

Detention and Deportation of refugees and migrants in Germany, Poland and the Czech Republic

FFM-Contribution to the Conference Against Immigration Detention

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Introduction

I work for the Research Centre on Migration and Refugees (FFM) which is based in Berlin. Our research focuses mainly on the conditions for the undocumented, or so-called illegal, migrants at the East-German border. We also look at the situation for migrants and refugees in Central and Eastern Europe, and especially those who are in transit to Western-European countries.

I was asked to talk about the detention situation in Germany and in Eastern-Europe. I will first give you a short overview about the situation in Germany. Second, I will concentrate on the situation in Poland and in the Czech Republic. Both states belong to the so called buffer-zone to fortress Europe. Here we can observe significant changes in the way that state authorities handle the issue of migration including detention and deportation of migrants.

Detention and Deportation in Germany

As you probably know, within Europe Germany is a leading nation in the detention and deportation of migrants. Let me give you some figures:

In Germany during the 1980s there were never more than 100 migrants in detention prior to expulsion. Now this form of detention is a daily threat for migrants who live without papers in Germany and also for those whose asylum claim has been rejected. At any one time there are approximately 2,000 migrants in detention.

In 1987 the German authorities deported about 7,000 migrants. Last year there were 55,000 people either deported to countries of origin or readmitted by so-called safe third countries.

This massive change can be explained as part of the process of building fortress Europe. Since the middle of the 1980s some Western European states, including Germany, have tried to develop a system to reduce immigration. The collapse of the Eastern European block accelerated and reinforced this process. A new border policy was developed specifically for the borders of Central and Eastern-European Countries. By the mid-1990s, a highly organised checking and control system was established at the border to Eastern Europe. At the same time, in the interior, new policies of control involving social and racist exclusion were developed.

One of our main theses is that the construction of an intensive border control system is mirrored by new forms of social and racist control in the interior. The massive growth of the number of migrants in detention is a result of this process.

In Germany it is possible to distinguish three forms of detention of migrants:

1. Detention prior to expulsion
2. Detention by the border police at German airports
3. Detention by border police at the border to Poland and Czech Republic

1. Detention prior to expulsion is widely used in Germany. Since the mid-1990s, about 18,000 to 20,000 migrants have been detained prior to deportation. Section 57 of the Aliens Act provides the legal framework for this action. A court must sanction detention. A person can be detained when they have entered Germany illegally or have tried to avoid deportation. But they also can be detained when there is only a suspicion that they may try to avoid deportation. This allows for many interpretations of the law and there are great variations following different court decisions in different regions. Generally detention prior to expulsion should not last longer than six months. If the detainee obstructs his

expulsion, this period can be extended to 18 months.

Due to the federal system in Germany, detention facilities differ between regions. At the start of the 1990s, migrants were mainly detained in normal prisons. This is still the case in some places, for example in Bavaria or in most of the former DDR. Certain Länder have, however, set up specialist detention facilities for migrants as, for example, in Nordrhein-Westfalen which opened a detention centre in Büren with 700 places in 1994, or in Berlin where there are two specialised detention centres for up to 500 people. This tendency to introduce special facilities seems to be a general trend which other Länder will follow. From the point of view of administration techniques and control measures, these kind of specialist facilities seem to have advantages for the police. Generally the security measures in such facilities are very high. Contact between detainees is much more difficult than in ordinary prisons. In Berlin, for example, visits take place with a glass screen between detainee and visitor. The wardens immediately separate detainees who go on hunger strike.

In the early years of the new detention centres, when arrangements were somehow more improvised, the functioning of the centres were often disrupted by rebellions. In 1994-95 there were insurrections lasting weeks, which were repressed by special police units. Now there are increasing numbers of detainees going on hunger strike. In Berlin this kind of desperate fight against detention has become almost regular. At the beginning of 2000, was a famous a hunger strike by five Ukrainian women in Berlin. The last woman of this group was released after 53 days of hunger strike which, towards the end, she combined with a thirst strike. Since 1993, 37 detainees have died in detention, mostly by committing suicide. The most recent incident happened in Berlin two weeks ago. A 28 year old man who was brought from the Berlin detention centre in Grünau to a hospital tried to escape and fell out of the sixth floor.

I come now to the second and the third form of detention of migrants in Germany. I will go into these forms of detention briefly and then look at the situation in Poland and the Czech Republic.

