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Draft Report
from the Committee on civil liberties, justice and home affairs
on the delegation to Poland

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Introduction

A **delegation** of eight MEPs travelled to Poland, where they were joined by two Polish MEPs who were already there (see list of participants - annex 1). The mission was chaired by Mr Patrick GAUBERT (EPP-ED) and the Rapporteur was
Mr Wolfgang KREISSL-DÖRFLER (PES). The visit took place from the 1st April to the 3rd April 2008.

The delegation had **two parts** (see draft programme – annex 2)**:**

- the first part mainly took place on the 1st and 2nd April and related to the situation regarding the reception of asylum seekers and immigrants in Poland
- the second part took place on the 3rd April and entailed a visit to Frontex.

The object of this draft report is the first part of the delegation, dedicated to the situation regarding the reception of asylum seekers and immigrants in Poland.

The **purpose** of this part of the delegation was to ascertain directly the situation regarding the reception of asylum seekers and immigrants in Poland and to understand the way that some specific European directives and regulations are implemented:

- Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers [1] (Reception Directive),
- Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status[2] (Procedure Directive)

[1] *Official Journal L 031 , 06/02/2003 P. 0018 – 0025*
[2] *Official Journal L 326 , 13/12/2005 P. 0013 – 0034*

- 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 [1] (Dublin II Regulation).

Context

The visit was one of a whole series of visits by members of the LIBE Committee to see at first hand the conditions in which immigrants and asylum seekers are held in various EU Member States. This visit to Poland follows similar delegations to Italy (Lampedusa), Spain (Ceuta and Melilla, Canary Islands), France (Paris), Malta, Greece (Samos and Athens), Belgium, United Kingdom and the Netherlands.

Programme of the delegation:

Given the time constraints, the visit focused on **two centres: the Garded centre for aliens Lesznowola** and **the Guarded Centre for Foreigners in Biała Podlaska**. However, the delegates decided that some **reception centres** will be visited by
Ms Urszula GACEK and Ms Genowefa GRABOWSKA on behalf of the LIBE delegation and that their observations will be added to the final LIBE report on the delegation.

The agenda of the delegation included, in chronological order:

- a meeting with organisations and NGOs that are active in the field of immigration and asylum in Poland (Tuesday, 1st April 2008)
- an introductory meeting, aiming at presenting the main lines of the Polish asylum policy, with the Head of the Office for Foreigners, the Director of the Migration Policy Department in the Ministry of Interior and Administration, the Director of the Office for International Cooperation at the Office for Foreigners and with representatives of the Border Guards (Tuesday, 1st April 2008)
- a meeting with Mr. Piotr STACHAŃCZYK, Undersecretary of State in the Ministry of the Interior and Administration (Wednesday 2nd April 2008).

Before travelling to Poland, the delegation received substantial information from the Polish government and also from the Office of the UN High Commissioner for Refugees (UNHCR) and from the EU offices of ECRE, IOM, Churches' Commission for Migrants in Europe (CCME), Amnesty International, Human Rights Watch, European Association for Human Rights and FIDH.

The members were also furnished with copies of documents from UNHCR and NGOs as well as documents from the Polish Government concerning the modalities of asylum and immigration in Poland.

The delegation was accompanied by the Audiovisual Service of the European Parliament working with a local TV crew and by a photographer. The idea was to present that European activity through Europe by Satellite (EbS). The visit received good press coverage. The journalists, the photographer and the TV crew were allowed to enter into the centres. The MEPs gave a press conference on the last day, on the 3rd April 2008.

[1] *Official Journal L 050 , 25/02/2003 P. 0001 - 0010*

Background

Legislative framework

The national legal framework concerning foreign nationals and asylum is primarily made up of
- the Law of 13th June 2003 on foreigners (Act on Aliens, which was modified in 2005 and 2007)
- the Law of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland. Some of the measures contained in these laws were modified by the law of 14th July 2006 concerning the conditions for entry and residence on Polish soil.

The Aliens Protection Law as well as former 1997 Aliens Law contains provisions relating to procedures and practices for granting refugee status, concepts of safe third country and country of origin, manifestly unfounded cases, provisions for complementary form of protection, temporary protection and asylum. It also describes the legal situation of unaccompanied asylum seeking children, and provides additional protection mechanisms regarding persons of special needs (victims of violence).

Authorities responsible for migration and asylum policy

The "Ministerstwo Spraw Wewnetrznych i Administracji" (*Ministry of Interior and Administration*) is responsible, in general, for migration policies and issues related to refugees, legal and illegal immigrants.

The Ministry has under its authority the "Urzed do Spraw Repatriacji i Cudzoziemcow" (*Polish Office for Foreigners*, former *Polish Office for Repatriation and Aliens*), that is responsible for the BOO, an administration organizing and managing open reception centres.

The Ministry also controls the "Komenda Glowna Policji" (*Police*) and the "Komenda Glowna Strazy Granicznej" (*Border guards*), both responsible for closed detention centres.

Who are the immigrants and asylum seekers ?

Since their admission to the European Union in May 2004 the two main sources of migration into Poland have been:

- The legal and illegal immigration of nationals from former Soviet Union states (mainly Ukraine and Belarus) seeking seasonal work.
- The large influx, mainly since 2002, of Chechen asylum seekers (90% of asylum seekers).

Asylum procedure

At present, there is one asylum procedure but there are two different statuses that can be given to foreigners: refugee status and tolerated stay permit.

Refugee status is granted if the foreigner fulfills the conditions of the Geneva convention, to which Poland is party since 1991.

