

# The Bousmantsi triangle

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NOT A PRISON? On paper the centre in Bousmantsi does not qualify as a prison facility. In reality, however, it acts as one.

*Photo: Anelia Nikolova*

A place exists in Bulgaria where an individual can be legally held for up to 18 months against their will without knowing exactly why and without being able to do anything about it. To "qualify", they must either be a refugee, asylum seeker or a third country national living in Bulgaria without ID documents from their home country. This establishment is called the Centre for Temporary Accommodation of Foreigners in Sofia's Bousmantsi borough which operates under the Interior Ministry's Migration Directorate.

The Sofia Echo has covered the Bousmantsi centre ever since it opened in 2006, supposedly as a civilised solution to the challenges Bulgaria faces as a European Union "frontier" country, a year before Bulgaria's scheduled EU accession.

In 2006, illegal immigrants from Arab, Asian and African countries as well as asylum seekers and refugees were kept in miserable conditions in something resembling barracks in the industrial part of Sofia's Drouzha borough. Acknowledging the need for better treatment of illegal immigrants and refugees, the Bulgarian authorities advertised the new building in Bousmantsi as the answer to all their problems, at least in terms of living conditions.

It is supposed to accommodate foreign nationals who have been denied refugee status in Bulgaria

and who are waiting to be deported back to their home country, or another destination. Four years after it opened, the centre is now used by authorities as a place to send all foreigners with ID problems regardless of their legal status. These include not just refugees and asylum seekers, but also people who have been living in the country for years, who have married Bulgarian nationals, have children and who have developed their businesses in the country.

### **Line 1 - refugees and asylum seekers**

On paper, the authority dealing with granting or refusing political refugee status or any other kind of refugee status and asylum is the State Agency for Refugees (SAR) which follows the Refugees and Asylum Act. It is a bit of a legal jungle because, according to this law, every asylum seeker must apply for refugee status to the SAR. The agency starts an investigation and launches a procedure to establish if there are grounds for granting the foreigner such status. This lasts several months. During this period asylum seekers must live in SAR-administered buildings.

If, as in most cases, the foreigner's motion is denied, they have the right to appeal against the denial in court. After the court rules on the appeal, if it confirms the previous SAR denial, then the foreigner falls under the jurisdiction of the Migration Directorate and only then he or she must be sent to the Bousmantsi centre pending deportation. However, the SAR is currently repairing its own facilities, hence asylum seekers are being sent directly to Bousmantsi.

The wider problem is that, until recently, no legal definition set a time frame for how long such people could be held in Bousmantsi. In many cases the procedure of deportation or expulsion lasts many months – even years – due to administrative reasons and during this time the foreigner is kept in Bousmantsi without the right to leave. In effect, the facility is a prison.

This changed only in 2009 when an amendment to the Foreigners Act, under which the Migration Directorate works, ruled that people could be held in centres such as Bousmantsi for no more than 18 months. The change followed the case of a Chechen asylum seeker, Said Kadzoev, who had been held without trial at Bousmantsi since October 2006.

In November 2009, the European Court of Justice ruled that his incarceration violated the terms of the EC Return Directive which stipulates that no period of detention for illegal immigrants or asylum seekers – if this is the only "transgression" – should exceed 18 months. The ruling was described at the time as a great victory for human rights lawyers working in Bulgaria, most notably the Legal Clinic for Refugees and Immigrants (LCRI) and the Centre for Legal Aid – Voice in Bulgaria.

The two organisations are the two main lines of defence for people held in Bousmantsi, providing them with legal help. It was indeed a big step in changing the status quo but, according to lawyer Valeria Ilareva from the LCRI, more needs to be done to guarantee immigrants' rights. She says that nothing stops authorities from detaining people who have just been released from Bousmantsi again every time the 18-month period has expired. Indeed the directive only says that the period of detention should not exceed 18 months but it says nothing about repeated detentions of the very same people.