was a member of the Hungarian Parliament. Ferenc Köszeg, together with other activists, has drawn public attention to numerous breaches of human rights and to the catastrophic conditions in the refugee camps and prisons on the Hungarian border to Ukraine. For this the PRO ASYL Trust honoured him with the Human Rights Award in 2006.



↑ **FERENC KÖSZEG** Photo: Archive

'When I hear the name 'Hungary' my German jerkin feels too tight,' wrote Heinrich Heine, looking back on the months when the Hungarians, as the last in Europe, were still fighting for freedom and the principles of the March revolutions of 1848 against the victorious reactionaries ('In October 1849'). Yes, again and again there were times when one could be proud to be a Hungarian. The era after the settlement with Austria was one of them, when the world's first nationality law was passed in the Hungarian Parliament in 1868, securing the right to the use of the mother tongue in schools and local administrations, even for non-Hungarian minorities. Or when the laws on civil marriage and the equal

rights of the different religions were passed in the face of stiff church resistance (1894-95). 1956 also belongs to that list of proud years, when the nation strove to free itself from Soviet dictatorship. Even in the sphere of refugee protection there were honourable periods.

At the beginning of World War II thousands of Polish refugees fled to Hungary and were able in the following years, with the tacit help of the Hungarian government, to escape to the Western powers. In 1989 Hungary was the first of the Communist countries in Eastern and Central Europe to ratify the Geneva Convention on Refugees. The government allowed GDR refugees (not without the permission of the Soviet leadership) to travel on to Austria and offered protection to some 200,000 people fleeing from Ceausescu's Romania and from Yugoslavia.

But sometimes (and even frequently) one had to be ashamed of Hungary. After four decades of liberal policies Hungary was the first country in Europe after the First World War to pass a race law: the 'Numerus Clausus Act' (1920) restricted the number of Jewish students at the universities. After the German occupation of the country in 1944 more than half a million Jews were deported to Auschwitz and other concentration camps within two months. Laslo Endre – state secretary in the Interior Ministry

– convinced Adolf Eichmann beforehand of its feasibility. 'The administration is running as in peacetime, the police are at our service, no resistance is to be expected from Hungarian society', he told Eichmann. The Germans just had to arrange for sufficient reception capacity and the Hungarian authorities would then dispatch trains full of Jews to the Hungarian border. Today, neo-Nazi groups bawling anti-Semitic and anti-Roma hate songs are once again marching through the streets of Hungarian towns and villages.

Despite the promising beginnings, the treatment of asylum seekers is a matter of shame and scandal in the history of the young Hungarian democracy. In the period of turmoil, the stream of refugees was still greeted with sympathy. Not only those coming from Romania, most of whom were of Hungarian origin, but also 'Yugoslavians' from Croatia and Serbia were happily accepted. One felt sympathetic towards neighbours who had suddenly become victims of a senseless war. The turning point was in 1991, when the new Minister of the Interior, Peter Boross, remarked that Hungary was 'fully occupied', the xenophobia was caused by the foreigners themselves and if we wanted to prevent it we should allow no more foreigners into the country. The minister, who liked to call himself a friend of the German politicians Stoiber and Schäuble, followed the customary logic in this regard: no Jews, no anti-Se-



↑ IN 1956 HUNGARIAN REFUGEES CROSSED THE AUSTRIAN-HUNGARIAN BORDER, SOMETIMES BY BOAT

Photo: UNHCR

mitism. The minister's statements have contributed towards Hungary's reputation, backed by surveys, as one of the most xenophobic countries.

Although Hungary had long been a member state of the Geneva Convention, the country only recognised refugees from non-European countries after the asylum law took effect in 1998. The law itself, which was passed during the period when a Liberal-Socialist government held power, allowed the border police to detain asylum seekers in the barracks of the earlier border troops, not to send them on to a preliminary reception centre. Government leaves, administration stays, as the saying goes. Asylum legislation and practice were traditionally administered by the Office of Immigration and Citizenship, an authority staffed by former

police and even state security officers, which decided on foreign arrivals, residence, immigration, citizenship and asylum. In 1998, with the agreement of the new right-wing government, but without legal authority, the police and border guards were able to transform the so-called 'common accommodation' into aliens' police prisons. At the beginning of the war in Kosovo thousands of refugees were locked up in the overfilled barracks under inhuman conditions – men, women, even babies in one room. 'Tears of Győr' and 'Hell at the Austrian-Hungarian border' Austrian, German and Swiss newspapers wrote in 1998.¹ 'Would you come back to Hungary again?' I asked a young asylum seeker from Kosovo in the closed common accommodation in Szombathely. 'I'll even teach my grandchildren never to set foot on Hungarian soil', was his reply.



↑ **NEW ARRIVALS IN THE CAMP AT TRAIISKIRCHEN, 1956. WITHIN THREE MONTHS 200,000 HUNGARIANS FLED TO AUSTRIA AND YUGOSLAVIA.** Photo: UNHCR

In fact, not only the Hungarian authorities were responsible for the inhuman treatment of the asylum seekers. 'A hundred refugees a day cross the Austrian border illegally', claimed Austria's ambassador in Budapest before the Hungarian press in December 1996. With the increasing tension in Kosovo, the number of people crossing the border grew. The transformation of the accommodation into closed facilities was the result of Austrian government pressure. When the Greens in the Austrian National Council, referring to the inhuman living conditions in the Hungarian prisons, protested against the return of asylum seekers to Hungary, the Minister of the Interior

Schlögl (SPÖ) replied to the written question as follows: 'I hold no responsibility for the situation in Hungarian reception centres.'² Shortly before, on 27 July 1998, the Interior Ministers of Germany, Austria, France, Italy and Switzerland met in Gaspurn, Vorarlberg, in Austria. The German minister Manfred Kanther did the talking. Refugees from Kosovo were unwanted, he stated. The asylum seekers were to be forcibly repatriated, Hungary was a safe third country, and new reception centres were to be constructed for the refugees in Macedonia and North Albania. All five ministers were agreed on this.³ In Hungary, conscientious objectors and even victims of Serbian punitive expeditions from Ko-

sovo were classed as economic migrants and their asylum applications were consistently rejected. The Austrian minister Schlögl expressed exactly the same opinion in the Austrian newspaper 'Der Standard'. A few days after the start of the bombardment of Serbia, however, all the Kosovo refugees in Hungary were released: it became clear to the Ministry of the Interior that it was absolutely absurd to keep Kosovo Albanians in prison while the NATO allies were fighting for their freedom. The freed prisoners fled immediately to Austria and Germany. In this way Manfred Kanther's plan also failed: war refugees could not be returned en masse.⁴

In May 2004, Hungary became a member of the European Union. At the time of entry the EU supported the modernisation of border protection in Eastern and Southern Hungary, i.e. at the future external border of the Schengen area, to the tune of €167.8 m. The 'common accommodation' in Nyírbátor was turned into a high security prison. In January 2004, the commander of the border police forces in north-east Hungary, a brigadier, praised the excellent collaboration with the Ukrainian border police. In 2003, 141 citizens of third states, among them Afghans, Iraqis and Kurds from Turkey, were returned to Ukraine in summary proceedings.⁵ This resulted in the number of asylum seekers falling from 6,400 to 2,400 from 2002 to 2003. As a consequence of the reinforcement of the border police and the deportations the migration route shifted north. Contrary to pan-European tendencies, the number of asylum applicants in Poland and Slovakia increased. In 2004 it reached its highest level in Slovakia, with 11,350 applications. However, asylum was not granted there to anyone, as people fled on as soon as possible to Austria. This possibility disappeared on Slovakia's entry into the EU. In 2005 the number of asylum seekers sank in Slovakia to 3,459. The explanation is simple: the refugees were returned at once to Ukraine without being given the opportunity to apply for asylum.

The deportees from Hungary and Slovakia ended up in a camp in Pawschino, near Mukatschewo. With the support of the UNHCR office in Kiev I was able to visit the camp in the middle of a forest, on one occasion with the anthropologist Stephan Dünnwald. 'The Slovakian police beat us up, then the Ukrainian border police did the same and robbed us of our watches and money', many prisoners claimed. At the time of our visit in 2006 there was no electric power. Disputes over drinking water were the order of the day, as water was brought to the camp in tankers. I once again saw what I had often experienced between 1988 and 2004 in Győr, Szombathely, Kiskunhalas and Nyírbátor, only in an even more brutal form. At that time the western

border of Hungary was the border to the EU. In 2004 the Ukrainian and Serbian borders became the external EU borders.⁶ In 2006 the Pawschino camp was closed down. Despite reports from Human Rights Watch, Amnesty International or the European Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment (CPT)⁷ about the inhuman treatment of asylum seekers in Ukraine and the corrupt asylum process, a number of new camps were opened with EU support in 2008. The prison in Lutsk lies some 45 km from the city. In 2011 the period of imprisonment was even increased from 6 months to one year. Yes, the iron curtain around Fortress Europe was shifted several hundred kilometres eastwards and the hypocrisy moved with it.

Shortly after Hungary's entry into the EU Dr Zsuzsanna Végh, director-general of the Office of Immigration and Citizenship, announced at a press conference that a stream of refugees to Hungary was expected. This prediction contradicted the Office's own publicly accessible statistical data. The prognosis rather reflected the fears in the Office that in future, asylum seekers fleeing from Hungary would be returned to Hungary within the framework of the Dublin II procedure, for in spite of the prison accommodation, between 1999 and 2007 some 52% of all applicants, almost 25,000 asylum seekers, disappeared in the first few weeks of the procedure, very soon after registration. Without the collaboration of the people traffickers, the asylum system in Hungary would have collapsed within a few weeks.⁸

Not long ago Austrian courts and the European Court of Human Rights decided that asylum seekers in the Dublin II procedure could not automatically be deported to Hungary. The authors of this report welcome this decision. One should not, however, forget that actually the aim of Hungarian asylum policy is to rid the country of refugees. The only effective means is therefore to put the Hungarian authorities under pressure by threatening withdrawal of EU financial support so as to guarantee humane living

conditions, a decent asylum process and concrete integration opportunities. For this to happen, however, the European Union itself has to take its own morals and the principles of international refugee protection norms seriously.

Budapest, 23 January 2012

FERENC KÖSZEG

Honorary Chairman of the
Helsinki Committee

INTRODUCTION

On the creation of this report

GENERAL FRAMEWORK, GAPS AND METHODS

This report is based (in addition to the evaluation of written sources⁹) above all on reports by refugees¹⁰ we met during various research trips in the period from December 2010 to December 2011 in Budapest, Debrecen, Bicske, Fót and Ballassagyarmat.¹¹ Further reports were obtained from people who had fled on from Hungary and were (or are) threatened with deportation to Hungary. We met most of them in Germany, but we also have reports from refugees whose flight led them to Sweden, Holland, Austria and France. In part we conducted individual interviews, but frequently also discussions with groups of refugees. We did not concentrate on quantitative data collection, but rather on intensive discussions over a longer period at various locations – mainly with refugees from Afghanistan and Somalia.

For reasons of guaranteed anonymity for those interviewed, anonymised initials are used in this report. The transcriptions of the audio recordings or the notes made of the interviews are in the hands of the authors.

The group interviews and discussions had, besides the simple collection of data, a special significance: in the course of these talks, debates arose on the fundamental elements of European migration and integration policies. The refugees spoke of the effects of these policies and made an appeal for the political changes required. The recommendations in the last chapter are the result of their reports and suggestions.

Imprisonment plays an important role in the assessment of the realities of life for asylum seekers. We have not seen the prisons in Hungary from the inside. Official delegations are often confronted with the problem that the authorities responsible try to present themselves in the best possible light and put pressure on the prisoners beforehand not to mention negative aspects of their imprisonment. For this reason qualitative interviews with former inmates were held for our research under conditions permitting free expression. The knowledge gained here was compared with the reports produced by other organisations or delegations, especially the Hungarian Helsinki Committee¹², which (as recently as December 2011) painted an alarming picture of the prison conditions for refugees in Hungary.

This report has two gaps – it would be necessary to fill them in later publications: on the one hand, interviews with women are the exception. This is mainly due to the fact that refugees in Hungary are predominantly men. However, the question of female migration has special relevance, as fleeing women are in a particularly vulnerable situation. The homeless Somali women we spoke to in Budapest placed special emphasis on this aspect.