The tolerated stay permit was introduced in 2003 and since then, there has been a strong tendency to replace refugee status by this type of protection. The beneficiaries of tolerated stay enjoy most of the rights offered to refugees, but there are however differences.

The asylum procedure starts with an application submitted personally by the alien to the President of the Office for Repatriation and Aliens.

The alien submits the application for granting the refugee status through the commanding officer of the Border Guard division. An alien who is not authorized to enter the territory of the Republic of Poland can submit the application during the border control upon entry to the Republic of Poland, at the checkpoint.

The Border Guards officers inform the person in a language understandable to him/her about procedures and principles of the proceedings for granting the refugee status as well as about rights vested to him/her and his/her obligations.

The Border Guards officers gather information from the person (identity, country of origin, photographs and fingerprints, visas or residence permits, route of travel) and send the application to the President of the Office, within 48 hours.

The decision on granting or refusal to grant the refugee status has to be rendered within the time limit of 6 months from the date of the submission of the application. The decision on the refusal to grant the refugee status for the reason of manifestly unfounded application should be rendered within the time limit of 30 days from the date of submission of the application.

The decisions of the President of the Office on granting and withdrawing of the refugee status may be appealed against to the Refugee Board. The Refugee Board's decision shall be issued in one month from the alien appeal.

The foreigners applying for the refugee status may contact freely a representative of the United Nations High Commissioner for Refugees as well as any organizations dealing statutorily with the refugee matters.

Detention centres – reception centres

In Poland, there are reception centres (open) and detention centres (closed). The big majority of the asylum seekers in Poland are in reception centres.

When a person submits an application for asylum during the border control, and does not have the right of entry in Poland or when a person is illegal in Poland, he/she can be detained in a centre.

If the person enters in a legal way in Poland and claims asylum, he/she is allowed to wait for the decision on the asylum claim in liberty.

A. Detention centres

There are two types of detention centres, under the authority of the police or border guards, where illegal foreign nationals are detained:

- 5 Guarded centres for foreign nationals. The Lesznowola detention centre with a reception capacity of 132 places is run by the police and is a detention centre where families can be detained. The authorities have recently built and opened four new guarded centres in Bialystok, Ketrzyn, Biala Podlaska and Przemysl. The construction work was partly funded by the European Fund for Asylum seekers.

The complete list is as follows:

Guarded Centre for Aliens in Lesznowola (Police)	131 places
Guarded Centre for Aliens in Przemyśl (Border Guard)	138 places
Guarded Centre for Aliens in Kętrzyn (Border Guard)	150 places
Guarded Centre for Aliens in Biała Podlaska (Border Guard)	152 places
Guarded Centre for Aliens in Białystok (Border Guard)	142 places

- 14 expulsion arrest centres: for a foreign national to be held in a deportation centre there must be a suspicion that they will not respect the rules in force in the guarded centre.

Expulsion Arrests managed by the Police

in Wrocław	(renovation)	28 places
in Włocławek		32 places
in Katowice	(renovation)	30 places
in Konin		30 places

Expulsion Arrests managed by the Border Guards

Nadwiślański Regional Unit in Warsaw	49 places
Łużycki Regional Unit in Lubań	9 places
Pomorski Regional Unit in Szczecin	33 places
Lubuski Regional Unit in Krosno Odrzańskie	56 places
Sudecki Regional Unit in Kłodzko	3 places
Karpacki Regional Unit in Nowy Sącz	6 places
Bieszczadzki Regional Unit in Przemyśl	38 places
Warmińsko-Mazurski Regional Unit in Kętrzyn	30 places
Nadbużański Regional Unit in Biała Podlaska	24 places
Podlaski Regional Unit in Białystok	15 places

Legal grounds for ordering detention
Foreigners can be detained by the Border Guards or Police for not longer than 48 hours. After that, the detention order has to be issued by the Court.

Right of appeal against the detention order
The detainee has the right of appeal within seven days from the day of receipt of the Court decision. The appeal shall be treated by the court immediately.

Duration of detention
Detention cannot be longer than 90 days however it can be prolonged for a specified period of time if such extension is necessary to execute the decision on expulsion, which was not executed due to the fault of the foreigner. The period of detention in the guarded centre or in a facility for people arrested for the purpose of expulsion cannot exceed one year.

Contact with NGOs
According to the Act of 13 June 2003 on aliens, a foreigner who is detained in the guarded centre or in a facility for people arrested for the purpose of expulsion has the right to contact

the following: the Polish authorities, diplomatic representatives, and NGOs. He/she can meet face-to-face with the close persons in rooms especially set aside for this purpose.
The person is informed in a language she/he understands about the organizations which statutorily deal with refugees' affairs. He/she is allowed to correspond or make telephone contact with these organizations.

Conditions in the centres
Upon being accommodated in the detention centre or guarded foreigner's centre, the foreigner is immediately submitted to a medical check-up and, if necessary, will undergo sanitary treatment.

Women and men are separated. Foreigners accompanied by minors are accommodated together. In addition, if an unaccompanied minor is accommodated in a guarded detention centre, he is to be put in a separate part of the centre so as to avoid contact with adults.

Women up to 7 month of pregnancy can be accommodated in a centre for detention for the purpose of expulsion. After that time pregnant women are transferred to a guarded detention centre, which have a better regime.

Foreigners whose psychophysical state allows presuming that they have been victims of violence or of aliens with disabilities are not placed in guarded centres or in centres for the purpose of expulsion.

B. Open reception centres

The persons who introduced an asylum application have the right to receive assistance for the period of the proceedings and for the period of 14 days from the delivery of the final decision.