2. The second form is detention by the border police at German airports. This form of detention developed following the statutory introduction of the concepts of 'safe third countries' and 'safe countries of origin' from which they can be automatically returned without considering their substantive asylum case. Although the asylum seekers have left the aeroplane for German territory they are considered as having not entered the country. Kept in special detention facilities in the transit zone their asylum claim is subject to a so-called accelerated procedure. If the claim is rejected, border guards organise the deportation directly from the airport. Sometimes this can take weeks or months, during which the migrants are detained. Every year about 4,000 to 5,000 people undergo this type of detention. In May 2000, a 40 year old woman committed suicide at Frankfurt airport after being detained for seven months.

3. The last form of detention I want to mention is the 48 hours detention by German border guards at the eastern border. Migrants and refugees who try to cross the border undocumented and are caught by the police are detained for up to 48 hours. Within this time, the border police organise their deportation to Poland and Czech Republic, Romania and Bulgaria. With these countries Germany has readmission agreements. Each year about 20,000 migrants and refugees are detained and deported at the border.

Detention and deportation in Poland and the Czech Republic

I just mentioned readmission agreements between Germany and these countries. These agreements have turned out to be crucial for the detention of migrants that I want to go into some details.

Germany signed a readmission agreement with Poland in 1993 and with the Czech Republic in early

1996. According to these agreements Poland and the Czech Republic have to readmit migrants of any nationality who crossed the border without travel documents. For Germany, these agreements are the necessary supplement to the concept of 'safe third country', which allows German border guards to send back anybody without a visa. At the same time, these readmission agreements have given the German government the power to directly influence migration policies in these countries. Germany gave Poland 120 million DM and the Czech Republic 60 million DM as so-called compensation for the readmission of migrants and refugees. In the contract, the German government made clear that this money has to be used to reinforce border guards and police and to set up detention facilities.

In the second half of the 1990s both countries introduced new laws on aliens which made it possible to detain migrants on a regular basis. In the case of Poland there exist 25 detention facilities. 24 are run by the police and are renovated parts of old prison facilities. The other is one a 'guarded centre' near the airport of Warsaw, where up to 120 people can be detained. In total, Poland now has facilities to detain up to 400 to 500 migrants at any one time. FFM research indicates that Poland started to use these facilities from the second half of 1996. FFM has also observed an increase in checks and arrests taking place within the country. According to figures from Polish border guards, from 1997 onwards there have been 7,000 to 8,000 migrants deported every year, mostly to the Ukraine. In the view of border guards and police, this system of readmission from Germany, detention and deportation combined with intensified checks, mainly at the border to the Ukraine, seems to be quite effective.

As it has become harder to cross Poland there seems to be an increase in the number of refugees and migrants who try to cross to Western Europe through Slovakia and the Czech Republic. This has led to intensified political pressure on the Czech Republic to control its borders more effectively and to set up detention facilities. In November 1998 the Czech alien and border police opened the first detention Centre for 200 detainees about 20 miles from the German border. At beginning this facility was only used to detain migrants readmitted from Germany. There are also people detained who were arrested within the Czech Republic. A new law on aliens, which came into force on 1 January 2000, makes it possible to extend detention until 180 days. There are plans by the Czech government to open four more detention centres; one in the area of Prague and one each at the borders to Austria, Slovakia and Poland.

In April 2000, FFM gained access to the first detention centre in the Czech Republic. The regime we observed is very hard. Men are mostly locked up for 23 hours a day. We met quite a few families with children and elderly people in detention. We spoke to several detainees who had been on hunger strike to get try to gain access to asylum procedures.

One of the main problems we could observe in both countries is that the detention of migrants and refugees is an issue which is entirely in the hands of the police. The detainees appear to have no access to solicitors or any other kind of help. Sometimes they do not know where they are and what they are being detained for. Most of the NGOs who work in the field of migration are somehow reluctant to tackle this issue. The same can be said of the UNHCR who argue that they have a mandate only for refugees - in which they include asylum seekers but not the so-called 'irregular migrants' in detention.

Conclusion

Germany and the development of a larger European Union play a major role in the set up of a detention and deportation system in Eastern European Countries. This should be the context for our arguments when we criticise the situation in these countries. What we need is more information and more research. But at the same time, and this is definitely more important, we need more direct contacts with NGOs and individuals in Eastern European countries who are interested in the subject. This could lead, in the long run, to better cross-border-cooperation and information exchange.

Organisations such as UNHCR or the European Council on Refugees and Exiles are concentrated mainly on the protection of asylum seekers. We believe that if these organisations would give a stronger statement against detention of migrants in general, they could play a much more important role of raising public awareness to this problem in the West and in the East. This, I suggest, could be a further demand that we could call for from this conference.

Thank you very much