



ALTERNATIVES TO IMMIGRATION DETENTION IN THE EU MADE REAL NEWSLETTER 2: NOVEMBER 2014

NEW TRAINING TOOL AVAILABLE ON ALTERNATIVES TO DETENTION IN THE EU

Objective: Acquire knowledge and raise awareness about the legal obligations and the practical implementation of alternatives to detention (ATD) in the EU.

Target group: A broad and mixed audience with basic knowledge on asylum and migration issues.

Methodology: The training module was designed for all those interested in conducting awareness-raising/training sessions on alternatives to detention in the EU context. It is an interactive stand-alone tool which includes background material, a suggested structure and group exercises/questions for reflection. The report constitutes an essential support for the trainers. It takes the form of an interactive power point presentation. On the website, it is only available in a PDF format.

Content: The power point presentation is structured around 5 sessions:

1. Introduction to detention and alternatives to detention.
2. The legal principles regulating detention and alternatives to detention
3. Decision making on detention and alternatives to detention
4. Practical implementation of alternatives to detention
5. The national context.

The national workshops: In the framework of this project, the training module is to be used directly by our partners (members of the Odysseus network and NGO partners) in 7 EU Member States: Bulgaria, France, Greece, Hungary, Malta, the Netherlands and Slovakia. In these countries, the training module will first be adapted and translated and then used in two one-day workshops taking place between November 2014 and January 2015. These workshops will target, in priority, those that decide who should be placed in detention; government officials involved in transposing EU directives and designing ATD in their countries; members of civil society committed to the promotion of ATD in their advocacy activities and legal representatives of asylum seekers/migrants.

AVAILABLE AT: <http://www.ulb.ac.be/assoc/odysseus/training.html>

SAVE THE DATE – MADE REAL FINAL CONFERENCE: 6th February 2015

At the ULB (Université Libre de Bruxelles) in Brussels

WHERE ARE WE AT IN THE MADE REAL PROJECT?

- ⇒ The training module on ATD in the EU is finalised and is available on the website.
- ⇒ It was presented and revised during a partner meeting in Paris in September 2014. All partners involved in organising national workshops were present.
- ⇒ The research is being finalised by the coordination team and will be available at the final conference on the 6th February 2015.

NEWS FROM THE PARTNERS

HUNGARY: Asylum seeking families now detained

Through its lawyers' network the Hungarian Helsinki Committee (HHC) was informed that, from September 2014, the Office of Immigration and Nationality (OIN) started to detain families with children seeking asylum. The legal basis for detention of families (Section 31/A (7) of the Asylum Act) has been in force since July 2013, when asylum detention was introduced. However, until recently, asylum-seeking families with minor children were not detained.

Families can be detained for maximum 30 days. According to the information from colleagues working in the field, the asylum detention facilities in Békéscsaba and Debrecen are now only used for detaining families and Nyírbátor for detaining single men. It has to be noted that the situation changes very rapidly. As the HHC is not notified by the OIN in advance, it cannot foresee how long this situation will last.

In HHC's opinion, asylum detention facilities currently operating are not appropriate for the detention of families. The children do not attend school, there are no recreational or educational activities organized inside the centres, the food is not adequate for children and they have very few toys. The asylum detention facility in Debrecen is particularly unsuitable for detention of families, due to its small and bleak courtyard, which cannot be used for any meaningful free-time activity, as it is only a fenced-in small area without benches or trees. Besides, the HHC already received complaints from detainees that the police officers and armed security guards in uniform with truncheons and handcuffs present in asylum detention facilities are intimidating for children.

The Asylum Act stipulates that the detention of families can be ordered only as "a measure of last resort." The HHC believes that detention of families is not applied as a measure of last resort and it is clearly against the "best interests of the child" principle. When observing decisions on asylum detention the HHC found that there is no examination of the best interests of the child and alternatives to detention are not duly balanced. Therefore, these decisions lacked the necessary individualisation as foreseen by the recast Reception Conditions Directive (Article 8 (2)).

HUNGARIAN HELSINKI COMMITTEE - For more information please contact: Ms Gruša Matevžič at grusa.matevzic@helsinki.hu or Ms Júlia Iván at julia.ivan@helsinki.hu

FRANCE: A report calling for reforms in detention policy

A report on administrative detention was presented by two senators (E.Assassi and F.Buffet) in the context of the reform of French Immigration law currently discussed in Parliament. The report proposes a set of recommendations:

1. Avoid unnecessary or illegal detention of those for whom there is no reasonable prospect of removal. Contacts should be encouraged between administrative authorities, prisons and diplomatic representations.
2. Reaffirm that detention is a measure of last resort and develop alternatives to detention. ATD such as designated residence should be developed and legal assistance guaranteed and effective. Other schemes such as sponsorship and open centers for returnees could be created.
3. Improve living conditions and access to rights (legal assistance and healthcare) inside detention centers. Collaboration between stakeholders (the police, NGOs, lawyers, judges...) should be reinforced.