The assistance can take the form of an accommodation in a reception centre or financial aid to stay somewhere else on the territory of the country. Furthermore, medical care is granted to everyone. The assistance may also include granting assistance in voluntary repatriation from the territory of the Republic of Poland.

Unaccompanied minors are accommodated in special centres and orphanages with special departments for unaccompanied foreign nationals.

The reception centres are managed by the BOO (Bureau for the Organisation of Centres for Foreign Nationals), under the authority of the Ministry of the Interior.
BOO has its own centres as well as centres rented from private companies. In 2007, BOO managed 20 centres.

Reception Centres in Poland [1] as of the 21 February 2008:

no.	Centre	Number of Places	Number of foreigners currently staying in the centre
1	Dębak	250	335
2	Łuków	261	286
3	Łomża	240	257
4	Białystok B	210	246
5	Białystok I	295	451
6	Kolonia Horbów	150	51

[1] Data provided by the Polish Government in view of the delegation

7	Bezwola	250	386
8	Kołbiel	190	210
9	Lublin	175	247
10	Czerwony Bór	242	290
11	Wołomin	212	209
12	Warszawa-Wola	180	247
13	Moszna	200	241
14	Radom	241	285
15	Linin	330	415
16	Warszawa-Siekierki	200	194
17	Warszawa – Bielany	300	461
18	Leonów	242	245
19	Smoszewo	200	209
20	Puste Łąki	180	215
	Services outside of centre		966
	Total		6447

The social assistance to asylum seekers consists of:

- accommodation in the centres
- alimentation – full board in the canteen
- tickets for public transport
- monthly financial assistance for purchase of toilet articles and "pocket money"
- clothing and shoes
- Polish language lessons - In all the centres children and adults have an opportunity to attend Polish language classes. Children who have been classified by the teacher can go to primary or secondary schools. Moreover, in some centres there are kindergartens run by asylum seekers.
- access to public schools, school materials and books as well as covering of the expenses arising out of charges for education in schools
- medical care in the centres or medical treatment outside the centres
- financial benefit to cover on one's own the costs of stay on the territory of Poland for an asylum seeker for whom living in the centre is inadvisable because of his state of health or personal safety.

Another task of BOO is to take custody of unaccompanied minor aliens: a BOO employee appointed as a custodian of a minor supervises the provision of such minor with appropriate housing conditions, access to education and medical care, takes part in arranging his free time including cultural, leisure and sport activities, contacting national and international organizations, whose statutory aim is to act for the well-being of minors or refugees, in order to find family members of the minor.

Meeting with organisations and NGOs, Tuesday, 1st April 2008

On the first day, the delegates had a working lunch with the following organisations that visit the detention centers regularly, or are otherwise active in the areas of asylum and immigration (see Annex 3):

- UNHCR,
- Amnesty International - the Polish section,
- International Organization for Migration (IOM) - the Polish section,

- Helsinki Foundation for Human Rights in Poland,
- Caritas Poland,
- The Halina Niec Legal Aid Center,
- Polish Humanitarian Organization ,
- Stowarzyszenie Interwencji Prawnej (Association for Legal Intervention),
- Legal Clinic at the Warsaw University,
- The Rule of Law Foundation,
- Center for Migration Research (CMR),
- The Warsaw School of Social Psychology.

UNHCR and the NGOs started by presenting their activity. As the number of refugees is growing, they mentioned that they start lacking staff in order to continue the same level of activities as before.

The organisations gave a short **presentation of the system.**

The NGOs confirmed that in Poland the big majority of asylum seekers are accommodated in the reception centres. By the end of 2007 there were 21 centres with 6281 persons accommodated. Only 600 – 700 people were in detention centres.

In 2007 the influx of new asylum seekers, the repeated applications and the return of asylum seekers based on Dublin II regulation (571 persons) led to an overcrowded situation of the existing reception facilities in the country. The authorities were thus compelled to increase the number of such facilities.

The NGOs reminded that there are two types of detention centres. The expulsion arrests centres have stricter conditions for detainees – not everybody can be sent there but in case of increased influx of immigrants and asylum seekers, more people might end up in that kind of centres.

The NGOs explained the **difference between refugee status under the Geneva Convention and tolerated stay permit.**

NGOs are concerned about the way the Polish authorities interpret the Geneva Convention : Poland requires to show an *individualized* fear of persecution in order to benefit from the refugee status under Geneva Convention. Moreover, as far as political opinion is concerned, Polish authorities interpret the Convention rather strictly.

The permit for tolerated stay is one of the protection forms given to aliens. An alien is able to receive this permit if:
a) his/her return is only possible to a country where his/her life and safety would be threatened, where the alien could be tortured, submitted to degrading and inhuman treatments, forced work, where he/she could be deprived of a fair trial, or condemned without any legal basis

b) his/her return is not possible for reasons which are independent of the responsible entity for the execution of the decision.

An alien can receive the permit for tolerated stay if his/her transfer in direction to another country is not authorised following a decision from the Polish justice or from the Ministry of justice.

Refugees and persons granted permission for tolerated stay have the same social rights as Polish citizens. They are entitled to social allowances on the basis of the Law on Social Assistance of March 12, 2004. However, in some aspects, the status of tolerated stay is less favourable than the refugee one: for example, the individual integration programme (financial assistance and language courses) is provided only to recognized refugees and not to tolerated stay permit holders

Legal aid
There is no public system of legal aid in place, except for the procedure before the court. Legal aid comes from NGOs. According to UNHCR, the government is trying to put in place a public legal aid system; the legislative proposal should be examined by the Parliament during the second half of 2008.

