

# **BORDER MONITORING PROJECT UKRAINE**

## **(in the Region of ZAKARPATTYA)**

*Monitoring the implementation of social and human rights of refugees and other vulnerable migrants in the Border region of the European Union and Ukraine.*

### **Fact Finding Missions**

#### ***Chop Detention Centre***

**March and April 2009**

**(Update January 2010)**



Chop border guard barracks, entrance

**Editors: International Executive Committee of BMP Ukraine**

# **BORDER MONITORING PROJECT UKRAINE**

## **Fact Finding Mission**

### ***Chop Detention Centre***

**2009**

In March and again in April 2009, two delegates of the Border Monitoring Project Ukraine went on a mission and visited the Chop Detention Centre (CDC), notably the Special Premise (SP) designed to hold citizens from non-CIS countries. Additionally, interviews with former detainees were conducted. Thus, this report largely reflects the situation from 200 to autumn 2009. In particular interviews with ex-detainees inevitably illustrate the past situation. Between October and December 2009, the detention centre was renovated and we will soon publish an update on the new situation. We will also conduct fresh interviews with ex-detainees who can report on the new conditions.

The facility lies at the northern outskirts of the town Chop. This is the main border crossing point between Ukraine and Hungary situated on the 55a Golovka Street. To the east and south the political border coincides with natural border of the river Tyssa, to the north the border runs through the plains of Hungary and the mountains of Slovakia. For those refugees and other migrants, who try to reach an EU country, the region of Zakarpattia (Transcarpathia) - the southern plains between Ukraine, Romania and Hungary and the northern Carpathian mountains between Ukraine, Slovakia and Poland - represent a bottleneck.

The detention facility is the property and run by the State Border Guard Service Ukraine (SBGS). It is embedded in the regional headquarter and the barracks and lies within the premise. The barracks are surrounded by corrugated iron fences and the detention centre cannot be seen from the outside. The neighbourhood is mostly occupied by the SBGS and its staff.

In total, there are five holding facilities for detainees, migrants and refugees in Zakarpattia: (1a) Chop detention centre, which is the main facility, and (1b) Chop detention centre for CIS citizens, (2) Mukachevo detention centre for women and families (50 km north east of Chop), a small border guards managed facility on the fourth floor of an apartment block near the train station, (3) Latoritza temporary accommodation centre mainly for families and unaccompanied minors, also in Mukachevo and (4) a new temporary accommodation centre for families in Perechyn.

### **The Visits**

Visits of international NGOs, or academics to Chop Detention Centre are not normally permitted and usually require lengthy application procedures through the Ministry of Interior or the SBGS headquarter in Kyiv. In 2007, a Public Relations officer was assigned to deal with public requests, he basically controls which information is given, taking of photographs or interviews with detainees are not normally permitted. This implies that there are things to hide from the public.

All together four visits were conducted to the Special Premise (SP) in 2009. The visits were of a rather informal nature and lasted to up to 1 ½ hours, time allowed to talk to the detainees was limited to 10 minutes only. The delegates talked with two senior officers of the SBGS. Finally, the delegates were accompanied on a brief tour of the

detention facilities; in passing they could glance at names lists illustrating the number of detainees per room. The delegates were not permitted to discuss the situation with the detainees, it was nevertheless possible to exchange a few words and gather some comments. This report is based on the conversation with the SBGS officers, comments made by detainees and some observations, complemented with interviews with various refugees, conducted in summer and autumn 2009 and in the beginning of 2010.

## **Background**

In May 2004, when the Baltic republics, Poland, Slovakia and Hungary, and again in January 2007, when Romania became members of the European Union, their borders became the external borders of the EU. These borders became even more significant when all these countries except Romania joined the Schengen zone. As a consequence, Ukraine became an immediate neighbouring country of the EU. This had consequences for refugees and migrants as well as for migration control policies. Ukraine is increasingly held responsible by the EU to contain refugees and migrants who travel through Ukraine but who are unwanted in the EU. Indeed the EU expects Ukraine to prevent them from moving on to the west. Numerous EU-funded projects aim at enhancing Ukraine's capacity to keep unwanted refugees and migrants off EU territory. As a consequence, Ukraine finds itself in a position where these refugees and migrants involuntarily stay in Ukraine and has to deal with the consequences. So far, Ukraine is not geared up to this challenge and indeed, hosting refugees and migrants whose aspiration is to move west does not seem to be in the best interest of Ukraine. In other words the problems we describe here are largely a consequence of strict EU migration policies which puts Ukraine in a position to deal with a phenomenon it lacks the capacity to deal with. Instead, the fact that an increasing number of refugees and other migrants get stuck in Ukraine is responded by increasing xenophobia and racism as recently noted by the Ukrainian Refugee Council<sup>1</sup>.