Apart from a box on page 32, the report does not concern itself with the specific predicament of one of the largest refugee groups in Hungary, the Roma from other East-European countries. As a conse-

quence of the increasing anti-Roma pogrom atmosphere (for example, in Bulgaria, the Czech Republic and Romania), Roma are also the victims of intensive discrimination, hate and violence. This form of persecution does not lead, however, to guarantees of international protection in the other EU member states; nor does the EU in general seem to be able to confront breaches of human rights effectively in other areas. The question of how to manage European refugee movements goes far beyond the refugee situation in Hungary and the issue of inner-European deportation, and calls for a special debate.

Some of the refugees we met in Hungary we had previously encountered: in Greece or Ukraine on their way to the European countries where they hoped for protection and a safe place to stay. Contacts also exist to Hungary via the Border Monitoring Project Ukraine (BMPU)¹³. In Greece an 'Infomobile'¹⁴ has regularly travelled since summer 2010 to locations important for those fleeing through Europe. From these contacts the trust has developed that is needed when such personal and often painful experiences are spoken of.



↑ **MOST REFUGEES FLEE ONWARDS FROM HUNGARY TO OTHER EUROPEAN COUNTRIES.** Photo: Marily Stroux

SURVEY

Overview of Hungarian asylum system

FACTS AND FIGURES

In Hungary there are some 1,800 recognised refugees in terms of the Geneva Convention (mainly from Iraq, Afghanistan, Somalia and former Yugoslavia) and about 3,000 persons who were granted subsidiary protection. The number of registered asylum applications has fluctuated greatly in the last few years. In 2009, for example, (the year with the highest figures so far) 4,672 initial applications were noted. However, in 2010 there was a huge slump to only 2,104 applications. Beside Kosovo and Serbia, Afghanistan is the country of origin of most refugees.¹⁵

For many refugees and migrants Hungary is a transit country on the route to Central and Northern Europe. Even when crossing the border (coming from the east through Ukraine and from the south from Greece via Serbia) the risk of illegal deportation (breach of the ban on re-oulement¹⁶) is high: asylum applications are often simply ignored by the Hungarian border police and those affected are led back to the neighbouring states within hours. From Page 24, in a special chapter, a more detailed account of systematic re-oulement is made.

Newly arrived asylum seekers are, as a rule, first interned in a so-called 'screening centre' in Békéscaba to check on the responsibility of another state within the framework of the Dublin II Regulation¹⁷. The camp in Békéscaba is a closed facility; the internees confined there may not leave the camp. Békéscaba, unlike the detention camps for refugees (Budapest Airport, Nyírbátor, Kiskunhalas and

Győr), is run by the Office of Immigration and Nationality (OIN),¹⁸ not by the border police. Mostly families with children come there, as well as refugees, e.g. Somalis, who have better chances of recognition than others. They usually come directly to Békéscaba after a few days at a police station. They remain there until it has been clarified whether, according to the Dublin II procedure, another country is possibly responsible for checking their asylum application.

In four separate detention camps for refugees¹⁹ in Budapest (27 detention places at the airport), Nyírbátor (276 places), Kiskunhalas (138 places) and Győr (50 places), refugees are detained who have crossed the Hungarian border without valid residence permits for Hungary, whose asylum application has been rejected or who, as so-called Dublin returnees, have been deported from other European countries and have landed at Budapest Airport. In addition, according to the Helsinki Committee a new detention centre is being planned on the site of the reception centre in Debrecen. The internment period lasts up to 12 months.

If Hungary's responsibility for the asylum process is established, as a rule accommodation is arranged in the (open) camp in Debrecen. Unaccompanied minors are to be accommodated in a children's home in Fót – but only if they lodge an asylum application. In many cases, however, minors who are registered, merely on appearances, to be adults, end up either in prison or on the street.

Recognised refugees and persons with the right to subsidiary protection are accommodated for a maximum of six months (extendable in severe cases by a further six months) in a camp in Bicske. If this is full, they are accommodated in the reception centre in Debrecen.

Since the summer of 2011 the Hungarian camp system has been further ramified: there is now a new camp in Balassagyarmat (opened on 8.6.2011), where especially those whose applications were rejected are held.²⁰ Balassagyarmat is a half-open camp. The refugees receive no further financial support and they are told on arrival that they must wait there to be deported.

Provided those affected are not immediately sent back at the border to the respective transit country, Hungary administers an asylum system in which the level of recognition concerning refugee status – especially for those fleeing from Somalia – is relatively high by European standards. But in contrast to this are the extremely poor living conditions and very high hurdles with regard to access to schools, the social system and the labour market.

The new Orban government's asylum and migration legislation²¹, passed on 24.12.2010, has drastically tightened up the asylum and alien laws. We mention only a few of the most dramatic changes²²:



↑ **PRE-INTEGRATION CAMP
FOR REFUGEES IN BICSKE**

Photo: bordermonitoring.eu

→ The maximum detention period was raised from 6 to 12 months.

→ The imprisonment of asylum seekers involved in an on-going Dublin II process is now firmly written into the law.

→ Asylum seekers can be detained in the course of on-going asylum proceedings, with the result that many of those seeking protection are obliged to follow these proceedings from within prison walls.

→ Responsibility concerning claims for legal representation in the asylum process has been transferred from the Metropolitan Court (central court in Budapest) to district courts with scanty experience in this sphere.

The legal changes have exacerbated the hardships already endured by asylum seekers and refugees. Large numbers of refugees are attempting, after registration as asylum seekers, to leave Hungary again, and not only since the changes in legislation. The reasons for this are manifold and, as a rule, existential. In the following section, 'Deficits in the Hungarian Asylum System', they will be dealt with in detail.

The attempt to find protection and humane living conditions in another EU member state has, however, failed in many cases. Many of those who have tried to do so were relatively quickly returned to Hungary after fleeing further on. This happens in the case of asylum seekers or rejected applicants on the



↑ **DISCUSSIONS IN THE DEBRECEN REFUGEE CAMP** Photo: bordermonitoring.eu

basis of the Dublin II Regulation and in the case of recognised refugees on the grounds of readmission agreements²³. Countless refugees who described their experiences for this report had been deported from other European countries to Hungary.



↑ **DEPORTATION CENTRE
IN BALLASAGYARMAT**

Photo: bordermonitoring.eu

DEFICITS

Between homelessness and detention

WHY SO MANY REFUGEES LEAVE HUNGARY AGAIN

What makes the situation in Hungary so unendurable for refugees? In the following chapter it will be explained why those interviewees who fled from Hungary find it inconceivable ever to return there. Why is it, that people who had been subjected to the most serious breaches of human rights, and would be in mortal danger if they returned, would prefer 'to die in Somalia rather than go mad in Hungary' (A.B., Refugee from Somalia)?

The refugees questioned name various reasons for not staying in Hungary but fleeing elsewhere, amongst other things:

→ The detention conditions, long internment periods, experience with police violence in detention, drug addiction (often developing in prison).

→ Most have had traumatic prison experiences in Hungary.

→ The impossibility of treatment for illnesses (both physical and mental).

→ Homelessness, hunger, cold and the lack of perspective as regards integration.

→ There are hardly any examples of the successful integration of refugees in Hungary.

→ There are few opportunities for access to language or integration courses.

→ Access to the labour market is as good as impossible, even for recognised refugees.

→ For many refugees (above all, from Somalia) there is practically no chance of family reunion, which is unendurable for those who have left wives and children

in their country of origin.

→ In other European countries there are already family members or friends who could help in the integration process.

→ Experience of racist assaults.

These abuses are outlined in more detail in the following section.

DETENTION CONDITIONS

'If you want to know what Hungary means for refugees, then you must know what it means to live in a prison for six months which can only be endured with Tramadol.²⁴ Hungary is the only country I know where people are locked up just because they have applied for asylum. Hungary, however, has signed the Geneva Refugee Convention'. (A.A., Refugee from Iran)

REASONS FOR DETENTION

The majority of asylum seekers in Hungary (including the so-called 'Dublin returnees') are detained in special refugee prisons. There are no clear guidelines as to who is to be detained or for how long. In practice it can be observed that only those asylum seekers whose applications are considered 'potentially successful' have a chance of avoiding long-term imprisonment and being released early. Others remain under arrest for the whole duration of their asylum procedure (even if some of them are at least granted subsidiary protection at the end of the proceedings).

Detention is based officially on the existence of a deportation order. This order is issued in principle on the occasion of any arrest (and also in the case of most Dublin returnees directly on their arrival at Budapest Airport). Only afterwards is an asylum application or a request for the re-opening of a case registered. This does not, however, mean the end of detention.

DURATION OF ARREST



↑ **DETENTION CAMP IN GYŐR** Photo: UNHCR/ B.Szandelszky

In December 2010 the maximum period of detention was raised from six to twelve months – it is to be feared that (as with the previous maximum arrest term of six months) it will be fully exploited in most cases.

Even families with children can be detained (for a maximum of 30 days) under the new legislation.

The Hungarian Helsinki Committee noted a switch in policy even before the asylum law changes of December 2010. Whereas the internment policy had previously been rather moderate and most asylum seekers accommodated in open camps, imprisonment to restrict movement had already been imposed since

March 2010: 'According to the HHC's knowledge, the Office of Immigration and Nationality and the National Police Headquarters issued a joint instruction in March 2010 ordering that all irregular migrants should be detained regardless of their wish to seek asylum in Hungary.'²⁵

There is virtually no possibility of successfully opposing arrest through litigation. It is laid down in law that detention is to be ended at once if deportation is found to be unfeasible, but this is in practice almost never the case. Without the authority of a judge, detention can be imposed for a maximum of 72 hours; beyond that a judge decides monthly on the extension of arrest. The Helsinki Committee has, however, up till now witnessed hardly any cases in which a judge did not extend detention: 'Local



↑ **DETENTION CENTRE IN NYÍRBÁTOR**

Photo: Bordermonitoring.eu

courts issue basically identical decisions in all cases, the reasoning of which is short and laconic, lacking proper fact assessment and individualisation. The HHC's long-standing experience shows that – unlike in most other European states – the extension of alien police detention is automatic in Hungary.²⁶

DETENTION LOCATIONS

From as early as the spring of 2010, asylum seekers in Hungary have been regularly detained. Between April and July 2010, altogether 11 temporary refugee camps were opened. Nine of these prisons were set up in dilapidated police detention centres²⁷ that had been unused for years. Some of these prisons were attached to larger institutions already in existence (Kiskunhalas and Nyírbátor). These temporary detention facilities had 20 and 100 detention places respectively. The hygienic and structural conditions were catastrophic in most of these temporary prisons, by way of which their capacity increased from 282 to 698 places respectively. After the capacity of the two large regular refugee camps (Kiskunhalas and Nyírbátor) was more than doubled, the temporary prisons were closed down, but are kept ready and waiting if more refugees arrive in the future. The four major detention centres are located in Kiskunhalas, Nyírbátor, Győr and Budapest²⁸. According to the Helsinki Committee a further camp is planned on the site of the initial reception centre in Debrecen.

DETENTION CONDITIONS

In its regular monitoring visits to Hungarian detention camps, the Hungarian Helsinki Committee has encountered people belonging to groups in need of special protection, such as pregnant women, who remain interned until the day of birth, as well as old, handicapped, sick and often traumatised people: “Pregnant, elderly, physically or mentally disabled asylum seekers may be detained along with everyone else. (...) Psycho-social care is not yet available in immigration jails in Hungary.”²⁹

In addition, the prison atmosphere itself leads to the development or exacerbation of various traumatic conditions:

A.I.B. (17 YEARS OLD, FROM SOMALIA)

has, since his flight from Somalia two and a half years ago, spent more than half of this time in various prisons in Ukraine and Hungary. A. came to Ukraine in April 2008 and attempted to enter the EU from there: ‘We reached Barabas (a border town in Eastern Hungary), then the police arrived and said: ‘We’ll help you’. But they were lying and they deported us; I was sent to Chop (a border town in West Ukraine), where I was interned for four months. On my second border crossing I was caught again, but spent only two months in Chop and was then transferred to Lutski (a detention centre in the Volyn district, financed by the EU). It’s hard in Volyn, the rooms are very small, you can’t move around very much. Chop is a really tough prison. Caritas officials came every Wednesday and brought us food and some clothes. They didn’t have an interpreter. The interpreters need money, the police need money, the watchman needs money. If you have no relatives and so no money, you’re in a hopeless situation in there’.