Children
Unaccompanied minor foreign nationals aged less than 17 years old cannot be detained. They are in centers for children, where they have good life conditions and access to education.

Children who are with their family can be placed in detention centers, together with their family; there is no proper access to education in those centers.

Comments on detention centers

Duration of detention: According to the NGOs, people might be kept in detention up to 12 months.

Appeal against detention
According to the NGOs, the period of seven days to appeal is not enough for detainees to contact and to get feedback from professionals. In many cases they contact Halina Nieć Association and Helsinki Foundation, one based in Cracow and the other in Warsaw, but very often there is not enough time for procedure and gathering information.

Conditions in detention
According to NGOs, conditions are severe: detainees confined to their cells for too long, limits on outdoor exercise, the lack of social – recreational activities, the difficulty in communicating with personnel (language barriers). According to NGOs, the staff should be better trained, notably in foreign languages and there should be more social workers.

Whenever possible, detainees are accommodated according to language and cultural groups. Men and women are accommodated separately. Families and minors cannot be detained for the purpose of expulsion. They are sent to the Lesznowola Guarded Centre for Aliens.

According to NGOs, sanitary facilities do not comply with hygiene norms. These facilities are insufficient for the number of detained and all need renovation.

Access to medical care: the NGOs remind that according to Polish law medical assistance, including mental health, must be provided for foreigners equally to Polish citizens, on the same basis and to the same extent. In practice however, aliens are rarely directed to specialists – but this is also due, it seems, to the general lack of specialists. Moreover, it seems that there are no doctors present in the centres at all times and that they have to be called in.

Contact with the outside world – According to the NGOs, contact takes place unhindered. This is positive: detainees may contact NGOs, lawyers, diplomatic representatives, family members, friends and priests via telephone, fax, face-to-face, or in written form as frequently as they wish, but they have no access to email or the Internet. However, NGOs express their concern concerning the fact that the four new centres build in Poland are very isolated, which makes contact with the outside world very difficult in practice.

Information for detainees - Information about the status of foreigners and their rights is given to the person at the moment of detention. He/she is informed about his/her rights as a foreigner in a language that is understandable to him/her. Information about the reasons for detention and removal is understood by the detainees. However, according to NGOs they do not really understand the asylum procedure and the legal possibilities to challenge a detention order. Information about the possibility to contact UNHCR and NGO's is totally available.

The access to lawyers in detention facilities is poor, as there is no state system of legal assistance. The only lawyers accessible are NGOs lawyers. There are less than ten lawyers who provide legal aid in detention areas. HNLAC provides regular consultations in Lesznowola but cannot meet all needs in this area. Other detention premises are left without assistance.

Comments on reception centres

According to NGOs, there are social/prayer rooms at each facility, as well as rooms for children to play and learn. The standard of equipment of those rooms varies. With the EU funding, the Office for Foreigners upgraded the provision of equipments, collections of foreign language literature and teaching tools in the reception facilities. In many centres the computer rooms were created. In some reception centres kindergartens are available

The social assistance currently available to people in reception centres is insufficient, and the authorities should be encouraged to increase the numbers of social workers.

Legal assistance - The legal assistance is provided by NGOs in majority of the reception centres as well as in their offices. However, the NGOs in question are located far from some of the reception centres which makes the access to such assistance limited to certain areas of residence as well as those with disabilities. Financial constraints of the agencies also limited their visits.

Education
According to UNHCR, all asylum seeking and refugee children have access to the free, national primary and secondary education. The attendance rate was 97 % (836 children) in September 2007. Over 70 schools are receiving refugee and asylum seeking children.

However, there are several obstacles to education: there is no mechanism established in facilitating the integration of foreign children to the Polish education system, in addition to the initial language barriers.

Cooperation with the Polish authorities
UNHCR shared with the delegation its experience of the cooperation with the Polish authorities: the UNHCR representative was given free access to all the centres (open and closed); sometimes the authorities call the NGOs in order to help the refugees. Authorities consult UNHCR and NGOs when legislation is in preparation.

Financing of NGOs
Another question discussed was the financing of NGOs. The organisations said that they are financed through funds from European Refugees Fund; they have however great difficulties in co-financing the projects (at present, a co-financing of 25 % is still required). UNHCR informed that in 2008, the level of co-financing will be of 15 %.

Meeting with authorities in charge with immigration and asylum, Tuesday, 1st April 2008

An introductory meeting, aiming at presenting the main lines of the Polish asylum policy was held on the first day with the Head of the Office for Foreigners, the Director of the Migration Policy Department in the Ministry of Interior and Administration, the Director of the Office for International Cooperation at the Office for Foreigners and with representatives of the Border Guards.

The authorities explained to the delegation the situation and protection of foreigners on the territory of the Republic of Poland

They presented the basic Polish legal acts on migration, the main government administration entities active in the area of migration, the tasks of the Office for Foreigners, the main institutions and non-governmental bodies active in the area of migration.

They also gave an overview of migration to Poland for the years 2004-2007, an overview of migration to Poland (main nationalities- Ukrainian, Belarusian, Russian, Armenian, Vietnamese, and others).

Furthermore, they explained the types of protection provided for foreigners on the territory of the Republic of Poland. The following types of protection are available to foreigners on the territory of the Republic of Poland:

- refugee status pursuant to the 1951 Geneva Convention and the 1967 New York Protocol,
- asylum,
- authorisation for tolerated stay,
- temporary protection.