### **1. Legislation and Practice of Apprehension and Detention**

Generally, Ukrainian law on migration and asylum is incomprehensive and contradictory and lacks implementation<sup>2</sup>. The detention of irregular immigrants is regulated under Ukrainian Law 'On the legal status of foreigners and stateless individuals' and more specifically under the 'State Program to Counter Illegal Migration for 2001–2004' approved by Presidential Decree N°22/2001, and the Cabinet 'Standard regulation for centres for the temporary detention of foreigners and stateless individuals who are in Ukraine illegally' approved by the 17 July 2003 Resolution N° 1110. Detention is limited to 72 hours but can be extended to 10 days. Detention longer than this qualifies as administrative detention, requires a court decision and is limited to six months. The purpose of administrative detention is to establish the identity of the detainees, issue, if necessary obtain travel documents, notably from embassies, and arrange for their

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<sup>1</sup> Ukrainian Refugee Council, *The EU-Ukraine Readmission Agreement — myth, facts and risks*, 1/3/2010.

<sup>2</sup> See International Centre for Policy Studies/Institute for Public Affairs 2006, *Ukraine's Policy to Control Illegal Migration*, Kyiv/Warsaw: ICPS/IPA.

deportation. If this fails the detainees have to be released and provided with a provisional ID and temporary residence status.

However, by 2009, these legislations were not implemented and no detention centres were set up in accordance to the law. Instead, in 1996, temporary detention facilities were set up by the State Border Guard service, notably in Pavchino/Zakarpattya (men only), closed in December 2008, and in Mukachevo/Zakarpattya (women, families and minors). The SBGS' detention facility in Chop does not qualify as an administrative detention centre but only as a temporary holding facility; until the closure of Pavchino temporary detention centre, irregular immigrants were normally held in Chop for no longer than the legal maximum 10 days. This, however, changed, after Pavchino detention centre was closed. Since 1996, the detention of irregular immigrants is enforced in accordance to primary legislation but implemented on a provisional basis reflecting a muddling-through approach.

The accommodation of asylum seekers is regulated by the 'Law on Refugees' which states:

'the person whose documents for resolving the issue of granting refugee status are to be processed, shall have the right to residence with relatives, in hotel, rented premises or temporary accommodation centres for refugees' (section 4, article 18).

So far, there are only three such facilities, in Odessa, Mukachevo/Zakarpattya (Latoritza temporary accommodation centre) and in Perechyn temporary accommodation centre in Perechyn/Zakarpattya.

Anybody apprehended for crossing or aiming to cross the state borders of Ukraine or anybody apprehended in the border region lacking appropriate ID and/or residence documents will be stopped and usually arrested by the SBGS. First, they will be taken to the nearest border guard station and their case will be established. Many of our interviewees, who have been arrested in different months of 2008 and 2009, report maltreatment, even violence by the border guards and some also report confiscation of money:

*'For two days and one night we [four Somalian refugees] were kept in a cell of the Ukrainian border post, without any food but with insults and beatings' (Somali, 22, interviewed in Oct 2009).*

*'Two days and nights I was arrested in the Ukrainian border post, I was abused and beaten and had to clean away the snow' (Somali, 34, interviewed in Oct 2009).*

*'For three days, I was chained to the radiator in the Ukrainian border post. I only got a little bit of bread, no other food; I had to clean toilets and clear the snow' (Somali, 34, interviewed in Oct 2009).*

*'Police of Ukraine, they took a little money, Euro 50, like a gift' (Afghan boy, 16, interviewed in June 2009).*

*For one and a half day we [a group of three] were detained in the Ukrainian border post, only a little bit of bad food was given, we had to sleep on the floor, without mattresses (Somali girl, 16, interviewed in Oct 2009).*

From the border posts, men will be transferred to Chop detention centre whilst females, families and unaccompanied minors will mostly be transferred to separate facilities in Mukachevo. Citizens from another CIS country, such as Russia, Moldova or Georgia are entitled to stay in Ukraine visa-free, therefore they are supposed to be released from detention within 10 days. Any other foreign national will be detained for six months, which is the legal maximum. However, our interviews demonstrate that sometimes detainees are held for longer periods or arrested again soon after release and detained again.

*'I was arrested in June 2008 and detained in Pavchino. I applied for asylum and was released after 2 months. My application was rejected and in December I was detained again and stayed in Chop for 6 months and 4 days'* (Somali refugee, 22, interviewed in October 2009).