A. tried once again, and in retrospect says he was even lucky, for after his successful third attempt to cross the border from the Ukraine, the maximum

‘During its monitoring visits the HHC found in all facilities that a large number of detainees had psychological or psychiatric problems due to an untreated previous trauma, bad detention conditions and/or forced inactivity.’³⁰

In April 2011 the Hungarian Helsinki Committee issued a detailed report under the title ‘Stuck in Jail - Immigration Detention in Hungary (2010)’³¹, highlighting the detention conditions in these temporary prisons for refugees.

detention period was increased there from six to twelve months; a friend of his has been in prison for the last 10 months in Volyn.

At the third attempt, A. managed to flee from Ukraine but was once again caught in Hungary, found to be of age, and sentenced to 5 months’ imprisonment for breaching an immigration ban imposed following the previous illegal deportations to Ukraine: ‘They took my fingerprints in Budapest. Because I’d already been in Hungary twice they brought me before a judge and I was sentenced to 5 months in prison. It was a regular prison near Budapest Airport. It’s mixed, a big prison, not only refugees as in Lutski. There were four of us in my cell, two Hungarians, a Bulgarian and me. When I was in prison I feared for my life; there are people inside who’ve given themselves up. My friends didn’t even know if I still existed. When you go out to the prison courtyard for one hour a day and everyone comes up to you out of curiosity because of your different skin colour and some spit at you; you get frightened that they’ll do worse to you. I was really scared stiff. I was in prison for four months and 18 days.’



↑ HAFTLAGER IN GYÖR Photo: UNHCR/ B.Szandelszky

EFFECTS OF THE TOUGHER PRISON CONDITIONS

An increase in self-inflicted wounds, hunger strikes and protests are dealt with by police violence.

As early as the beginning of 2011, after discussions during the initial research trips in Hungary, the following picture of the newly erected temporary prisons emerged:

'The prison conditions vary greatly; in some of these places the state of the accommodation alone was awful. Depending on the harshness of the detention conditions, massive protests broke out in all these camps. In

*smaller police stations, where the detainees were sometimes treated more humanely, there were as a rule fewer protests; there were perhaps only one or two hunger strikes during the summer months. In most of the other (new and old) detention centres, countless hunger strikes occurred and self-harming was common (and unfortunately also widespread fighting between the various groups of refugees). In Kiskunhalas, near the Serbian border, a whole storey burned down following a revolt. At least one breakout involving more than ten internees occurred in Nyirbátor; most were caught shortly afterwards. This all happened almost completely unnoticed by the general public.'*³²

A report by the Hungarian Helsinki Committee describes some incidents of violence in the refugee camps, as well as self-harming by refugees, and relates these directly to the stricter detention conditions: 'Such a severe limitation of movement for several months and without any legal ground results in extreme frustration, which generates psychological and medical problems, as well as an aggressive attitude. The correlation experienced by the HHC between the severe limitation of movement and the frequency of violent conflicts, self-harm and protests is therefore not surprising'³³

Protests, violence and self-inflicted injuries were everyday occurrences between April and September 2010 in some of the refugee camps. The Hungarian Helsinki Committee report lists the following incidents:³⁴

→ Hunger strikes took place in the prisons at Salgótarján (34 prisoners for one week), Debrecen (27 prisoners), Eger (one person for over ten days), Csongrád (16 prisoners) and Baja.

→ There were attempted suicides in Debrecen and Tatabánya, fortunately unsuccessful.

→ In a number of detention centres 'physical disciplinary measures' were carried out, at Székesfehérvár, Nyírbátor, Salgótarján, and Tatabánya.

→ In Tatabánya detainees protested in July 2010 by beating on the doors, shouting, pleading for access to the prison courtyard and the opportunity to smoke after the evening meal. Following this, the guard called for reinforcements, whereupon masked local policemen stormed the prison, handcuffed prisoners and beat up at least one prisoner. The injuries were so serious that they were still clearly visible three weeks later during the visit by the HHC delegation.

→ It was reported to the HHC that in Nyírbátor, after the breakout by some prisoners, the guards physically abused detainees in their beds with clubs, as collective punishment.

→ Prisoners from Nyírbátor reported that the guards made monkey noises when Muslim refugees were at their prayers.

→ Violence was the major concern in Salgótarján and Nyírbátor. In Salgótarján fighting broke out amongst the internees in June 2010 and resulted in several of them being injured.

→ A number of cases of self-harming occurred; for example on 20.5.2010 a prisoner banged his head against the iron bars of his cell door, whereupon he was

sedated with an injection.

On 2.8.2010 another detainee cut his head open with a razor blade in protest against the detention conditions. Prisoners also reported to the HHC that guards used pepper spray against detainees if they protested against the conditions.

→ 15 different incidents were documented by the guards in Nyírbátor themselves, whereby instruments of physical restraint (handcuffs, truncheons, pepper spray) were implemented to break down resistance.

→ The most dramatic act of protest took place on 14.8.2010, when some detainees set fire to mattresses in Kiskunhalas. As a result two prisoners were placed under strict arrest. Other detainees spoke of violent behaviour on the part of the guards.

SYSTEMATIC ADMINISTRATION OF SEDATIVES

'They started to use these methods because more and more trouble occurred in the camps, the more people they crammed in. Everyone has to take these pills in Nyírbátor!' (H.S. from Afghanistan)

In Debrecen refugees told us repeatedly of their previous experiences in various prisons and stressed *'that above all in Nyírbátor sleeping pills and other sedatives are expressly used to quieten detainees down. In this way all the refugees transferred to Debrecen from this prison in the last 3 to 4 months appear depressive and sleepy. Many try to continue getting 'head tablets' from the prison doctor. Refusal to do so makes the detainees aggressive. The medicines are clearly powerful drugs causing withdrawal symptoms when no longer available. (...) As a rule the sedatives are not administered by force: in the morning and evening a doctor or a policeman goes through the cells and offers the tablets. Many are happy to take them. There is nothing to do and time passes slowly: 'You only want to forget where you are and just sleep, only sleep'*.³⁵

In a letter to a lawyer in Frankfurt, the UNHCR wrote: *'In September 2011 imprisoned refugees also reported that they were given drugs or sedatives systematically, which sometimes led to drug addiction. This information was confirmed by the personnel at those reception centres, where some asylum seekers were transferred to at the end of their imprisonment. After a written protest in October 2011 by the UNHCR to the police authorities responsible, significantly fewer reports on symptoms of this kind of drug abuse were received by the UNHCR.'*³⁶

In the deportation camp in Balassagyarmat refugees also told us in September 2011 that, of the 28 men living there at the time of the interview (mainly refugees from Afghanistan), about 20 regularly took Tramadol. *'Since my detention in Nyírbátor I can't stop taking it. One tablet is no longer enough to send me to sleep,'* said I.H., and wonders if he will ever be able to sleep again without tablets.

H.G. (21 YRS, FROM AFGHANISTAN)

was deported to Budapest via Munich in the autumn of 2010 and held for three months in Nyírbátor, near the Ukrainian border. After his release he lived till February 2011 in Debrecen, a desolate camp at the edge of the town, together with some 300 other detainees. He found the prison conditions in Nyírbátor catastrophic. Besides the lack of any perspectives he describes the regular abuse by the guards and above all the administration of powerful sedatives as the most serious problems. "They go from door to door with a tray full of drugs. If you take them you'll forget everything. The pills make you look like a zombie and your face doesn't move anymore." His friend K.R. spoke of a companion who was interned in Nyírbátor for 6 months. When he refused to take the tablets he was beaten until he finally swallowed them.

LEGAL CONSEQUENCES

In a letter to a lawyer in Frankfurt, the UNHCR updated information that was used as the basis for a decision made by the Austrian Asylum Court with regard to the situation of asylum seekers in Hungary, in particular on the basis of a person deported on grounds of the Dublin Regulation as follows:³⁷

'1) Danger of detention in Hungary after a Dublin return

Asylum seekers arrested by the police in Hungary for illegal entry or residence are immediately imprisoned there, even if they make an asylum application at once. Only unaccompanied minors who are clearly under age are not detained.

The general detention of asylum seekers has been increasingly practised since April 2010. With the legal changes in December 2010, arrest was made possible, even after the end of the preliminary hearing (determination of the responsibility of Dublin or investigation of entry from a secure third

state) and the start of the asylum procedure. Now detention of up to 12 months is possible. Families with children can be detained only exceptionally and then only up to thirty days. In 2011, 77 families were imprisoned. Only 65 of them were released again before the maximum period of arrest.

Decisions by the authorities on imprisonment must be legally confirmed. However, this legal inquiry is largely a mere formality in the estimation of the UNHCR and guarantees no textual examination of the reasons for imprisonment. According to information received by the UNHCR the legal investigation of arrest in the case of asylum seekers, for groups of ten to twenty prisoners, regularly lasts no longer than a total of 30 minutes. In consequence, it cannot be assumed that each individual case was carefully scrutinised as to whether the imposition of imprisonment was justified. With regard to the lack of effectiveness of legal instruments concerning detention, see also the decision made by the ECHR in the case of Lokpo and Touré against Hungary (sentence of 20.9.2011, Complaint No.:10816/10). At the ECHR, further appeals by asylum seekers are pending, in which the effectiveness of legal instruments concerning imprisonment is placed in question (see the proceedings Alaa Al-Tayyar versus Hungary (13058/11) and Hendrin Ali Said versus Hungary (13457/11)).

On the grounds of the Dublin II Regulation (re)deported asylum seekers are also arrested. (...) A description of the detention practice can also be found in the report by the ECHR in its decision of 20.9.11 in the cases Lokpo and Touré versus Hungary, Complaint No. : 10816/10. (...)

2) Prison conditions

The provisional prison facilities frequently used for the detention of asylum seekers in 2010, which were only designed for stays of up to 72 hours for criminal investigations and therefore unsuitable for long-term accommodation, have no longer been used to imprison refugees since the beginning of 2011, after the number of applicants significantly dwindled. The facilities now in use are subject to a strict prison programme (with regard to furnishings,

wire fencing, visiting rules). However, depending on the particular prison there has been some relaxation, confinement to the cells only at night and improvements concerning access to activities in the open air and to toilet facilities, as well as the use of communal rooms. (...)

The main problem noted when detainees were questioned by the UNHCR in September 2011 was the abuse by prison guards. It appears that abuse and harassment by the police occur frequently. All the asylum seekers spoken to complained about the brutality of the guards. Not all the prison staff acted in that way, but some of them on certain shifts provoked the prisoners, it was claimed, insulting them verbally and even beating them up. A fundamental reason for this seems to be that the prison police hired hundreds of new guards who had no training and no supervision during their shifts. (...)

At night and at weekends there are no social workers in the facilities; however, these are the times when most attacks are carried out by the guards. (...)

Imprisoned asylum seekers are taken to court, to the bank or to the post office in handcuffs, although they are only in prison for illegal entry/residence and have not been accused of any crimes. Detained refugees are however not only handcuffed when they are taken to outside locations (e.g. asylum proceedings, court hearings, post office), but are also led on a chain normally reserved for criminals.'³⁸

On 20.9.2011 Hungary was condem-



↑ **IMPRISONED REFUGEE IN A DETENTION CENTRE NEAR THE SERBIAN BORDER** Photo: UNHCR / B. Szandelszky

ned by the European Court of Human Rights (ECHR) for breach of Article 5(1) of the European Convention of Human Rights (ECHR). The two plaintiffs were arrested on 10.3.2009 for illegal entry and released on 10.9.2009 at the end of the maximum detention period in force at that time. From the prison itself the two plaintiffs applied for asylum on 18.3.2009; this did not end their imprisonment. As the ECHR noted, Article 55(3) of the Hungarian Asylum Act provides that asylum seekers must be released as soon as their case has reached the 'in merit' phase, due to the Refugee Authority's notification to the Alien Administration.³⁹ As the Court further determined, the plaintiffs were not released since the refugee authority had not initiated this procedure.⁴⁰ The Court concluded, therefore, '[...] that the applicants were deprived of their liberty by virtue of the mere silence of an authority – a procedure which in the Court's view verges on arbitrariness'⁴¹ The Article 55(3) criticised by the ECHR was abrogated at the end of 2010 following the tightening of legal restrictions; as a rule,

asylum seekers have since then been imprisoned during the 'in merit' phase.