The speakers presented also the system for processing applications for refugee status:

Refugee status proceedings

Phase 1
Application for refugee status to be granted submitted to the Head of the Office for Foreigners, through:

- the head of the Border Guard unit responsible for Warsaw city (in the case of foreigners living in Poland)
- the heads of Border Guard units (when entering the territory of the Republic of Poland)

Phase 2
Application forwarded to the Head of the Office for Foreigners

Possibilities:

1. Dublin Process
2. Refugee status proceedings
3. Accelerated refugee status proceedings (when the application is clearly unjustified)

Phase 3

First Instance entity– Head of the Office for Foreigners
Posibilies:

1. Refugee status granted pursuant to the Geneva Convention (1951)
2. Issue of Geneva travel document
3. Refugee status refused and tolerated stay authorised
4. Refugee status refused and order to leave the territory of the Republic of Poland issued

Phase 4

Second Instance entity– Refugee Council
Possibilities:

1. Refugee status granted
2. Descision by First Instance entity upheld - Voivodship/Main Administrative Court
3. Decision by First Instance entity upheld and tolerated stay authorised - Voivodship/Main Administrative Court
4. Application sent for review

During the procedure:

Case 1: Foreigner not in possesion of authorisation to enter or remain ---
Possibilities:

1. *Foreigner accommodated outside a centre*
2. *Foreigner accommodated in a centre (at the foreigner's request)*
3. *Foreigner accommodated in a secure centre or implementation of order for arrest prior to deportation (pursuant to a court decision for a 30-day period, that may be extended to 1 year maximum) - Is not applied to: unaccompanied minors and foreigners whose physical and mental state indicates that they are disabled or the victims of violence*

Case 2: Foreigner in possession of authorisation to enter or remain
Possibilities:

4. *Foreigner accommodated outside a centre*
5. *Foreigner accommodated in a centre (at the foreigner's request)*

They presented the Applications for refugee status and their outcome in the years 2001-2007.

Recognition rates in 2006 and 2007 :
In 2006, 7.092 persons applied for asylum in Poland. 423 persons were granted refugee status and 2.048 persons were granted tolerated stay permit.

In 2007, 10.048 persons applied for asylum. 116 persons were granted refugee status and 2.866 persons were granted tolerated stay permit in the first instance.

From these 10.048 persons who applied for asylum, 8.415 were Ethnic Chechen citizens of the Russian Federation.

The authorities explained also the notion of Tolerated stay
The decision to refuse refugee status to foreigners may include authorisation for a tolerated stay, if the foreigner could only be deported to a country where:

- his or her right to life, freedom and personal safety were threatened,
- he or she could be the victim of torture, inhuman or degrading treatment or punishment or
- he or she could be required to undertake forced labour,
- he or she could be denied the right to a fair trial, or
- punishment may be imposed on him or her without a legal basis

as defined in the Convention of the Protection of Human Rights and Fundamental Freedoms (1950).

The authorities also gave explanations about Dublin Process (Council Regulation (EC) No 343/2003)

The largest group of foreigners covered by the Dublin Process in the years 2004-2007 were ethnic Chechen citizens of the Russian Federation.
The principal countries from/to which transfers took place were:
Austria, Belgium, France, Norway and Germany.

Assistance for foreigners seeking refugee status
A foreigner who is the subject of an application for refugee status may request the award of assistance for the period of the process and for a period of 14 days from the date when the final decision on the case is handed down (this period may be extended for up to 3 months)
Some foreigners are accommodated in a centre, other are awarded cash benefit to cover personal expenses incurred during his or her stay on the territory of the Republic of Poland.
All of them have provision of medical care

The authorities presented the Amendment to the law of 13 June 2003 on granting foreigners protection on the territory of the Republic of Poland.

On 18 March 2008 the Parliament of the Republic of Poland adopted an act amending the law on granting foreigners protection on the territory of the Republic of Poland. It is anticipated that the new provisions will enter into force in mid-May 2008.

The aim is also the harmonisation of national legislation with current EU legislation through transposition of the following provisions:

- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as

persons who otherwise need international protection and the content of the protection granted.

- Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member Sates for granting and withdrawing refugee status.

Meeting with Mr. Piotr STACHAŃCZYK, Undersecretary of State in the Ministry of the Interior and Administration, Wednesday 2nd April 2008

Undersecretary of State Mr Piotr Stachańczyk is in charge, among others, with the Department for Citizenship and Repatriation, the Department of Migration Policy, the Legal Department and the European Programmes (Implementing Authority).

The meeting took place on the Wednesday, 2nd April 2008. It was a good opportunity to receive further explanations about the asylum system in Poland and the functioning of the open and closed centres for immigrants and asylum seekers.

The discussion started with the differences between *reception* of asylum applicants – which is the case for the very large majority of them, and *detention* of asylum applicants. The Minister confirmed that legal remedies exist to appeal against detention and that young unaccompanied people, vulnerable people and disabled are not detained.

The discussion continued with the topics of Dublin procedure, the notion of manifestly unjustified procedure and the standard refugee procedure.

The Minister was asked about the number of foreigners transferred within the framework of implementation of the Dublin Process.

The Polish side was required to assume responsibility for examining the following applications for refugee status:

- 2004 (1 May-31 December) – 356 foreigners,
- 2005 – 1197 foreigners,
- 2006 – 1418 foreigners,
- 2007 – 1237 foreigners.

The Polish side transferred to other Member States of the European Union:

- 2004 (1 May-31 December) – 11 foreigners,
- 2005 – 134 foreigners,
- 2006 – 174 foreigners,
- 2007 – 68 foreigners.

Another issue discussed was tolerated stay. The Minister said that approx. 7000 such permits were issued since 2003. According to him, what is missing in comparison with the refugee status is the integration component and the Geneva travel documents. The Minister confirmed the various rights of the beneficiaries of the tolerated stay permit, among which the right to travel in the Schengen area.