*'I was arrested and detained in Chop detention, I stayed there for 1 month. [From there he was transferred to Pavchino] in Pavchino I spent 6 months and 10 days'* (Bengali, 24, interview in spring 2009).

In a small scale survey, conducted between November 2008 and June 2009 we asked 35 informants for their time spent in detention. Often, the informants reported detention in different locations or repeated detention. This generated the following result:

*9 months; 8 months; 8 months; 18-20 days plus 7 months; 3 months plus 2 months plus 2 months; 6 months plus 1 month 3 days; 2 months plus 4 months; some days plus 6 months; 6 months; 2 months plus 4 months; 2 months plus 4 months; 1 month plus 5 months; 3 months; 1 month plus 2 months; 2 months 25 days; 18-20 days+2 months; 8 days plus 2 months 1 month; 1 month 11 days; 18 days; 17 days; 17 days; 15 days; same; same; 2 weeks; 9 days; 7 days; 3 days.*

Refugees and migrants apprehended for irregular border crossing seem to be treated indiscriminately. Several of our interviewees report that once in detention, their asylum applications were not accepted, respectively, that the detainees' claim for asylum does not seem to be passed on to the responsible authority, the Migration Service.

*'To get out of Pavchino you need to pay \$ 1,000; this is for Pakistanis, for Arabs it is \$ 450. For this you get temporary permission to stay in Ukraine for 7 days and during these 7 days you report to Migration Service and apply for asylum'* (Palestinian, mid 30s, interview in August 2007).

This practice was confirmed in 2009 by a former Somali detainee who reported that for an asylum application people have to pay \$350, whereas for a temporary residence title they are charged \$600.

Thus, obviously at least a part of the refugees are de facto punished for trying to enter a safe country irregularly. This is a violation of the UN Convention on the Rights of Refugees, article 31 (on refugees unlawfully in the country).

## **2. Provisioning**

Food was provided by two sources, the State Border Guards and Caritas. Neither in the state budget nor in the budget of the SBGS is a separate budget for accommodating or

provisioning immigrant detainees. Therefore, the SBGS have to cover according expenses from their general budget. This seems to result in certain tensions as the budget spent on detainees is deducted from the budget for other purposes. From the information we received, in the past about 7 UAH, approximately € 1, was allocated for the nourishment of one person a day; in 2009, this was reduced to a rate of 5 UAH, approximately € 0.65.

Meals are provided three times a day. The usual ration, as former detainees report, is very monotonous and consists of soup, pasta or potatoes, cabbage, a small piece of bread, but no fish or meat. Neither sugar nor tea is normally offered. Also not provided are other vegetables or fruits; thus the detainees do not receive any vitamins. For some time, Caritas provided bottled water, though it is uncertain whether this is continued. Tap water was only available at certain times of the day; however, it was contaminated and of poor quality. No respect is paid to religious dietary requests.

In the past, these rations were supplemented by donations by charitable organisations. Once a week, Caritas from Uzhgorod delivered food packages to Chop Detention Centre, such as bread, canned stewed meat, canned sardine, et cetera. Another faith based NGO, NEEKA from Mukachevo also delivered some food once a week, such as two to three packs of macaroni, a tin of sardine, and some milk and a pack of butter. Sometimes, they also provided some soap and washing powder. Such deliveries, however, were not allowed to be directly delivered to the detainees but to the border guards. Some interviewees believed that the border guards kept their share before distributing the rest to the detainees. Thus, humanitarian NGO deliveries seemed to be exploited by the border guards and used to top up staff provisions.

To top up these meagre ration detainees constructed makeshift 'kettles' and 'boilers' to prepare tea or macaroni. For this purpose, some wires were inserted into a socket with the other ends fastened to the tin. In case border guards discovered this device it was confiscated. Sometimes those detainees who helped out in the kitchen (see below) are offered some sugar for their tea, this is considered a delicacy and consumed over up to two days.

### **3. Accommodation**

The detention facility consists of two separate blocks, one for CIS detainees and one for all other detainees. The delegation visited the block for the latter group. The block consisted of three cells, two of approximately 32 m<sup>2</sup>, another of approximately 70 m<sup>2</sup>. The cells connected by a narrow corridor. We assume that at any time in spring and summer 2009, 100 or more detainees were kept in the block. In May, 120 detainees were reported, in June, there were 168. Cells only have one very small window. Detainees were allocated across the rooms according to their nationalities/ethnicity.