On 11.1.2012 the European Court of Human Rights halted the deportation of a Sudanese asylum seeker from Austria to Hungary.⁴² The refugee had based his claim on the argument that the transfer would expose him to inhumane treatment and he was being put at a disadvantage compared to other asylum seekers whose applications had recently been decided on by the Austrian Asylum Court.⁴³

TRAUMATISED

Imprisonment has particularly serious consequences for traumatised refugees under the conditions described above. The following detailed individual accounts of cases are certainly only the tip of the iceberg. It must be assumed that the need for psychological treatment is scarcely touched upon in Hungarian prisons and detention centres. The cases continue to show, in an appalling fashion, that the Hungarian authorities are not even averse to imprisoning Dublin II returnees who are seriously mentally ill. This occurs even if the illness has been clearly documented by doctors and psychologists.

The two cases of imprisonment of severely traumatised people (attested by medical staff) under the conditions described above lead one to doubt whether the European reception guidelines are observed by Hungary. Article 17 in particular, which foresees a special reception procedure for the traumatised, can be regarded as breached here.⁴⁴

F.A. (24 YRS, FROM AFGHANISTAN)

was returned to Budapest from Rotterdam/Netherlands in October 2010. He worked for the ISAF in Afghanistan as an interpreter and was threatened with execution. His face is pale, he appears completely exhausted when we meet him on one of the first really warm days in Spring 2011 in Debrecen. When F.A. reached Hungary over a year ago he was arrested and his fingerprints taken. He left Hungary after a short period in detention and fled on to the Netherlands. A cousin of his lives in the Netherlands; he was able to give F.A. some support during his repeated nervous breakdowns: 'I must be with my family or I will go insane,' says F.A. He is seriously traumatised, suffers from severe headaches, a racing pulse, bone and back pains and sleeplessness. He was given psychiatric treatment in the Netherlands. However, in October 2010 he was deported to Hungary, accompanied by two police officers and a Dutch doctor. In Budapest his medical files, containing doctors' reports and a list of prescribed medicines, were handed over to the Hungarian border police in the presence of the Hungarian Red Cross. Both the Dutch doctor and the Hungarian Red Cross stressed that F.A. should not be imprisoned in his condition. He was still taken to Nyírbátor, where he spent more than five months in detention. Instead of the drugs prescribed in the Netherlands he was given the usual sleeping tablets in Nyírbátor. As he had already been treated with psychotropic drugs in the Netherlands these had no effect. F.A. woke up at night for months. He inflicted severe

wounds on his arms: 'I was so tired that I no longer wanted to live.' The prison doctor told him he could have the prescribed drugs if he paid for them himself. But F.A. did not have 120 euros monthly and how could he earn it in prison? The Hungarian Red Cross visited him twice during his time in prison and tried to intervene on his behalf against his detention, but in vain. He was released from prison only after over five months of imprisonment. In the open prison in Debrecen he was also told he could only have Paracetamol, he would have to pay for other drugs. Apart from food and accommodation F.A. receives no support of any kind. On that spring day in Debrecen F.A. said quietly and plainly during our good-byes, 'I'll try it once again and if I can't stay, I'll finish myself off.' He is currently threatened again with deportation from the Netherlands to Hungary.

M.R. (EARLY 30S, FROM AFGHANISTAN)

came to Hungary in 2009. During his flight he was the victim of severe attacks by human traffickers. These incidents seriously traumatised him. He fled on from Hungary to Austria, where from November 2009 he was treated in hospital a number of times as an inpatient for severe post-traumatic stress and depression. Besides sudden falls, M.R. completely lost his power of speech and could communicate only in writing. For fear of deportation from Austria he travelled on to Sweden, where he also spent some time in hospital. However, M.R. was returned to Hungary in January 2011. He had panic attacks before his deportation and above all he

feared the subsequent imprisonment. 'No one believed that I would immediately end up in prison in Hungary, but I was so frightened that the psychologists in Sweden felt sorry for me and said they would do their best for me if I was detained.' M.R. arrived at Budapest Airport in January 2011 and was immediately handcuffed by five Hungarian border policemen and imprisoned. The accompanying medical documents did not interest the police (and later, too, M.R. tried constantly but unsuccessfully to draw their attention to them). After M.R. did not get in touch as agreed, the Swedish psychiatrists started a search for him. Due to this pressure M.R. was transferred to Debrecen for psychiatric treatment. 'They handcuffed me and took me to Debrecen in a police car. A chain was attached to the handcuffs. They pulled me with this chain, tied up like a dangerous criminal, to the psychiatrist's office. They dragged me like a cow through the whole camp past all the other people. I can't tell you how humiliating that was. Due to the stress I couldn't speak any more when I stood before the psychiatrist and it took ages for me to make it clear to them that at least I needed one hand free to communicate in writing with the psychiatrist.' A few days later, M.R., after 25 days in detention, was released, thanks to pressure from the psychiatrists. M.R. cannot imagine that he would stay in Hungary and asks himself: 'How long will I be able to endure wandering around Europe looking for a safe place? Could I survive imprisonment in Hungary again?' As he speaks, the words stick in his throat again and again.



↑ **MINOR IN DEPORTATION CAMP AT BUDAPEST AIRPORT** Photo: UNHCR / B. Szandelszky

MINORS

20

"No refugees in orbit" was a major claim of the so-called Dublin II Regulation, which delegates responsibility for the asylum process. But the opposite is the case. More and more refugees - including minors - are wandering, after arriving in an apparently safe haven, for months or even years through various European countries⁴⁵ This odyssey has an awful effect, above all on unaccompanied refugee minors: young people who are left to their own devices far from their families, and find no safe place to stay, appear especially unsettled and sometimes lose all interest in life. Huge psychological problems leading to self-harm or even suicidal tendencies are not unusual amongst unaccompanied minors threatened with return to Hungary.

Unaccompanied refugee minors (URMs) are to be housed since the summer of 2011 in the 'Children's Village' in Fót. On a visit we could witness one of the few positive developments in Hungary since the start of our enquiries: the accommodation and treatment in Fót was found to be good by the young people we spoke to there. In Fót there are two residential groups, each with 35 places, and run by teachers and social workers; in one of them minors are housed, while in the other, adolescent former minors are accommodated. However, considering the huge increase in the number of URMs - not only in Hungary - over the last few years, it is to be feared that only a few of these young people can be sheltered there.

ARBITRARY AGE ASSESSMENT: MAKING MINOR DUBLIN RETURNEES 'OLDER'

Many times we were told by young refugees that on their arrival in Hungary they were given a medical test to assess their age,⁴⁶ after which they were registered as minors and transferred to the children's home of Interchurch Aid Hungary at Bicske. Most of the minors we spoke to left Hungary a short time after the transfer to Bicske because of the total lack of any perspective there. But they were soon disappointed in their hopes of finding protection and reception in another EU country. They were usually returned to Hungary under the Dublin Regulation, as Hungary was declared to be the state of initial entry into the EU. On arrival their age was assessed by a doctor (often the same one!) merely on appearances. In this way minors previously registered as under age became

'older' within a few months and were suddenly 19 years old. We talked to some young people who were clearly no older than 18, who after return were registered as being 29 or 30.⁴⁷ The refugees themselves assume that the 'ageing' process is systematic. Some of those we spoke to had been in several European countries where their age had been assessed by various methods and they were registered everywhere as minors – but not in Hungary.

In some of the cases known to us, minors were imprisoned after their Dublin return, although this is not foreseen in Hungarian law. The date of birth was usually changed beforehand (and sometimes afterwards!) by the Hungarian authorities.⁴⁸

The UNHCR also highlighted the problem of the detention of minors:

*'Unaccompanied minors should be completely exempt from detention and housed in special facilities in Fót. However, unaccompanied minors whose age is in doubt are imprisoned, as UNHCR research has shown.'*⁴⁹

The Hungarian Helsinki Committee has also observed this during regular visits to the detention camps:

*'On several occasions during its detention monitoring visits the HHC has witnessed unaccompanied minors detained in the immigration jails. After checking their files it was noted, that the doctor determined their age only by looking at their torsos. The way age assessment is carried out in Hungary is highly problematic.'*⁵⁰

On 31.1.2012 the UNHCR Nuremberg described in a letter to a lawyer the case of two minors who had been deported from Germany to Hungary: *'During its monitoring, the UNHCR, in September 2011, spoke to two unaccompanied asylum-seeking minors in Nyírbátor prison. Both had been returned from Germany to Hungary according to Dublin II and had papers with them showing that they were minors. The young people told us they had been issued with these documents in Germany after an age assessment procedure. However, both the Hungarian police and the authorities ignored these documents.'*⁵¹

A.R. (17 YRS, FROM AFGHANISTAN)

has a vertiginous history of flight behind him, with countless prison stays and deportations.

Until 2007, after fleeing from Afghanistan, he lived with his parents and younger siblings in Pakistan. He then travelled to Turkey via Iran. In Van he was arrested and detained for two months in Ankara, then deported to Kabul. From Afghanistan he returned to Pakistan and fled again through Iran and Turkey to Greece, where he was once again arrested. He went on after that to Albania, where he spent a month in prison in Tirana. In Kosovo, the next stage, he spent two days in detention. In Belgrade, Serbia, he stayed at an orphanage for 3 months with Serbian children and adolescents. A. was still searching for Europe, the safe haven where he could find protection.

On the Hungarian border he was arrested and held in prison overnight before being taken to Bicske camp. Here too he was placed in solitary confinement for 3 days. A doctor declared him to be of age. Since deportation to Greece threatened,

he fled to Austria. There he was held for 10 days. After severe self-harm (scarring his arms) he was sent as a minor to the Austrian initial reception centre in Traiskirchen. After about 4 months he was returned to Hungary and interned in Békéscaba for 15 days. He fled again to Austria, where he claimed to be 30, hoping that as an adult they would take him more seriously. After some 3 months he was placed under deportation arrest and sent back to Hungary again. He spent another 15 days in Békéscaba and 4 months in Nyírbátor, subsequently 2 months in Zalaegerszeg and 2 days in prison in Budapest.

A. fled for the third time to Austria, stayed for a month in the initial reception camp in Traiskirchen and travelled further to Switzerland before being deported. There he was registered as a minor, but 3 weeks later as an adult. A. then lived for 6 months in Zurich in various camps. Before his third return to Hungary he was in prison in Zurich for about 5 days and sent to a deportation camp near Germany for 3 weeks before being deported to Hungary again. At the airport in Budapest he was told to go to Debrecen or to

another European country. He was refused a bus ticket to Debrecen. He spent 2 months in Debrecen before being taken to the new deportation camp in Balassagyarmat. He escaped again and is now living in a Hamburg youth facility. Due to his harrowing history of flight he suffers from post-traumatic stress disorder, as medical attests show.

E.A. (18 YRS, FROM AFGHANISTAN)