Concerning education of minors who are asylum applicants, the Minister confirmed that 97 % among them have access to normal education, in Polish schools, together with Polish children. However, education is not provided as a continuous process in the detention centres. The intention of the government is to remedy to that: for the moment, educational posts are open,

for educators, teachers, social assistants.

Another question concerned the nationality breakdown of the asylum applicants. The Minister explained that 90 % of them are from Russian Federation. The other are from Belarusian, Ukraine, Pakistan, Sri Lanka.

Poland is a transit state for some of the immigrants, but not for people from Armenia and Vietnam, for whom Poland is a final destination country.

A question was asked in order to know whether the number of illegal immigrants is increasing in case of raise of the price of visas. The Minister said that this was not the case.

Visits of the centres

1. GARDED CENTRE FOR ALIENS LESZNOWOLA

On Tuesday, 1st April 2008, delegates visited the Garded centre for aliens Lesznowola.

Representatives of the Office for Foreigners and the Ministry of Interior and Administration accompanied the EP delegation and gave explanations about the centre to the delegates.

The Guarded Centre for Foreigners in Lesznowola is located around 10 km from Grójec and 45 km from Warsaw. The centre is an old centre supervised by police. The building was constructed in 1996 and renovated in 2006. Renovation takes place every two years. The maximum capacity of this premise is 131 persons in two blocks. The male block can accommodate 100 persons and the female and family block can take up to 31. The size of the area is 2 ha including around 1 ha of grass. In future, the centre will be managed by the Border Guards.

It is an administrative detention premise that is designed for asylum seekers as well as illegally staying third country nationals. This centre receives also families and children, single mothers, sick people who cannot be accommodated in facilities for those arrested for the purpose of expulsion.

The camp has two building - the one for women and families and second for men.
The delegation met detainees from various countries: Vietnam, Chechnya, Pakistan, Armenia and Byelorussia.

Detainees are accommodated according to language and cultural groups.

Some of the rooms were clean and nicely decorated while some others were not, depending on the persons who were occupying the rooms and on the efforts that were made by the occupants.

The conditions are poor. There is a dining room but the centre lacks facilities for children like a playing room or playground and what's more, no educational materials are available. Children of school-going age cannot attend school.

The sanitary facilities are insufficient for the number of detainees. They are dirty, especially in the men's block and clearly need renovation.

There is a library with some books in various languages (Russian, English and Polish) as well as some newspapers in foreign languages.

Detainees can access open air in a spacious yard with grass and trees surrounded by brick wall equipped with security features. Access to open air is however limited to only a few hours a day, even for children.

Contact with the outside world is unlimited but it is difficult in practice due to the remote location of the centre. Detainees have no access to email or Internet.

2. GUARDED CENTRE FOR FOREIGNERS IN BIAŁA PODLASKA (SECURE CENTRE AND PRE-DEPORTATION DETENTION CENTRE AT BIAŁA PODLASKA)

The second centre visited, on Wednesday 2nd April 2008, was the Guarded Centre for Foreigners in Biała Podlaska.

This centre is one of the four centres very recently built in Poland. It started to receive aliens in late January 2008.

The centre is managed by the Border Guards. A representative of the Border Guards and the Ministry of Interior and Administration accompanied the EP delegation and provide the members with an overall presentation of the Border Guards activity in this matter.

The centre has modern equipment and facilities and a large courtyard. It looks adequate for receiving people, although the barbed wires give a “prison” impression.

Before the tour, the authorities of the centres gave a presentation to the delegation.
They presented the provisions relating to the operation of secure centres and pre-deportation detention centres.

They explained that a foreigner is placed in a secure centre if:

- this is essential to proper conduct of the proceedings concerning deportation or withdrawal of leave to settle in the country or leave to remain as a long-term EU resident
- there is good reason to believe that the foreigner will evade implementation of the deportation order or the decision to withdraw leave to settle or leave to remain as a long-term EU resident
- the foreigner would cross or attempt to cross the border illegally if he or she were not taken directly to the border

A foreigner is placed in a secure centre or detained prior to deportation pursuant to a court ruling.

The centre authorities provided the delegation with statistical data on foreign inmates

Foreigners placed in the Secure Centre and pre-Deportation Detention Centre at Biała Podlaska. (from 31 January 2008 to 1 April 2008)

nationality	number of persons in the pre-Deportation Detention Centre	number of persons in the Secure Centre
Armenian	1	3
Chinese	4	
Russian	2	27
Tunisian	1	
Ukrainian	1	
Vietnamese	11	
	Total 20	Total 30

Nine of the above persons declared their intention of applying for refugee status.

At the moment of the visit, the following persons were placed in the centre:

nationality	number of persons in the pre-deportation detention centre	number of persons in the secure centre
Chinese	4	
Russian	0	16
Ukrainian	1	
Vietnamese	4	
	Total 9	Total 16

The centre has several sections:

- Female section, 50 places
- Male section, 70 places
- Section for families and minors, 32 places
- Residential cells in the detention centre, 24 places
- Healthcare facilities

There is an Education Section which is responsible for:

- organising and leading recreational and sporting activities for the inmates,
- activities to facilitate the development of minors placed in the secure centre,
- the care of unaccompanied minors placed in the secure centre,
- running the library and identifying the need for additional stock to supplement library holdings in the languages of the current foreign inmates of the centre and also additional material containing information on the rights of foreigners on the territory of the Republic of Poland and other Member States of the EU,
- interviewing inmates with in order to identify victims of 'people trafficking'.