For more information: www.senat.fr/notice-rapport/2013/r13-773-notice.html

Mélissa Paintoux - FTDA

BEYOND DETENTION: UNHCR calls to end the detention of asylum seekers and refugees

In July this year, UNHCR initiated a new 5-year global strategy aimed at helping countries move away from the detention of asylum seekers, refugees and stateless people worldwide. The new strategy, *Beyond Detention* calls firstly for an end to the detention of children, secondly seeks to ensure that alternatives to detention are available in law and that they are implemented, and thirdly aims to ensure that conditions of detention when unavoidable fully meet international human rights standards. UNHCR has identified a number of countries to work with initially (including Hungary, Indonesia, Lithuania, Malaysia, Malta, Mexico, Thailand, UK and Zambia) but plans to expand this group of countries over the coming five years. *Beyond Detention* is an initiative through which UNHCR will work with governments and other stakeholders to address some of the main challenges and concerns around detention policies and practices. Implementation of the strategy is envisaged around the development of national action plans, which will include awareness-raising, capacity-building, strengthening partnerships, information sharing, data collection and reporting, research and monitoring.

For more information: <http://www.unhcr.org/53aa929f6.pdf>

GREECE: CONFERENCE ON DETENTION

The Greek Refugee Council (GCR) and the International Commission of Jurists (ICJ) organised a successful 2-day international conference on administrative detention on the 15-16 September 2014 in Athens. This conference was mainly geared towards lawyers and judges and covered a variety of topics: EU and national law on administrative detention, CPT issues, detention conditions and practices in Greece.

For more information: <http://www.gcr.gr>

RELEVANT PROJECTS, REPORTS AND EVENTS

BORDER CRIMINOLOGY: A multi stakeholder network on border control

Launched in April 2013, the 'Border Criminologies' network brings together academics, practitioners and those who have experienced border control from around the world. Showcasing original research from a range of perspectives, it aims to better understand the effect of border control and to explore alternatives. Through an emphasis on visual resources and first hand accounts it hopes to flesh out our understanding of the lived experience of law and policy and to develop the emerging field of inquiry into border control within criminology. It facilitates the exchange of ideas through:

- The Border Criminologies website
- The Border Criminologies blog
- Social media
- Discussion group:
- Seminars and conferences:
- An open access SSRN [Criminal Justice, Borders & Citizenship Research Paper Series](https://www.ssrn.com/abstract/3111111)

For more information: <http://bordercriminologies.law.ox.ac.uk>

A CoE REPORT ON THE HUMAN RIGHTS SITUATION IN THE NETHERLANDS

The Commissioner for Human Rights Nils Muižnieks and his delegation visited the Netherlands from 20 to 22 May 2014. Of particular concerns for the Commissioner is the detention of vulnerable asylum seekers and migrants both at the border and in return procedures. "The Commissioner is concerned at the extensive use of administrative detention by the Dutch authorities with regard to asylum seekers and immigrants and recalls that these persons should not be treated as criminals. He calls on the Dutch authorities to ensure that detention of asylum seekers and migrants is used as last resort, for the shortest possible period of time and only after first reviewing all other alternatives and finding that there is no effective alternative, in accordance with international standards."

FULL report available at:

<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2623087&SecMode=1&DocId=2197540&Usage=2>

Publication of a **practical manual on monitoring detention** by APT

(Association for the Prevention of Torture), UNHCR and IDC (International Detention Coalition) :

http://www.apr.ch/content/files_res/monitoring-immigration-detention_practical-manual.pdf

NEW REPORT ON DETENTION AND ALTERNATIVES TO DETENTION IN THE EU BY THE EMN

The European Migration Network (EMN) has just issued a report on "the use of detention and alternatives to detention in the context of immigration policies":

http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf

FINAL CONFERENCE OF THE CONTENTION PROJECT: Brussels – 12/12/14

The CONTENTION (CONTROL of DeTENTION) project, which examines judicial control over pre-removal detention of third-country nationals, will disseminate the results of its research at its upcoming final conference in Brussels. The project, co-funded by the ERF, has been implemented by the Migration Policy Centre - at the Robert Schuman Centre for Advanced Studies - and the Odysseus Network (ULB). The project team has finalised its case-law database with over 450 cases gathered from the 11 participating Member States, complemented by a compilation of all pertinent European and International case-law on Art.15 of the Return Directive on detention. This database is freely available on the project's website (contention.eu). The project team is currently finalising its Synthesis Report which will soon be made available.

The conference will also serve as the kick-off meeting for the REDIAL (REturn DIALogue) project. REDIAL is tasked with building upon CONTENTION but goes beyond the examination of pre-removal detention to explore the implementation of the Return Directive more generally. CONTENTION's scope will therefore be expanded upon to include all Member States which apply the Return Directive.

FOR THE MADE REAL PROJECT, THE ODYSSEUS ACADEMIC NETWORK IS WORKING IN PARTNERSHIP WITH DIAKONIE FLUCHTLINGSDIENST (AUSTRIA), COORDINATION ET INITIATIVES POUR ET AVEC LES RÉFUGIÉS ET ÉTRANGERS (BELGIUM), LEGAL CLINIC FOR REFUGEES AND IMMIGRANTS (BULGARIA), FRANCE TERRE D'ASILE (FRANCE), GREEK COUNCIL FOR REFUGEES (GREECE), HUNGARIAN HELSINKI COMMITTEE (HUNGARY), CENTRE FOR SUSTAINABLE SOCIETY (LITHUANIA), JESUIT REFUGEE SERVICE (MALTA), JUSTITIA ET PAX NEDERLAND (THE NETHERLANDS), SLOVAK HUMANITARIAN COUNCIL (SLOVAKIA), INSTITUTE FOR LEGAL RESEARCH, EDUCATION AND COUNSELLING (SLOVENIA), SWEDISH RED CROSS (SWEDEN), BAIL FOR IMMIGRATION DETAINEES (UK).