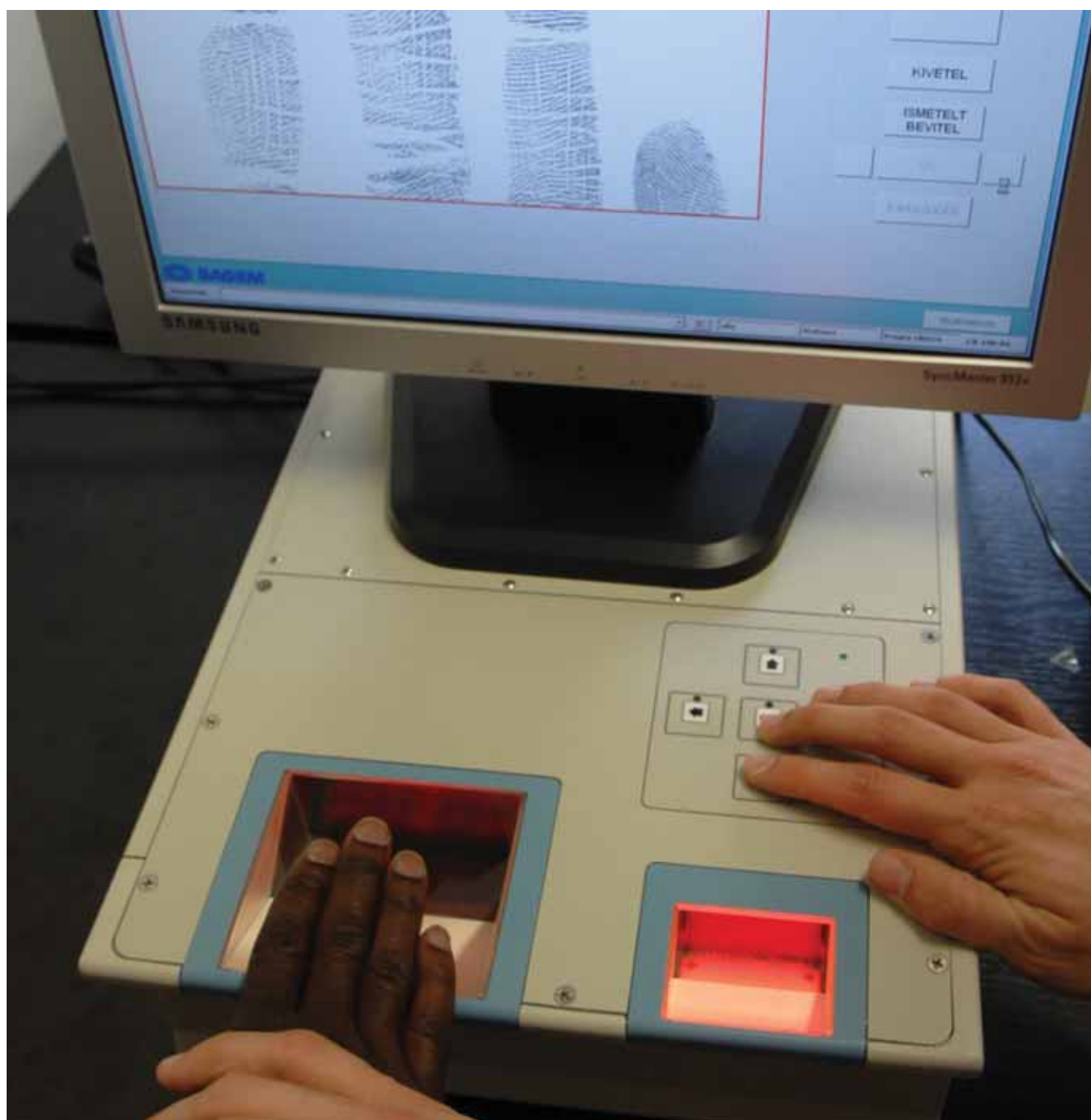
has been living in Frankfurt since October 2010. He has experienced a 2-year odyssey through half of Europe. He fled via Pakistan, Iran and Turkey to Greece. In late summer of 2009 he reached the Greek island of Lesbos. He was interned there for 10 weeks. His long journey through Europe began in Pagani Camp, which due to its awful conditions had aroused international outrage. Following a revolt, mattresses and blankets were set alight in the overcrowded cell, holding 83 mostly juvenile refugees. One day later E.A. was released. He spent several nights on the streets before getting to Athens by ferry. There too he slept in parks and witnessed racist attacks on refugees. He tried to flee further but was caught on a ship to Italy and sent back to Greece. Again he spent 8 weeks in prison. He describes the prison situation as appalling; too little to eat, packed cells and few mattresses. As he was a minor and had no guardian he was kept there longer than others – 8 weeks' arrest again. After harming himself seriously he was released again. He was still on the way to Norway, where an aunt of his lives. In February 2010, on a very cold night, E.A. was ar-

rested, together with other Afghan minors, just behind the Serbian border in Hungary. In Hungary he had applied for asylum after being threatened with several months in prison and deportation to Greece. He witnessed violence on the part of the Hungarian border police and was medically tested to assess his age, his collar bone even being X-rayed. As a 16-year-old he was transferred to Bicske and confined there for a number of days. He soon realised that the conditions in Hungary were really bad, and food was served only twice a day. At night he was unable to sleep, as the memories of his prison stays all over Europe haunted him. E.A. fled onwards and actually arrived in Norway. Threatened again with deportation to Hungary, he hid under a friend's mattress when the police arrived and escaped. This time it was Sweden, where he applied for asylum. He told his story everywhere and said he could not return to Hungary, he was so frightened. In October 2010 he finally arrived in Frankfurt. He is still unable to sleep, due to his traumatic experiences on the run and in prison. 'In Hungary I'll end up in jail. I couldn't stand that again,' E.A. told us. His fears were justified, for in Hungary E.A. was now suddenly 30 years old, although he had previously been registered as a minor, and even in Germany, Norway, and Sweden no one had questioned this. According to the HHC this procedure entails a prison term of several months in Hungary. Despite all the insecurity, however, E.A. is now finally in Frankfurt. 'Do you think I'll go mad? I feel at home here,' he told us in German. And this time he has at last found a place to stay. The deportation

order to Hungary has expired and his asylum application is now being processed in Germany.

H.A. (18 YRS, FROM AFGHANISTAN)

was with E.A. when they crossed the border into Hungary. He had also spent long periods in prison even as a minor in Greece and Macedonia. He was also arrested in Hungary and given a medical examination to assess his age. His teeth were inspected and his collar bone X-rayed. In February 2010 he was taken to Bicske as a 16-year-old, from where he made his way alone to Austria. The Austrians decided to send him back to Hungary, even though he had described in detail how he had been mistreated in police custody in Hungary. After deportation by Austria he had suddenly aged by 2 years for the Hungarian authorities and was sentenced to 6 months in Győr. Afterwards his asylum interview took place – and although H. A. only speaks Dari the interpreter spoke Pashto. A further problem disturbs H., who is still in Hungary: 'The fights between the different refugee groups in Debrecen are particularly bad. At the moment the worst ones are between Afghans and Arabs. It's worst in the evenings, if a number of rejections have been made. Last week there was a squabble between more than 50 people in the courtyard. One man was kicked so badly in the face that for days he wouldn't go outside, his face looked so awful. Some drink too much because they don't see any future. They lose control then. I'm afraid of something really serious happening.'



↑ **FINGERPRINTING IN DEBRECEN REFUGEE CAMP** Photo: UNHCR / B. Szandelszky

DUBLIN II RETURNEES

In 2010, 742 refugees from other European countries were deported to Hungary according to Dublin II; in 2009 it was 934. Germany is the country which has deported most people (2009: 261 returns; 2010: 198 returns), followed by Austria (2009: 159 returns; 2010:

100 returns) and France (2009: 229 returns, 2010: 100 returns). Hungary is therefore, just behind Italy and Poland, one of the countries into which most deportations are made.⁵²

The general problems already portrayed – especially imprisonment and homelessness – affect Dublin returnees in particular.

'Whoever flees and breaks off the procedure is no longer an asylum seeker.' Refugees report that they are told on arrival at Budapest Airport that they are going to go to prison as punishment for fleeing from Hungary. (...) The camps are full of deportees from Austria, Germany, Belgium, France, etc.⁵³ This is how refugees in Hungary describe their predicament as Dublin II returnees.

Asylum seekers deported to Hungary according to Dublin II are imprisoned almost without exception. The HHC reports in this respect: *'The OIN does not consider persons returned under Dublin as being asylum seekers automatically. In practice the alien police first starts with an alien policing procedure (and issue an expulsion order) and only after this, the OIN registers asylum application. As a result, a person may be detained for the purpose of expulsion which can last for the entire duration of the asylum procedure, but for a maximum of 12 months'.*⁵⁴

The UNHCR states: *'Hungary regards Dublin II returnees as re-applicants. This means that legal action against negative decisions do not automatically have a delaying effect, and legal aid with regard to approval is significantly reduced in comparison to initial applications.'*⁵⁵

In December 2011, in an information leaflet under the title 'Access to Protection in Danger', the HHC summarised the treatment of so-called Dublin II returnees in Hungary as follows:

In the view of the Hungarian Helsinki Committee, Hungary offers insufficient reception facilities and inadequate access to protection for asylum seekers returning under the Dublin II Regulation:

→ *Asylum seekers returning under the Dublin II Regulation (so-called 'Dublin returnees') are as a rule immediately issued with a deportation order, independently of their wish to apply for asylum.*

→ *Dublin returnees previously applying for asylum in Hungary cannot continue their (interrupted) application for asylum in Hungary and their continuance of their application is treated as a new procedure.*

→ *Follow-up asylum applications meanwhile have no deferring effect on deportation measures (except in individual cases), so those returning to Hungary under Dublin II rules often have no protection against deportation, even if their asylum application had never been investigated in an EU member state.*

→ *On the basis of the automatically issued deportation order, most of the Dublin returnees are placed in deportation detention with no consideration of their individual situation or of any alternatives to imprisonment.*

→ *Complaints against deportation arrest are ineffective; the extension of detention is declared quasi-automatically in almost all cases.*

→ *Those Dublin II returnees (who were taken back by Hungary) who are not detained have no access to appropriate reception conditions, as their follow-up application does not justify any claim to the accommodation and support normally available to asylum seekers.*⁵⁶

Furthermore, the UNHCR sees the danger of chain deportation to Serbia (see also the next section) also for Dublin returnees:

'The Hungarian asylum authority continues to regard Serbia, in contrast to the views of the UNHCR, as a safe third state for asylum seekers and returns to Serbia those entering from there without examining their asylum application. This also applies to procedures in which the applicant was previously returned to Hungary under Dublin II. Only in 20% of all asylum proceedings is an examination of the reasons for flight conducted.'

The decision practice in the Hungarian courts when legal action is taken varies considerably. Whereas the court in Budapest in several cases has obliged the asylum authority to undertake detailed examination of the asylum application, the decisions of the authority are confirmed without close scrutiny by the court in Szeged, which is responsible for most cases involving persons entering via Serbia.⁵⁷

REFOULEMENT

A large number of the refugees living in Hungary or passing through it on their journey have already had experience, before registration in Hungary, of imprisonment for many months and of illegal deportation (refoulement). When crossing the Ukrainian-Hungarian or Serbian-Hungarian border, refugees are in many cases sent back by the Hungarian border police almost at once, even if they produce an asylum application. In Ukraine a prison term of up to 12 months follows as a rule: this is in a camp largely financed since 2008 by EU funds. In Serbia the deported people are faced with absolute poverty and moreover in danger of facing a series of further deportations.

UKRAINE

In January 2011 the Border Monitoring Project Ukraine (BMPU) criticised the fact, together with Pro Asyl, that refugees reaching Hungary from Ukraine are greatly threatened by refoulement:

*'Dozens of refugees questioned by BMPU in the last two years all reported that their right to asylum proceedings in Hungary and similarly in Slovakia was refused and they were deported to Ukraine within 24 hours. This practice contravenes the so-called refoulement ban and is a clear breach of the Geneva Convention for Refugees, as well as the European Convention of Human Rights. The number and distribution over time of the deportations documented by BMPU lead one to assume that this is not a matter of isolated cases, but a regular, illegal procedure.'*⁵⁸

In November 2010 a brochure was issued by the Border Monitoring Project Ukraine containing interviews with refugees, some of whom had been deported a number of times from Hungary to Ukraine:

'The Border Monitoring Project Ukraine (BMPU) has documented an alarming number of unlawful returns to Ukraine. (...) BMPU revealed serious violations of inter-

*national refugee law that are committed by the border police of several EU-member states. Cases of refoulement by Hungarian and Slovakian border patrols at the eternal borders of the EU are not an exception, but occur on a regular basis.*¹⁵⁹

The UNHCR report of November 2010 on the occasion of the 'Universal Periodic Review', a periodical investigation into the human rights situation in all UN member states, also criticised Hungary once again for infringing the non-refoulement principle:

*'Access to the country's territory and to the asylum procedure for asylum-seekers is not ensured with full respect of the principle of non-refoulement. (...) For example, complaints (confirmed by NGOs) were received from and/or registered by Somali and Afghan asylum-seekers, including separated minors, on their apparently forced return to Ukraine by the Hungarian Border Police.'*¹⁶⁰

In November 2010 a detailed report also appeared from Human Rights Watch on the situation of refugees in Ukraine, criticising deportations to Ukraine from Hungary and Slovakia:

'More than half of the migrants interviewed who had been returned from Slovakia and Hungary said that they were beaten or subjected to ill-treatment in Ukraine. Most had tried to seek asylum in Hungary or Slovakia, but said their claims had been ignored and they were quickly expelled. Both countries also expelled unaccompanied children.' And further: *"This report has shown that Slovakia and Hungary have violated the principle of non-refoulement in both refugee and human rights law, as well as their obligation under EU law to provide access to asylum. This report documents that Ukrainian officials have tortured migrants returned from Slovakia and Hungary and subjected them to inhuman and degrading treatment and that asylum seekers returned from Slovakia and Hungary have not been provided effective protection from return to places where they have a well-founded fear of being persecuted or of being exposed to other serious harm."*¹⁶¹

SERBIA

Not only at the Ukrainian-Hungarian border are refugees in danger of being returned. The Serbian-Hungarian frontier is also increasingly a focal point of refoulement. In September 2011 hundreds of migrants from various crisis areas of the world were stuck in the Subotica/Serbia district a few kilometres from the Serbian-Hungarian border – homeless in a cemetery, for at least there they had access to water. In one report 150 people are mentioned, in another hundreds, and the Subotica grave-digger estimated about 1,000 refugees.⁶² They came from Pakistan, Afghanistan, Libya and Tunisia. 'I have tried 3 times to get into Hungary,' said a Libyan and summarised: 'Hungary? Big problem! Useless to say you need asylum. Pointless to say there is war where we come from, or that we are persecuted – that doesn't interest the Hungarian border police at all.'⁶³

At the beginning of 2011 the Serbian police burned down a collection of plas-

tic foil tents in which migrants had tried to survive under the most wretched conditions till an opportunity arose to flee onwards into Europe. This incident was documented on a Hungarian blog with a video.⁶⁴

Most refugees in Subotica have had the experience at least once of being returned from Hungary to Serbia, for Hungary denies asylum seekers crossing into Hungary via Serbia the investigation of their asylum applications, on the grounds that Serbia is in a position to offer them the necessary protection. Since the changes in asylum law in December 2010, Hungary has introduced a regulation in which entry via a third country is to be checked before Hungary takes responsibility for asylum applications. Serbia is viewed by Hungary as a 'safe third state.' That means, de facto, that since 2011, migrants entering Hungary via Serbia are in danger of deportation to Serbia.