The cells were furnished with bunk-beds only, chairs and tables are lacking. In June, one of the rooms held 33 detainees though we only counted 16 beds; hence 2-3 individuals had to share one bed and linen. Sometimes, beds were moved closer together to create more space and it occurred that some detainees had to sleep on the concrete floor.

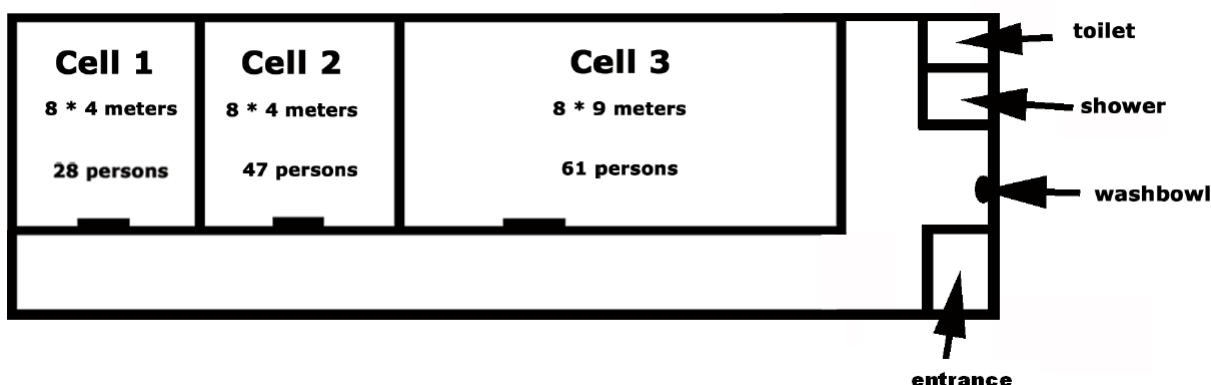
The detainees were provided with blankets. The problem, however, was that these are shared by two or more detainees, were used for long periods of time whilst there were no opportunities to wash them. This was a cause of skin diseases.

For the entire block and all hundred or more detainees, there was only one toilet. Sometimes, use was restricted to three times a day due to interruptions in the water supply. Normally, there was a queue. In the meantime, detainees used bottles. There was no bath and only one shower and a separate sink but no hot water. There were also no opportunities for washing clothes except in the sink.

In the corridor, there is a small TV set, this enable the detainees to follow developments in the outside world. Access, however, was restricted and limited to periods when they are allowed to leave their cells, so-called 'walks' in the corridor.

It was reported that in summer cells were overheated, in winter there were heaters in the rooms. Generally, the smell in the cells was reported to be almost unbearable.

Chop Detention Centre, situation in April 2009, based on interview with former detainee conducted in January 2010



#### 4. Daily Routine and Exercises

The SBGS have introduced a strict routine, as copied below, which is similar to a prison regime. There are two forms of exercises, indoor 'walks' on the corridor and outdoor activities.

TIME	ACTIVITIES
06.00	Morning getting up
06.10 – 07.00	Morning bathroom procedures
07.00 – 08.00	Walk
08.00 – 08.45	Breakfast
09.00 – 13.00	Work of groups of inquest and administrative proceeding
13.00 – 14.00	Dinner
14.00 – 15.00	Walk
15.00 – 18.00	Work of groups of inquest and administrative proceeding (conduct of filtration activities)
18.00 – 19.00	Leisure time
19.00 – 20.00	Supper
20.00 – 21.00	Walk
21.00 – 22.00	Evening bathroom procedures
22.00	Lights-out

This however, seems mere theory; instead, according to the detainees' accounts daily routine was even stricter and walks and exercises were a rare occurrence. Reports on whether or not cells were locked vary. Some former detainees said that cells were not locked and the detainees could move within the small bloc whilst others reported that they were locked in for most of the day. Outdoor exercises in the court yard were even rarer and random. They were arranged according to nationality and frequency of exercises depends on the number of nationalities and size of each group. The lower the number of detainees the more often they seemed to be allowed outside exercises. For example, at the time of the visit, Somalis were allowed external exercises four times a week. Others report they were taken out only once every third days or that they were allowed out daily though for 15 minutes only. The detainees were very rarely allowed any sports activities, such as playing football or basketball at the sports ground which is enclosed by a high fence. The only interruption in their daily routine was the work they were forced to do.

No ethnic conflicts were observed or reported during leisure time outside the walls of the cell block or inside the building on the corridor.

### **5. Medical care, hygiene and health conditions**

Frequently, a local doctor holds surgeries in the detention camp. In cases of more serious health problems in which it treatment on the spot is not possibly, the doctor takes patients to the local hospital. Therefore, detainees regard him the best man in Chop detention camp; they believed that he really cares about them.