- There is also an Escort Group which is responsible for transporting foreigners, conveying inmates to health care centres, monitoring persons receiving in-patient hospital treatment (including 24-hour monitoring) and a Record-Keeping Section that is in charge with accepting and processing the registration of foreigners, releasing foreigners, opening and updating personal files, etc.

There were very few persons present in the centre at the time of the visit but several families

with small children said that they were about to leave the centre for an open one.

At the time of the visit there was any doctor and social worker in the centre.

3. LININ RECEPTION CENTRE

The visit of this centre was operated by Mrs Urszula GACEK on 18 April 2008.

The operational capacity of the centre is 330 people. Currently there are 433 residents, of which some 50 really should have left the centre, but remain there at their own request, generally because they are seeking alternative accommodation.

There are no unaccompanied minors in the centre. The vast majority are families with children. There is a small group of single men.

Educational facilities are provided for children. Pre-schoolers have a kindergarten. Older children who have just arrived in Poland have lessons in the centre until they can join mainstream local schools (i.e. gain some basic Polish language skills). They quickly start to attend 5 local schools. An after-school club operates to help with homework and to provide continued Polish language lessons.

There are no interpreters in the centre. Almost all residents are from Chechnya. They are Russian speakers. The staff at the centre speaks Russian. Inductions and introductions are in Russian.

Legal representation is provided by NGOs. Various NGOs have also provided summer camp for the children and vocational training. The closest co-operation appears to be with PAH (Polska Akcja Humanitarna).

The longest resident at the centre has been there for 4 years.

The centre has no custody officers. It is an open facility. Residents can come and go as they please.

A psychologist attends the centre on a regular basis. There is a medical centre on site where a doctor and nurse are on duty during normal working hours. For after-hours emergencies residents are treated in local health centres and hospitals. They can choose to be treated outside the centre. Dental and specialist services are provided outside the centre. Residents do not pay for treatment; neither do they pay for pharmaceuticals.

Activities are offered during the day. These include sewing classes and Polish language lessons. In the past there were hairdressing and manicure courses as well as vocational training more suited to the male residents (building, driving lessons for heavy goods vehicles). However, many of these activities were not well attended, especially by the men.

There is a mosque within the detention centre.

Residents do not have the right to work unless their applications take more than a year to process. Indeed, according to the reception conditions directive, asylum seekers do not have access to the labour market for one year.

Every resident gets a monthly allowance of PLN 70. Furthermore, each pre school and school age child gets a daily food allowance of PLN 9. Parents are expected to prepare the children's meals themselves from provisions they buy in the local shops. Adults are eligible to three meals per day in the canteen. Often the children's food allowance serves as the de facto "wage" of the family. Costs of travel for medical appointments and other necessary journeys are refunded. Children have free buses to school. Their school books and school uniforms are provided free of charge.

The accommodation is basic, but not over-cramped. Families are housed in 4, 6 or 8 person rooms. Families never have non-family members placed with them. Currently some families are living in an adapted dormitory, but privacy and intimacy is assured for each family. There is ample access to shared kitchen and bathroom facilities. These have been recently renovated (2005) and are in good order. Cleanliness in communal areas is really a question of the resident's willingness to clean up after themselves. One residential block had exceptionally clean communal areas. The other was much less tidy.

The meals provided in the canteen are nutritionally balanced. They take into account religious dietary requirements of the mainly Muslim residents and also cater for vegetarians.

Children have after-school lessons, a well equipped playground and a summer camp organised by NGO volunteers.

Most residents have cell phones (an on-site public phone box is hardly used). There is no internet access in the centre due to technical reasons (fairly remote location).

General observations of the Rapporteur

Considering that Poland had meet huge challenges as a new Member state and with regard to the increasing pressure caused by the provision of the Dublin II regulation, our delegation was surprised positively: The conditions in the centres were generally good, and we were also impressed by the good atmosphere all throughout our stay. As a very positive aspect, we were able to observe that there were no asylum-seekers held in detention and no minors isolated in the closed centres. We would therefore encourage the government to continue with this practice.

Recommendations

Even though the centres were generally in good condition, there is some room for improvements nevertheless. Therefore we highly recommend:

1. Renovation of furnishing and sanitarian standards

- Old centres which do not meet already completely the necessary furnishing and the sanitarian standards should be renovated as soon as possible. The authorities should find a solution for another short term accommodation during the renovation for the people who are detained in Lezsnowola.

2. Detention as the very last resort

- The detention of children, even when accompanied, should be avoided. In all cases where the children have to be with their parents, parents should be dealt

differently. The welfare and the education of children are of paramount importance.

- Instead of detaining families, alternative solutions should be considered.
- The detention of pregnant woman should be prohibited!
- With regard to the high number of isolation cells - isolation might be accepted only as an exceptional measure when people become violent. The use of isolation has to be the very last resort!

3. Application of the provisions for vulnerable persons and regular medical service for detainees

- Ensure that provisions concerning vulnerable persons are applied in practice.
- Ensure regular or permanent medical, psychological and psychatric care for detainees!

4. Access to free judicial help

- The access to lawyers and to free judicial help has to be facilitated. We would encourage the government to adopt a law granting judicial representation.

Finally, we call on Poland to put in place as soon as possible the "subsidiary protection" status in accordance with the Directive 2005/85/EC in order to put an end to the legal vacuum of the "tolerated stay" status.