The Hungarian Helsinki Committee did some research in June 2011 in Serbia on



↑ REFUGEE HUT IN SERBIA, NEAR THE BORDER TO HUNGARY

Photo: Merlin Nadj-Torma

the plight of refugees. The resulting report, *'Serbia as a Safe Third Country: a Wrong Presumption,'* comes to the conclusion that this practice represents an infringement of the European Convention of Human Rights:

*'In reality, the Serbian asylum system is largely dysfunctional. Many asylum-seekers face destitution and the entire system is heavily underfunded and understaffed (only two officers have to deal with hundreds of cases). Even though a large proportion of asylumseekers come from Afghanistan and Iraq, Serbia has never granted refugee status to anyone. Serbia automatically considers Greece and Turkey as a safe third country, while Belarus and Russia figure on its list of safe countries of origin. The UNHCR clearly advises against the consideration of Serbia as a safe third country.'*⁶⁵

Like most EU states, Hungary currently does not send Dublin returnees directly to Greece. However, Turkey as well as Greece are on the Serbian list of safe third countries:

*'In the light of the grave deficiencies of some of the neighbouring countries' asylum systems (reference could be made for example to the 2011 M.S.S. judgement of the European Court of Human Rights), this practice gives rise to a serious risk of chain refoulement.'*⁶⁶

R.A. (16 YRS, FROM AFGHANISTAN)

was arrested in February 2011 in Hungary near the Serbian border, with two further unaccompanied minors. The young people told of brutal beatings by the police during their imprisonment. Being stripped naked at the police station was particularly humiliating for them. On the following day R. was arrested in Kiskunhalas. 'I was really terrified,' he recalled, 'and felt constantly hungry, as we got very little to eat. Besides, I didn't understand why I was in prison. All I wanted was to find my brother.' A few days after his arrest R. received a visit by an HHC lawyer from Budapest. On one the following days he was returned to Subotica/Serbia from the Hungarian prison. After his release he managed to get from Serbia to Hamburg. In the meantime he is living there together with his brother, who has been living in Hamburg for 3 years and has a regular residence permit, in a youth support centre.

The prison in Kiskunhalas was not the first European prison R. had expe-

rienced during his flight from Afghanistan. On his journey over the Turkish mainland in the Evros region he was arrested by a Greek border patrol and put in a hopelessly overcrowded prison. After a few days he was thrown on the street with the order to leave Greece within four weeks. He tried to get to Italy via Patras. 'I tried a number of times to cling onto a truck axle. I was afraid of dying.' He then made his way to Athens and decided after a few months to attempt to reach his brother in Germany via Macedonia, Kosovo, Serbia and Hungary. In all these countries he was imprisoned and experienced repeated violence. The severe breaches of human rights R. was confronted with on the EU borders, as well as inside Europe, on the way to his brother, have in the opinion of his doctor led to serious post-traumatic stress disorder. 'Although I'm now with my brother I am still frightened. What's going to happen to me in Germany? Will I be able to stay with my brother? I find it hard to sleep at nights – I'm not the same person any more.'



↑ HOMELESS SUDANESE IN SHELTER IN BUDAPEST Photo: UNHCR / B. Szandelszky

FAMILY G. (FROM AFGHANISTAN)

Mrs G. first fled with her husband and their three children from Afghanistan to Greece. Due to the dramatic situation for refugees in Greece they could not stay there, especially as Mrs G.'s diabetes was not being treated in Athens. Fleeing further from Greece is a complicated and expensive business, so the family separated. The 18-year-old son is living in Landshut/Germany now, the 14-year-old son in Austria and the father in the Netherlands. Mrs G., on the other hand, is under deportation arrest together with her 7-year-old daughter in a boarding house in Rosenheim/Germany. Before that, Mrs G. and her child were accommodated in a deportation centre in Hungary and threatened with return to Serbia. For fear of this they made their

way to Germany. Her aim was to get to her son in Landshut.

Mrs G. and her daughter are now in danger of deportation to Hungary. From there, further deportation to Serbia and on to Greece is to be feared. As most of the family (mother, daughter M. and the adult son A.R.) are now in Germany, family reunion is only possible and feasible here. In the event of a return to Hungary this would not be guaranteed. Mrs G. is very ill: she suffers from serious diabetes, which if not treated could have fatal consequences. In addition she suffers from post-traumatic stress disorder. The Bavarian Refugee Council has handed over petitions to the Bavarian and German Parliaments against her extradition.⁶⁷

SOCIAL SITUATION

'The cold and hunger in Hungary; that is our war in Europe. And they send me back into this war again and again. It's like a scar that never heals because it's always scratched open again. If we're returned to Hungary again, then please not in winter.'
(A.D.N., 17 YRS, refugee from Somalia)

Recognised refugees are allowed only 6 months' accommodation in a refugee shelter; this can be extended by another 6 months in special cases. After that, homelessness threatens. Besides the lack of integration opportunities, homelessness is the major cause of the unendurable situation for refugees in Hungary. This also creates other problems: without a fixed address there is access neither to social services nor medical treatment. Life as a homeless person means one is particularly vulnerable; in many cases migrants tell of racially motivated assaults

and sometimes sexual abuse while they were living on the streets.

ACCESS TO SOCIAL SERVICES DIFFICULT IF NOT IMPOSSIBLE

Many recognised refugees appear to have problems receiving social support. And even if they obtain support they cannot survive on it, as it amounts to only 28,500 HUF (equivalent to about 90 euros⁶⁸). If all conditions are fulfilled, social support can be received for the first two years after recognition.⁶⁹ The prerequisites for payments up to a further four years are: cooperation with the employment office in the search for work for at least one year, participation in qualification measures, and in communal service for at least 3 months. All the refugees we interviewed were unable to fulfil these requirements, despite intensive efforts.

Migrants repeatedly told us that after one year at the latest they were given no further support. All those we questioned who had already fled into another European country and had been deported to Hungary had lost all right to support and /or did not know how they could apply for such support.

The main reason is that payment is coupled to residence at a fixed address, so the homeless have de facto no access to social services. In consequence the (forced) departure from the initial reception centre leads to the loss of social support and, on top of that, renders medical cover impossible.

Recognised refugees can, on leaving Bicske, apply for a one-off accommodation allowance of 171,000 HUF (about 550 euros). However, a rental contract for a 'suitable' apartment must be produced and the application can only be made up to 6 months after leaving the reception centre. This payment is regarded as a kind of initial aid.

In addition there is the possibility to apply for a rent allowance, but this is not paid out long-term up to the amount of the rent to be paid:

*'According to the place the refugees reside at, a competent notary can ascribe the refugee a living expenses subsidy, which is to be financed by the local government. This subsidy can be requested four times at any time once a year during those four years, and the amount is 28.500 Ft [about 90 euros] and it can never supersede the actual accommodation cost amount. This subsidy can be granted only if the receipts for actual money transfer intended for covering the accommodation expenses can be shown. Unfortunately this subsidy is rarely given to refugees, because they do not manage to find flat owners who are willing to issue a receipt for their rent.'*⁷⁰

The Hungarian Parliamentary Commissioner for Civil Rights,⁷¹ who, as an independent ombudsman elected by Parliament, can initiate proceedings against any state body on the basis of a complaint, informing the organ involved of the illegal practice and ensuring the rights of the plaintiff, has reported on the problem of homeless refugees in Hungary. Two of his reports are important in this respect and are quoted repeatedly in the following. On the one hand he describes the specific situation of homeless migrants and on the other he reports on breaches of legal rights due to the new Hungarian laws and municipal regulations affecting the homeless.

In September 2011 Somali refugees showed us a 'hotel' where some of them occasionally spend the night. A bed in a four-bed room costs 2000 HUF there (about 6 euros) per night. No cheaper accommodation is available in Budapest. So even for this cheapest type of accommodation, almost double the amount of the monthly social support sum has to be paid. The foreign advisory section of the Federal Employment Agency explains, with regard to the living and housing conditions in Budapest:

'Living costs have risen over the last two years – amongst other things, because the Hungarian government increased the value-added tax to 20% in September 2006. (...) In Budapest, as a rule, very high rents have to be paid: for a flat, up to 500 euros including heating costs; cheap flats or rooms

*can only be found through contacts. Altogether, however, the cost of living there is about 25% lower than in large German cities.'*⁷²

Those recognised refugees we interviewed were clearly scarcely in a position to secure their own survival and were hence faced constantly with life-threatening situations (illnesses that were not treated or assaults due to their homelessness).

HOMELESSNESS OF RECOGNISED REFUGEES

It appears impossible to obtain official figures as to how many homeless refugees are living in Hungary at the moment. The Parliamentary Commissioner for Civil Rights was also unable to provide any:

*'In lack of professional institutions which deal with homeless foreigners in Hungary, none of the organizations and/or state organs had the proper means to release exact data about how many homeless refugees are residing in the capital of Hungary.'*⁷³

As early as March 2010, the UNHCR published a research report on homeless recognised Somali refugees in Budapest, under the title 'Refugee Homelessness in Hungary.'⁷⁴

Amongst other things, the report comes to these conclusions:

→ The refugees with the highest risk of being homeless are those who have once already been deported from another European country to Hungary.

→ After returning to Hungary, those questioned found themselves in a very vulnerable position again, as they no longer had access to social support in the "Pre-Integration Centre" in Bicske.

→ Whereas recognised refugees actually had the right to minimum financial support for 2 years after recognition if following a language course, they often received this only after several months of waiting following their return to Hun-

gary.

→ The absence of a Somali community in Hungary was named by those questioned to be a major barrier to integration.

→ Trapped in a vicious circle of hopelessness and with no examples of successful integration among the Somali migrants in Hungary, most of those interviewed tended to flee onwards to other European countries if they had the chance, with the aim of 'finding a place to eat and sleep, if only for a few months.'

The UNHCR concludes:

'Hungary does not have a legal or policy framework including a strategy that deals specifically with the integration of persons recognized to be in need of international protection. Under the Act LXXX of 2007 on Asylum, refugees and persons with subsidiary protection have the rights and obligations of a Hungarian citizen. They are furthermore entitled to accommodation, meals and pre-integration services provided at Bicske OIN run Pre-Integration Centre for the period of time stipulated in Section 41 Subsections (1)-(3) of Government Decree 301/2007.(XI.9.) on the implementation of the Asylum Law. Upon leaving the centre, they are entitled to some special benefits including Hungarian language classes up to 520 hours, a subsistence allowance of HUF 28,500 for a period of two years from status recognition depending on attendance at language courses as well as a monthly housing allowance and establishment grant of HUF 171,000. There is no government agency with a statutory responsibility for refugee integration at community level. Once refugees move out of Bicske, they mostly rely on fragmented, under-funded and project based refugee support services in Budapest run by NGOs. These cannot provide solutions to what are

*often structural problems of integration requiring a strategic, cross-departmental response*⁷⁵

Menedék, one of the few NGOs offering advice to refugees in Hungary, explained to one of the migrants we interviewed that they were unable to fulfil

his request for support; they did not have the means, and anyway all the homes for the homeless were full. As proof, the refugee interviewed showed us the relevant e-mail.