The detainees mostly suffer from skin diseases (notably Pakistani), and sometimes from headache, colds, or flues. There was no hygiene; the blankets they cover with were dirty.

The cell block was infested with rats, detainees report that these frequently enter the rooms through holes in the ceiling. These rats were attracted by remnants of food and bread; the detainees considered them local animals and tried to have friendly relations with them. Almost all detainees reported considerably loss of weight in detention; they also reported that they got thinner and constantly felt tired.

The main health hazards resulted from poor hygienic standards due to lack of washing and laundry facilities, from rats and from malnutrition.

### **6. Work**

Every day, detainees were forced to do various jobs. In the kitchen, detainees were requested to peeling and cutting potatoes and cabbage and generally help with preparing food, both for the detainees and the border guards. Sometimes, soldiers even requested the detainees to prepare potatoes for them to be taken home. In case, goods were delivered to the barracks, detainees were ordered to unload the lorries; equally, detainees were forced to unload lorries delivering goods, such as boxes with food stuff from the lorry to the shop. Detainees were also forced to sweep the offices of the officers or even for painting the exterior of the barracks. And in winter, detainees were usually misused to remove the snow.



Certain activities were considered as advantageous, notably called upon for working in the kitchen offers opportunities to establish friendly relations with the cook who might then give them some sugar.

The detainees reported that the soldiers just sat there, distribute duties among the migrants and requested them to do various jobs. They accused the soldiers to treat them just like slaves.

## **7. Violence and abuse**

Several detainees reported, that border guards generally abused the detainees, sometimes they were even beaten or kicked without reason, just for making fun. Violence by border guards, as a Somali former detainee explained, was a daily occurrence. Other former detainees, however, did not report such violence.

Some detainees also reported that they were financially exploited. For instance, detainees, if they had money were allowed to purchase goods from local shops. The practice was that they asked the border guards to do the shopping, in which case they hand over, for example, 50 Hrivnas but received goods of a lower value. Hence, border guards deducted a certain amount.

Detainees said they were discouraged from reporting their grievances to the occasional national or international delegations. A Somali former detainee reported that another detainee once complaint to a Ukrainian delegation; once this had left he was beaten by the border guards in retaliation.

Generally, the detainees believed that the soldiers do not care about them.

## **8. External aid**

Three times a week, an NGO, Caritas, provided legal aid to the detainees. A Somali refugee, however, reported that for over four month he could not get access to Caritas and felt that as a consequence he could not file his asylum application. He was frustrated and also felt that the Caritas lawyers are rather 'powerless' with respect to improving their situation. Another NGO, NEEKA, at some point also provided food packages, usually once a week. They also facilitated certain communication between the detainees and SBGS.

## **9. Amendment**

Since the first visit in March 2009, the head of Chop Border Guard Service was replaced at least twice. In autumn 2009, the detention centre was redecorated. It was also noted that in the meantime, more detainees are moved to a new facility, the detention centre in Lutsk/Wolyn. The new detention centre could have a positive effect on the overcrowding situation, though as yet no fresh evidence could be obtained. Instead, it is suggested that transportation from southern Uzhgorod to northern Lutsk is an issue which may in fact limit the capacity to transport detainees across the country. The greatest danger, however, is that due to the limited access that the refugees in Chop have to the asylum procedures they are transferred to the Lutsk detention centre where their deportation is prepared.

## **Conclusion**

- On initial detention in the border posts, the arrested often reported that they were maltreated and beaten. Sometimes, money was confiscated though without receipt. Conditions and provisions were poor to non-existent.
- The Chop detention centre is not legally designated as temporary detention centre; often, it was severely overcrowded and lacked the basic conditions to accommodate higher numbers of detainees.
- Refugees and migrants are often treated indiscriminately, and refugees are punished for trying to cross borders illegally.
- The legal maximum detention duration of six month is sometimes violated and detainees kept longer or are detained repeatedly.
- Provisioning was insufficient and detainees suffered from severe malnutrition.
- Hygienic conditions were unacceptable and indeed a health hazard.
- Detainees reported that they were abused and exploited in multiple ways.
- Due to neglect, detainees suffered from various health problems.
- Periods of leisure time, exercises and sports activities were insufficient.
- The border guards are not trained to act as prison guards, completely lack according professionalism and fail as guards of immigration detainees.
- Chop detention centre resembles a penitentiary institution.

**Contact: Refugee Council Bavaria/Munich, [contact@bordermonitoring-ukraine.eu](mailto:contact@bordermonitoring-ukraine.eu)**