ANNEX 1

ЕВРОПЕЙСКИ ПАРЛАМЕНТ PARLAMENTO EUROPEO EVROPSKÝ PARLAMENT EUROPA-PARLAMENTET
EUROPÄISCHES PARLAMENT EUROOPA PARLAMENT ΕΥΡΩΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ EUROPEAN PARLIAMENT
PARLEMENT EUROPÉEN PARLAIMINT NA hEORPA PARLAMENTO EUROPEO EIROPAS PARLAMENTS
EUROPOS PARLAMENTAS EURÓPAI PARLAMENT IL-PARLAMENT EWROPEW EUROPEES PARLEMENT
PARLAMENT EUROPEJSKI PARLAMENTO EUROPEU PARLAMENTUL EUROPEAN
EURÓPSKY PARLAMENT EVROPSKI PARLAMENT EUROOPAN PARLAMENTTI EUROPAPARLAMENTET

European Parliament
Committee on civil liberties, justice and home affairs
Delegation to Poland
1-3 April 2008

LIST OF PARTICIPANTS 11

Version 31.03.2008

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Bill NEWTON DUNN
Simon BUSUTTIL
Agustín DÍAZ DE MERA GARCÍA CONSUEGRA
Bárbara DÜHRKOP DÜHRKOP
Jean LAMBERT

Urszula GACEK (hors quota)
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ANNEX 2

ЕВРОПЕЙСКИ ПАРЛАМЕНТ PARLAMENTO EUROPEO EVROPSKÝ PARLAMENT EUROPA-PARLAMENTET
EUROPÄISCHES PARLAMENT EUROOPA PARLAMENT ΕΥΡΩΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ EUROPEAN PARLIAMENT
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European Parliament
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Delegation to Poland
1-3 April 2008

Draft programme

Version of 01.04.2008

Tuesday, 1st April 2008

09:55 – 11:55	flight to Warsaw (SN5155 BRU WAW I)
11:55 – 13:00	transfer by bus to the hotel (Le Royal Meridien Bristol Hotel[1]) and registration
13:00 – 13:15	transfer by bus to the EP Office Warsaw
13:00 – 15:00	**working lunch** with UNHCR, IOM, NGOs
15:00 – 15:15	transfer by bus to the Ministry of Interior and Administration [2]
15:15 – 16:30	**introductory meeting, aiming at presenting the main lines of the Polish asylum policy** Presentations from: • Mr Rafał Rogala, Head of the Office for Foreigners • Ms Monika Prus, Director of the Migration Policy Department in the Ministry of Interior and Administration • Mr Marek Szonert, Direcor of the Office for International Cooperation at the Office for Foreigners • representatives of the Border Guards (names to be confirmed)

[1] Krakowskie Przedmiescie 42/44, Warsaw 00-325, Poland , Phone: (48)(22) 551 1000
[2] Ministerstwo Spraw Wewnętrznych i Administracji, ul. Stefana Batorego 5, 02-591 Warszawa

16:30 – 17:30	travel by bus to the **Garded centre for aliens Lesznowola**[1] *This centre was built in the 90's and is managed by the Police. In future, the centre will be managed by the Border Guards. A representative of the Office for Foreigners and the Ministry of Interior and Administration will accompany the EP delegation*
17:30 – 19:15	visit of the centre, discussion with the authorities
19:15 - 20:15	travel back to Warsaw
20.30 - 22.00	for those interested: **informal dinner with the liaison officer to Frontex of the UNHCR**

Wednesday, 2nd April 2008

09:00 – 11:00	travel by bus (with police escort) to the **Guarded Centre for Foreigners in Biała Podlaska** *This centre is one of the four centers recently built in Poland; it is managed by the Border Guards. A representative of the Border Guards and the Ministry of Interior and Administration will accompany the EP delegation and will provide for an overall presentation of the Border Guards activity in this matter.*
11:00 – 14:00	visit of the centre, discussion with the authorities and the staff; meeting with directors and experts from the Border Guards HQs
14:00 – 15:30	lunch
15:30 – 17:30	return to Warsaw
17:30 – 18:30	**meeting with Mr. Piotr STACHAŃCZYK, Undersecretary of State in the Ministry of the Interior and Administration, in charge with migration and asylum issues**
18:45 – 20:00	dinner

[1] ul. Wojska Polskiego 143, 05-600 Grójec

Thursday, 3rd April 2008

09:00 – 12:00	visit of **Frontex** [1] • welcome and general presentation by the Executive Director • presentations by different Heads of Unit • questions and answers
12:00 – 12:15	transfer by bus to the EP Office
12:15 – 13:15	**press conference** at the EP Office
13:15 – 13:30	transfer by bus to **Frontex**
13:30 – 15:00	lunch hosted by **Frontex**
15:00 – 15:15	transfer by bus to the hotel

Free return (Proposal: 19.45 – 21.50 return to Brussels (SN5160 WAW I BRU)

[1] Frontex, Rondo ONZ 1, 00-124 Warsaw, Poland, tel. (48 22) 544 95 00, fax. (48 22) 544 95 01

ANNEX 3

List of organisations and NGOs present on 1st April 2008 at the meeting with the LIBE delegation

UNHCR Poland
IOM International Organization for Migration
Helsinki Foundation for Human Rights in Poland Program Pomocy Prawnej dla Uchodzcow i Migrantow Legal Assistance to Refugees and Migrants
Polish Humanitarian Organization
Caritas Poland
The Halina Niec Legal Aid Center
Stowarzyszenie Interwencji Prawnej (Association for Legal Intervention)
Legal Clinic at the Warsaw University
The Rule of Law Foundation
Center for Migration Research: CMR
The Warsaw School of Social Psychology (SWPS)
La Strada Poland
Amnesty International - the Polish section.