The above-mentioned report by the Parliamentary Commissioner for Civil Rights summarises:

*'My colleagues found that most of the refugees who had returned went back to the centres because they had no place to go to. They were rejected at the centres and they did not receive any help how to obtain documents they needed, neither had they got any directions at how to get them. Therefore those refugees who were rejected from going back to the centre, did not have any identity cards and thus they could not apply to places where they could have had a chance to sleep and therefore they turned homeless*⁷⁶

The UNHCR report 'Refugee Homelessness in Hungary' furthermore highlights the problem of inadequate nutrition, as well as insufficient access to medical care for recognised refugees in Hungary:

→ The majority of those questioned reported eating only one meal a day, mostly of low nutritional value (noodles and rice, no meat). As a result they often complain of dizziness and stomach pains due to hunger. The monthly support is quite insufficient for a balanced diet.

→ Refugees suffered more often than the general population from physical and mental illnesses, due to their experiences of hunger, trauma and flight. They often had trouble when seeking medical help, as they could not speak the language well enough to communicate with doctors. Many of those interviewed no longer had an insurance card after their return to Hungary. Two of them claimed they had to wait six months before being issued with new ones.⁷⁷

NEW RESTRICTIVE LEGISLATION AGAINST THE HOMELESS SINCE APRIL 2011

In April 2011 new restrictive legislation against homelessness came into force. Since then it is forbidden to spend the night in railway stations or in the street. The fine for 'living on the street' is 50,000 HUF (about 165 euros).⁷⁸ Rum-maging through dustbins entails fines – fines the homeless cannot as a rule pay, so repeated offences result in imprisonment. The new legislation certainly does not lead to more beds for the homeless.

On 2 December 2011 the Parliamentary Commissioner for Civil Rights appealed to the Hungarian Constitutional Court, demanding the abrogation of the anti-homelessness legislation and decrees:

*'According to the views of the Parliamentary Commissioner for Civil Rights, the new regulation (the Act on the shaping and protection of built environment, 2010) enables the use of boarder police actions on public places against homeless people - thus criminalizing the homeless people - cannot match the Hungarian constitutional and the European human rights norms.'*⁷⁹

In particular the complaint by the Commissioner refers to the regulation passed, after the changes in the law, by the Budapest Municipality, which foresees the imposition of fines to prevent 'permanent life on the streets.' For repeated infringements, fines of even 150,000 HUF (about 500 euros) or imprisonment, in the event of inability to pay the fine, are imposed. In his report of July 2011 the ombudsman criticised the fact that the regulation gave the municipal authorities too much power to impose sanctions which would constitute infringements of human dignity and the fundamental rights of people in need of special protection. Before his appeal the Commissioner had unsuccessfully demanded from the Ministry of the Interior, as well as the Budapest Municipality, the repeal of the relevant passages in the new law and the corresponding decree.

In his report of August 2011 on the cases of ten homeless Somali and Iraqi refugees (presented to him by the Hungarian NGO 'Mahatma Ghandi'), the Commissioner had come, amongst other things, to the following conclusion:

'It is clear that this resolution is purposely made to chase the homeless away from the city' streets, but also that it equals the status of a homeless to a crime. From the moment that this regulation was brought, it became illegal to be a homeless in Budapest, and it became a must for them to find an accommodation under any circumstances, however, those refugees who did not have any documents were not in a position to be accommodated, therefore, without them actually doing any ill, they became not only homeless, but criminals as well. This set of circumstances causes a breach of their basic rights, the right to human dignity'⁸⁰

D.A.B. (17 YRS, FROM SOMALIA)

came to Hungary at the end of 2007. Above all his experiences in Hungary have unsettled him, explains the youngster, who is severely traumatised, according to professional medical opinion: 'My head gives me a lot of different commands, for a homeless person is always changing his mind. I've been a nomad ever since I came to Hungary. In winter we were in neighbouring countries. The stations were warmer there. I've grown very tired. We are totally unprotected in Hungary, especially in winter.'

We looked for heating and ventilation shafts to keep warm, but we couldn't even stay there. We are suffering and going hungry in Europe. We're experiencing the same here as what we left our homeland for. There are young Somalis who have gone insane from living in Hungary. They went mad and fled back, to Greece or even Syria.

One managed to get to Somalia but he was murdered there. D. lived on the streets in Budapest after his deportation from Switzerland. In the Reception Centre at Bicske his photo was hanging at the entrance door, together with those of others who had been thrown out in the last few months. 'They hang up your photo so that we're told right at the door that there's no room for us any more,' D. told us. He begged for food from tourists and sometimes fed himself from rubbish bins. 'I often got diarrhoea from the waste food. And that's an awful situation on the streets! How are you going to find a toilet so quickly?' D. also spoke of neo-Nazi assaults. The biggest problem, however, was the Hungarian winter. In winter, he said, he felt most keenly the lack of a Somali community in Budapest. 'Another Somali might have sympathy and say, come on, you can stay with me tonight. A friend of mine was recently returned from France. He said to me on the Internet, 'I haven't seen a single

Somali here in Budapest. Where have they all gone?' Hardly anyone can stand it here for long, because you can't achieve anything and nobody stays over winter.' When the homeless were driven out of the rail stations in Budapest they shifted to the outlying districts and slept in abandoned garden allotments: 'If we found somewhere to sleep we couldn't stay there the next day because the police found out where we were sleeping and came to move us on again. We begged in order to get a bit of money so that we could spend a few hours in an Internet café, where it's warm. But they have to close sometime and then we have to leave there too. There were nights when we didn't sleep at all. We ran around till the sun came up.' In the meantime D. is living in a youth centre in Hessa, Germany and is receiving psychotherapy. At night his panic attacks are especially severe; after 3 or 4 hours' sleep he has to get up because of his nightmares.



↑ REFUGEE WAITING IN DEBRECEN REFUGEE CAMP Photo: UNHCR / Béla Szandelszky

ACCESS TO THE LABOUR MARKET

Somali migrants in particular have no community to fall back on in Budapest. For this reason it is almost impossible for them, as in fact for many other minorities, to find work. Recognised refugees may have access to the labour market, but it is still practically impossible to get a job. In the course of our research we did not meet a single (recognised) refugee who had a job in Hungary, whether legal or not, for example, as a day labourer on a building site

LABOUR MIGRATION FROM AND TO HUNGARY

We got the impression that the decrease in the citizens holding Hungarian passports in Hungary is not due to emigration but has demographic causes. In contrast to Ukraine, Bulgaria or Romania, relatively few Hungarians emigrate. That has consequences for the labour market. Whereas in Romania many Asians are working on building sites, in factories and private homes due to a lack of workers following emigration, the labour market in Hungary is far more dependent on general economic developments. In the boom years, Ukrainian workers could easily find jobs in

Budapest, but that is no longer the case. Under the pressure of the EU and the International Monetary Fund (IMF), but also for economic reasons, the pensionable age for men and women was raised, as in other East European countries. The so-called 'inactive' part of the population, i.e. early pensioners, invalids and 'black' workers, were under pressure to get jobs. The result was that migrants had virtually no chance of finding work in the Hungarian market. The number of police checks on black labour, the reorganisation of agriculture, and the crisis in the building sector have drastically reduced the migrants' hopes of finding employment.

NO FAMILY REUNION FOR RECOGNISED REFUGEES

Family reunions, above all for Somalis, are practically impossible, due to the non-recognition of Somali passports or substitute documents by the Hungarian authorities.⁸¹ This is another reason why so many Somali migrants choose to flee onwards, despite recognition as refugees.

The UNHCR report 'Refugee Homelessness in Hungary' documents the dramatic case of a young Somali woman who left her three children with her own mother in Somalia to seek protection in Europe. After being recognised as a refugee she was told by a social worker that it would not be possible to bring her children to Hungary, as Hungary did not acknowledge Somali travel documents. She reports:

*'I was in Bicske for 10 days and saw that I would get nowhere here. If I can't bring my children here then I would really need to work to be able to feed them in Somalia. I went to Sweden to look for a job. After 2 weeks I got news that two of my children had been killed in Somalia.'*⁸²

RACIST ATTACKS

Another serious problem which was repeatedly reported to us is the racism widely prevalent in Hungary. Time and again refugees told us of sometimes severe racist attacks. Almost all refugees we talked to and who were homeless in Hungary have witnessed racist insults, verbal attacks and discrimination. Almost all of them have fallen victim at least once to physical attacks based on racism or have had to witness such attacks on friends. Since 2010 the right-wing party JOBBIK (Movement for a Better Hungary) received 17 per cent of votes and thereby became the third strongest party, Antiziganism in Hungary has increasingly come under public scrutiny in Europe. Most recently, pogroms against the Roma ethnic minority have received international media attention. And time and again, black people also encounter racial violence, as various reports we heard confirm.

SITUATION OF ROMA IN HUNGARY

In Hungary there are Roma with Hungarian citizenship, as well as others from neighbouring states holding, for example, Romanian or Serbian nationality. Many war refugees from former Yugoslavia were Roma. At present one must assume that many of those who fled from Kosovo are Roma.

In the Socialist era, in the time of full employment, most Roma were miners or labourers. They often lived under precarious conditions near the factories. The Hungarian Roma were among the first, in the period of political change and the resulting de-industrialisation, to end up on the streets. Most Roma only attended special schools. New settlements for them were planned, above all with the aim of controllability. The Roma communities were not included in the planning of residential areas; this has not changed till today. However, the Roma are also confronted with new, anti-Roma legislation. The ban on collecting wood, which was introduced some time ago and resulted in thousands of legal actions, is only one of many examples.

WHEN A.D.N. (17 YRS, FROM SOMALIA)

arrived in Hungary in 2008 he stated a false date of birth out of fear; his traffickers were frightened of a harsher sentence for smuggling in minors and told him to say he was older. When he was released a few months later from the Bicske camp and became homeless, he fled to Finland. There he gave them his correct age, which was 15. Ten months later A. was taken out of the Finnish youth centre and deported to Hungary. When he arrived at Budapest Airport he was interrogated by the Hungarian police. 'They asked me why I had left. I told them I couldn't survive on the streets. They just threw me out of the airport. I didn't want to leave because I had no idea where to go, but they shouted at me. I was afraid they'd start beating me so in the end I left willingly. As I didn't know where to go I went to the Bicske camp, but the man at the entrance door said, 'You're not registered here any more, you can't stay!' But he seemed to feel sorry for me and said, 'You can stay till five in the morning, till the other staff arrive, then you have to disappear.' In winter A. fled once again from Hungary: 'You were born in Germany. You know yourselves that you can't sleep in the open in these countries.' This time he went to France. He lived in a youth

centre again, went to school again, had a bed to sleep in and got food. But he was deported from France too; the police evicted him from the youth centre and again he ended up on the streets in Budapest. 'It was now the second time, so I didn't discuss things so much with the Hungarian police as on the first deportation from Finland. I remained quiet because I still had to find a place to spend the night on the streets before dark.' A. once again spent months living on the streets. He didn't go to school, seldom found enough food and slept in cardboard boxes: 'The dogs were the worst thing for me. People take their dogs for a walk and if you are lying in the street sleeping, their dogs just piss on you. The owners say nothing and just walk on. Some people bawl at us and some kick and hit us or throw bottles at us if they are drunk. There's a lot of racism in Hungary. How can you endure all that, living as a homeless person and even being shouted at, insulted or pissed on?' In the soup kitchen for the homeless A. was told: 'Blacks go to the back of the queue!' and when his turn finally came, the food was often gone. He was also once refused a care package when the social worker found it was a black man lying under the cardboard box.

SUMMARY

Systemic faults in the Hungarian Reception and Asylum Systems require action

LEGAL ASSESSMENT AND DEMANDS

This report documents systemic faults with regard to the reception conditions for asylum seekers and their right to a fair asylum procedure in Hungary.

ILLEGAL ARREST OF THOSE SEEKING PROTECTION

The majority of asylum seekers and Dublin II returnees in Hungary are interned in special prison camps. In December 2010 the maximum period of deportation arrest was increased from 6 to 12 months.

The Hungarian authorities, following the Dublin II Regulation, also imprison for months severely mentally stressed migrants seeking protection. This happens even if there is professional medical evidence confirming their condition.

NO EFFECTIVE LEGAL MEANS AGAINST DEPORTATION DETENTION

Here is practically no legal means of appealing against imprisonment. It is laid down in the law that detention must end if it is found that deportation is not feasible. In practice this regulation is hardly applied. Imprisonment can be ordered for a maximum of 72 hours without written instructions from a judge, after that, a judge must decide monthly on

any extension of detention. This legal investigation is, in the view of the UNHCR, a mere formality, and leads to no proper examination of the reasons for arrest. The Hungarian Helsinki Committee knows of no case in which a judge did not order the extension of imprisonment.

