

ECRE Conference on Returns and Readmission
(Belarus, Moldova, the Russian Federation, Ukraine)

8 November 2010

Brussels, Hotel Bloom

“We are sitting here discussing the technical details but if you are the person who is affected by these procedures you will understand how important they are”

Oleksandr Pinchuk – State Border Guard Service of Ukraine, highlighting the human rights implications of Readmission agreements.

Government and NGO representatives from Belarus, Moldova, Russia, Ukraine, Poland, Hungary, Romania, the Slovak republic and other EU countries discussed their experience of returns and readmission procedures and their impact on the human rights of refugees and asylum seekers. It was agreed that rigorous standards need to be in place to govern readmission procedures and ensure that international human rights standards are respected as they are implemented. The overall system needs more transparency and binding criteria should be established to ensure EU MS are not contradicting their human rights responsibilities.

Readmission from Hungary to Ukraine

In 2010 three Somali nationals, one of whom was an unaccompanied minor, claimed they asked for protection in Hungary, but were readmitted to Ukraine. They were provided with interpreters in Hungary, but were not given any explanations about asylum procedures.

Violations of human rights at the border in Russia: the human cost:

Shukrat and his family were Afghan refugees who left Tajikistan after suffering ethnic persecution. They crossed the Russian border on 24 January 2010. The weather was very bad, so Shukrat left his mother and family (including wife and new baby son) at the border and went to the authorities to seek help. Shukrat was detained by the Russian authorities, and by the time his family were found his mother and wife had died of exposure. Shukrat and his brothers suffered severe frostbite which resulted in the amputation of fingers and toes and feet. To make matters worse, Shukrat and his family were charged under Article 322 of the RF Criminal code (illegally crossing a state border) and their asylum application was rejected. Shukrat was then detained in a temporary detention centre despite his medical condition (the amputation of his feet). Two of Shukrat's brothers are currently living in Saratov and the newborn baby is in a children's home in Moscow. The court refused their appeal against the refusal to grant asylum.

Recommendations from participants in working group discussions:

1. Statelessness is a particularly vulnerable condition. All states in the region should account for this in their policies, and should accede to the Statelessness Conventions
2. All countries must provide a right to appeal and automatic judicial review of the grounds and proportionality of detention.
3. Children with families should be detained only when it is in their best interests. Unaccompanied children should never be detained.
4. Excessive and arbitrary use of detention is a concern throughout the region. States should reduce their use of detention. The EU should support the exploration of alternatives to detention.
5. The EU should support joint border monitoring activities involving EU civil society actors and their counterparts in the Eastern Neighbourhood. Existing EU funding programmes should be accessible for monitoring projects on both sides of borders.
6. Training programmes for border guards, and the curricula of police and border guard academies, should cover asylum rights, including how to identify and respond to requests for protection.
7. All states in the region should provide access to free legal aid to people subject to border or return procedures, and should allow NGOs unrestricted access to provide counselling to those in detention.
8. The principle of non-refoulement must be respected in all returns.
9. EU Member States should apply the provisions of the Returns Directive in border procedures, to improve safeguards and guarantees for asylum seekers, and to take into account the situations of vulnerable people.
10. Readmission agreements should not be concluded with states under totalitarian governments or with a proven record of gross human rights violations.
11. Implementing Protocols should be signed quickly after an RA has been signed. Deadlines should be specified.
12. Where necessary, Implementing Protocols should supplement readmission agreements with human rights clauses, and specific instructions, for example, on the treatment of members of vulnerable groups (UNAMs, victims of trafficking, etc.).
13. Human rights advocates should not be seen as enemies of the state. It is essential to initiate a four-way dialogue among state actors from the Eastern Neighbourhood, NGOs from the Eastern Neighbourhood, NGOs from the EU, and EU Member State officials.
14. The Russian Federation should bring deportation procedures under the framework of other removal proceedings, to provide safeguards of appeal and judicial review.