

Report to the United Nations

Deportation of Protestors against Inhumane Conditions in Refugee Camps and Asylum Procedures in Austria

In **November 2012** hundreds of refugees and their supporters walked from the Traiskirchen Lager (reception camp) to the center of Vienna and set up tents in the Sigmund Freud Park to protest against the inhumane conditions in the camp, including the lack of translators, German courses, access to education, and the opportunity to work. The self-organized protest movement of refugees speaking for the first time in Austria for themselves is gaining much media and public attention.

December 2012 - March 2013: 90 refugees seek sanctuary in the nearby Votiv Cathedral to escape from the cold and to draw attention to their cause; their tents in the park are removed by the police on 28 December; 48 go on a hunger strike for 30 days; Cardinal Schönborn defends the refugees - they are not criminals; President Fischer urges refugees to accept the offer of an alternative shelter; one of the protestors is arrested and taken to a deportation centre (and only released after a hunger strike).

March 2013 - negotiations take place and the refugees are persuaded to move to the Serviten Monastery after guarantees of their cases being reopened with the best possible legal representation and symbolic protection by the Cardinal. This agreement was signed on 2 March by refugees, supporters and church representatives. Caritas, an Austrian NGO, has since then been in charge of the Basic Care House (*Grundversorgungseinrichtung*) in the Serviten monastery. The refugees were promised they could stay until the end of June. However, 27 of the 60 refugees received a negative asylum decision. No one registered in the monastery has received a positive decision on his asylum application to date (August 2013).

June 2013 - a letter was sent to the Minister of Interior (copied to, among others, the President of Austria). The letter was signed by over 60 participants at a Civil Society Conference on Human Rights in Vienna on 25 and 26 June and urged the Minister to address the refugees' concerns and to take immediate action consistent with Austria's obligations under international human rights law.

On 27 June a similar letter was sent to Prof. François Crépeau, UN Special Rapporteur on Human Rights of Migrants, asking him to remind the Austrian authorities to apply the international law of non-refoulement and the right of subsidiary protection.

End of June 2013 – Permission to stay registered in the monastery was extended from June to the end of October 2013, again in the form of a “Basic Care House” under Caritas rules and Cardinal Schönborn’s symbolic protection.

24 July 2013 – 20 persons with negative asylum decisions received a *Gelinderes Mittel*/an order to report to the police daily from the next day onwards, as an alternative to detention.

28 July 2013 - 8 of the 20 refugees were arrested when they reported to the police. The Pakistani authorities had in the meantime issued returnee papers for them. Cardinal Schönborn and other important personalities pleaded for charity and alternatives to the deportations.

29-30 July 2013 - Despite street protests and solidarity campaigns, the eight were deported to Pakistan within two days. The other 12 refugees under threat of deportation are still seeking protection in the monastery. They have refused to go to for daily police checks as they fear they too will be deported.

30 July 2013 - When public sympathy for the refugees was at its highest and their cause was on the front pages of all media, the Austrian authorities tried to criminalize the refugees. Four more of the refugees at the monastery were arrested for alleged human trafficking and detained in police custody. They are being accused of being part of an international human trafficking criminal organization.

August 2013 – the election campaign in Austria is in full swing. The right wing party (FPÖ) seeks to use these refugees to create anti-(foreigner) immigrant sentiments. The People's Party talks about the Rule of Law. Members of the Green Party, youth and human rights organizations ask the Minister to halt the deportations. Even Cardinal Schönborn pleads not to make these people an election issue.

1, 3, 6 August 2013 - Protests take place in front of the Ministry of Interior, the Pakistani Embassy, and the Austrian Police Detention Center in Vienna. A large police presence and excessive force was the response; one demonstrator was thrown to the ground against stone steps (filmed incident posted on Youtube).

6 August 2013 - A big demonstration was held against the deportation of the 12 refugees. Meanwhile the accusations of trafficking are being deconstructed from various sides (media, lawyers, politicians, among others). The refugee protest movement in Vienna is afraid of the so-called mafia-paragraph which would allow the police to criminalize and control all persons involved in the protest.

8 August 2013 - Six of the arrested Pakistanis (4 from the monastery) accused of human trafficking have been visited. Their lawyers believe there is no case against them. Two of the accused are 18 and 19 years old. It is doubtful they played any major role in any type of trafficking operation. There is real fear that once the Pakistani authorities issue the return

papers for those with negative asylum decisions, immediate deportations of those twelve will follow. Their asylum decisions have been criticized as being unfair and unduly accelerated.

According to the refugees, the deportations during Ramadan can be seen as equivalent to deportations on Christmas Eve for Christians. According to lawyers it is not necessary for the Minister of Interior to execute these orders, as a second determination of the safety of return should have been undertaken. Therefore the Minister of Interior is accused of abuse of authority (*Amtsmissbrauch*).

Refugee activists and supporters have raised questions about a series of issues:

The timing of the arrests (human trafficking accusations) and deportations (under asylum law); the discriminatory nature of selecting these particular individuals, political activists at present, the danger of their return to the regions where most come from (Khyber-Pakhtunkhwa, Swat Valley); the changed security situation in these places since the original determination of safety of return was made; the lack of a personal appearance at the appeal hearing; procedural irregularities; documents written in a language they cannot understand; and betrayal of promises made to them. Most felt duped by going along to the police station. The supporters were totally surprised by the rapidity of the police actions. Both Caritas and the church criticized the manner in which the police and the Ministry of Interior conducted the deportations.

The remaining twelve fear for their lives and “enhanced” interrogations involving torture, if they are returned to the Pakistani police forces. The Austrian Ministry of Interior will not guarantee their safety after their hand-over. The Minister cynically remarked “they might as well be involved in a traffic accident, so we cannot guarantee everything”.

A review of the individual cases did in fact reveal no consistency with regard to guaranteeing safety of return; in fact, in one case, it concluded that the person was likely to be a victim of a personal vendetta, albeit by a non- state actor. Most of them come from an area which was previously controlled by the Taliban (the same place where the activist girl Malala Yousafzi comes from).

According to the fact-finding mission of the Ministry of Interior, the security risk in the Khyber Pakhtunkhwa region remains high, and it is the most dangerous province in Pakistan (456 terrorist attacks in 2012 with 401 mortalities; 611 persons tortured and killed):

A. said his house was requisitioned by the Pakistani military, which was followed by a letter from the Taliban reading “Await your death!”. The Austrian authorities say it could have been forged. The night before his deportation, his cousin was murdered in a target killing of the Taliban in his home village in Swat Valley (the region where Osama Bin Laden hid for years).

K. said the Taliban destroyed his family home because his father had cooperated with the Pakistan military. The Austrian authorities believe he is an economic refugee. Khan Ifhikar volunteered during the catastrophic floods in Austria in May.

A. said he was almost killed when he reported the theft of his tractor to the police. The Austrian authorities believed him that he was the victim of a criminal gang, but argued that he could change his place of residence within Pakistan.

J. said his brother was killed by the Taliban but he is not believed.

To date, none of those deported have been able to contact their remaining friends in the Serviten Monastery, nor has CARITAS- Pakistan been able to confirm their whereabouts.

What are the urgent demands:

The Refugee Protest Movement Vienna insists on no further deportations of refugees and no criminalization of politically active refugees who draw attention to human rights violations in their home countries.

Michael H. H. H.

_____, Wien, 08.08.2013

Dr. Michael Platzer

Chair, Vienna Alliance of NGOs on Crime Prevention and Criminal Justice