IMPRISONMENT FOR REFUGEES NEEDING SPECIAL PROTECTION

Pregnant, elderly, physically or mentally challenged asylum seekers can be detained with all the others. Psycho-social care is not available in Hungarian prison camps.

SYSTEMATIC USE OF SEDATIVES DURING DETENTION

The UNHCR, the Hungarian Helsinki Committee and the authors document statements made by imprisoned refugees claiming that they were systematically given medicines or sedatives. This information was confirmed, according to the UNHCR, by personnel at the reception facilities where asylum seekers were housed after their release.

MISTREATMENT BY POLICE IN THE PRISON CAMPS

During the questioning of internees by UNHCR in September 2011, it was noted that ill-treatment by the police in the prisons is routine. UNHCR reported that that ill-treatment and harassment by the police seemed to occur on a daily basis.

DUBLIN II RETURNEES REFUSED ACCESS TO FAIR ASYLUM PROCEDURE

Dublin II refugees sent back to Hungary are, as a rule, at once issued with a deportation order, despite their wish to apply for asylum. Migrants looking for protection who had lodged an asylum application during their first stay cannot continue with their interrupted application. Their reactivated application is regarded as a new one. Fresh applications have no delaying effect on deportation. The result: Dublin II returnees are wide open to deportation, even if their asylum application was never considered in an EU member state.

THREAT OF CHAIN DEPORTATIONS TO SERBIA

The danger of chain deportation to Serbia exists for Dublin returnees. The Hungarian asylum authority views Serbia as a safe third country for migrants. Refugees crossing into Hungary from Serbia are threatened with deportation back to Serbia without previous consideration of their wish for asylum. This also applies to procedures in which the applicant was previously returned to Hungary on the grounds of the Dublin II Regulation.

MINORS ARE ARBITRARILY 'MADE OLDER'

Minors returned to Hungary under Dublin II rules from other European states run the risk of being treated like adults. The Hungarian authorities often ignore documents proving their age, and assess refugee minors as adults simply on appearances.

NO SUITABLE RECEPTION CONDITIONS FOR DUBLIN II RETURNEES

Those Dublin II returnees who are not imprisoned have no access to suitable reception facilities: the Dublin II returnees, illegally registered as asylum re-

applicants, are not entitled to claim the accommodation and support normally offered to asylum seekers in Hungary.

HOMELESSNESS AND LACK OF PERSPECTIVES FOR RECOGNISED REFUGEES

Recognised refugees are entitled to 6 months' accommodation in a refugee shelter in Hungary. This period can be extended by another 6 months in special cases; after that, homelessness becomes a threat.

Besides the lack of integration opportunities, homelessness is the main reason why refugees escape from the precarious situation in Hungary to find their way to other European countries.

CONCLUSIONS

The regular imprisonment of refugees – asylum applicants and Dublin II returnees – represents an infringement of Art. 5 ECHR (Right to freedom and security). The practice of detaining minors also breaches the UN Convention on the Rights of the Child. Appeals against imprisonment awaiting deportation are ineffective, as the extension of detention is automatically declared. This is a breach of Art. 13 ECHR (Right to effective appeal).

The use of sedatives, as well as the abuses in Hungarian prisons, represent inhuman and degrading treatment (Art. 3 ECHR). These infringements of human rights must be thoroughly investigated and eliminated. The European Council's anti-torture committee must take action in this regard.

As long as recognised or 'subsidiary' refugees are obliged to live on the streets in Hungary under inhuman conditions, despite their refugee status, and receiving inadequate government support, the EU member states must hold responsibility for this group. In order not to breach Article 3 of the ECHR, extradition to Hungary should no longer be carried out. Recognised refugees should be entitled to free movement and equality with other citizens of member states.

LEGAL ASSESSMENT IN THE LIGHT OF THE LEADING DECISION OF THE EU COURT ON 21 DECEMBER 2011

The European Court of Justice (ECJ) has, in its leading decision, accepted the main statements made by the European Court of Human Rights (ECHR) on 21 January 2011, in its so-called M.S.S. Ruling, and declared that it has no blind trust in the capacity to function and the

security of other states where respect for the fundamental rights of refugees is concerned.

EU member states must therefore acknowledge reports – also those produced by NGOs – and make an assessment as to whether the requirements concerning human rights are respected.

The ECHR also states that the asylum seeker must not be returned to a state, responsible according to Dublin II, if the danger exists of inhuman and degrading treatment there. The ECHR also emphasises that there must be no irrefutable assumption of safety in the other state. Such an assumption is not in accordance with the fundamental principles of the EU.

The asylum seeker can, in the opinion of the ECHR, bring to bear the 'systemic faults' in the asylum process, or the reception conditions, which are evidence of 'inhuman or degrading treatment of the asylum seekers transferred to this member state'. This report, the statements by the Hungarian Helsinki Committee, together with those of the UNHCR, document the systemic faults in the reception conditions and asylum process in Hungary. The national authorities and courts are therefore obliged to forbid the transfer of refugees to

Hungary. The European Commission must take action. Considering the desperate situation of refugees offered protection in Hungary, it is evident that the recognition guidelines have not been implemented.

ACKNOWLEDGEMENTS

Dublin II means they can play football with us...

BRIEF INTERVIEW WITH A YOUNG AFGHAN

To produce this report we have spoken to many people of varying backgrounds. We would heartily like to thank all those who have supported us. Sometimes we heard accounts that shocked us deeply. Above all it was not easy for those who spoke of their own experiences, as their stories were often very painful. Many of them took this step out of solidarity with those who will next make their way through Hungary. We would at this point like to thank them for placing their trust in us, and hope this report will be of some help in the search for recognition of their right to a life of dignity – and bring us all a little closer to a Europe of some future time, a Europe open to the world, one that extends a welcome.

Our further thanks go to a young Afghan refugee without whom this account of the refugee situation in Hungary would probably never have been written. In July 2010, E.A. had a telephone interview with us; at that time he was in Sweden, from where he soon fled to avoid deportation to Hungary, this time travelling to Germany. His odyssey through Europe is described in the previous section 'Minor unaccompanied refugees.' E.A. is still in Germany. The telephone interview with him took place at the

start of our research, so this account - exemplifying that of many other migrants we talked to – ends with the recommendations he then made:

What has to change so that you feel respected?

E.A.: Oh, there are so many things that need changing! They must try to understand: we have to get rid of all these Dublin regulations. If someone dies it doesn't interest them; they are only concerned about these regulations. But what are regulations created for? Are they made in order to kill people? Are they there to drive us all insane? Sending people back to Greek or Hungarian prisons... These regulations must really be abolished. Sometimes I think of going back to Afghanistan, because that might be better than Hungary. But I can't survive there either! My hopes all depend on a signature from somebody sitting in some office or other.

I don't even know who it is that will decide on my future in his office somewhere. And it doesn't only affect me. There are so many fellows in the same

predicament. Dublin II means they can play football with us, catapult us from one country to the next, play with us and waste our time. We have only one hope: that there is someone out there who will listen, who will really understand. I think that if the authorities can't understand, then others must explain things to them. Thank you, I'm really happy that somebody's listening to us!

I thank you for talking to us!

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¹¹ The following journeys were made: 17./18. December 2010 (Budapest, Bicske, Debrecen), 28.-30. January 2011 (Budapest, Debrecen), 29./30./31. March 2011 (Budapest, Debrecen), 11.-24. July 2011 (Budapest, Bicske, Balassagyarmat), 24.-27. November 2011 (Fot), 3.-6. December 2011 (Budapest).

¹² The Hungarian Helsinki Committee (HHC) is a Human Rights NGO that has been concerned for years with human rights violations in the Hungarian refugee camps and prisons. The HHC coordinates a network of asylum law lawyers. An HHC lawyer is on hand in the open camp at Debrecen; Committee lawyers also make weekly visits to the prisons for migrants and carry out border monitoring on the Ukrainian and Serbian borders. Website of the organisation (in part also in English): www.helsinki.hu.

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¹⁶ *Refoulement*: A crucial element in the Geneva Convention on Refugees is the so-called Non-Refoulement principle. Article 33(1) of the 1951 Convention provides: "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his [or her] life or freedom would be threatened on account of his [or her] race, religion, nationality, membership of a particular social group or political opinion."

¹⁷ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. OJ L 50 of 25.2.2003.

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lampolgársági Hivatal, BAH) answers to the Ministry of the Interior. It is the Hungarian equivalent of the German Federal Office for Migration and Refugees.

¹⁹ Throughout this report we use the term 'detention centres for refugees'. This imprisonment may be based on a deportation order, but this order is issued even before an asylum application is lodged, and the application is then secondary with regard to imprisonment and provides no justification for release from detention during the on-going proceedings. In this sense it is therefore not really a question of conventional deportation prisons.

²⁰ Source (in Hungarian) <http://www.bmbah.hu/aktualis.php?id=3522&PHPSESSID=>.

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²⁴ Tramadol is an opioid (and cheap) painkiller. In addition to diminishing pain it has an anti-depressive effect. The side-effects are sedation, sleepiness, blurred vision and confused thinking. The withdrawal from opioids is a very long process; even a year later side-effects such as sleepiness and hallucinations occur. (Source amongst others, wikipedia.de).

²⁵ Hungarian Helsinki Committee, *National report Hungary*, in: *Dublin Transnational Project– Final report*, p. 54.

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³⁸ From a letter by Henrike Janetzek, UNHCR regional office in Nuremberg on 31 January 2012 to the lawyer Schlung-Muntau in Frankfurt.

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⁴⁷ BAMF file reference: 5453564-423 and 5501277-273.

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⁶⁷ The case of the G. family is documented in detail on the website of the Bayerischer Flüchtlingsrat (Bavarian Refugee Council) : <http://www.fluechtlingsrat-bayern.de/familie-ghafari.html>

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⁶⁹ Directive on implementation of the Asylum Law, Number 301/2007, (XI.9), Section 52 (1).

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⁷¹ In Hungary, the position of Parliamentary Secretary for Civil Rights, as it is designated there; in other countries the function is described as 'ombudsman'; is held by Dr Maté Szabo since 2007. The following reports referred to here were produced by him. 'Ombudsman' according to the definition of the International Lawyers' Association: 'An institution founded on the constitution or legislature or Parliament and led by an independent official of high standing responsible to the legislature or parliament. He investigates on his own authority the complaints of the persons who appeal to him with regard to matters concerning the authorities, government officials, employers or other independent organisations. He has the power to initiate measures for the correction of infringe-

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⁸¹ Compare Appendix1 of the Hungarian government decree No. 328/2007 (XII.11.).

⁸² UN High Commissioner for Refugees, Refugee Homelessness in Hungary, March 2010.

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MARION BAYER

has been working for many years on an honorary basis for the church's social work in refugee support in the Main-Kinzig region. Since 2009 she has travelled regularly to Greece and there documented above all the living conditions of refugees who have been returned to Greece on the basis of the Dublin II Regulation. Since the end of 2010 she has visited Hungary on several occasions, as her work involved increasing contacts with refugees from Afghanistan, Eritrea and Somalia who were returned to Hungary, or threatened with return, on the grounds of Dublin II.

LAYOUT

MATTHIAS WEINZIERL

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The registered charity bordermonitoring.eu was founded in Munich in 2011. At the heart of the association's activities lies the analysis of the policies, practices and events in the European border control system and in migrant movements. For this purpose the association brings together scientific research, political commitment, critical public relations work and concrete support for refugees and migrants. The association thereby contributes towards changes in the realities on the borders and in their consequences for European society.



In times of increasing European ring-fencing and rigorous deportation policies, the rights of refugees are threatened. PRO ASYL is an independent human rights organisation fighting for the rights of persecuted people in Germany and the rest of Europe. More than 15,000 persons are already members of the PRO ASYL support association Friends of PRO ASYL. Besides public relations work and lobbying activities, research and support for initiative groups, it is also the association's task to offer help to refugees in their asylum hearings and provide concrete help in individual cases. At the same time, PRO ASYL consistently participates in current political debates regarding German and European refugee policies.



 Prison camp for refugees |
  Closed screening centre |
  Half-open refugee camp
 Open refugee camp

→ WWW.BORDERMONITORING.EU WWW.PROASYL.DE