

LET'S WORK TO END CHILD IMMIGRATION DETENTION

We, the Initiative for Child Rights in the Global Compacts, UN agencies and bodies, global, European and national organisations, welcome the European Commission's initiative to dedicate the 11th European Forum on the Rights of the Child to the topic of children deprived of their liberty - including children in immigration detention - and alternatives to detention.

We call upon EU governments to take immediate steps towards ending child immigration detention, ensuring alternatives to detention are accessible and available. All of Europe's children deserve care and protection, regardless of their migration status. Let's work together to end child detention.

"We were treated as criminals. Governments may use different words to make these policies sound acceptable, however it is the same as I was being deprived of my liberty without cause... As a child at the time, I saw many things that no child should see..."

Pinar Aksu, detained at 14 years old for over two months when her family sought asylum in the UK

Migrant children are Europe's children too

All children are children first and foremost - before they are Belgian, Italian, Turkish or Syrian, before they are European and before they are refugees or migrants. Children are children, and they deserve our care, our protection and family and community support. The rights set forth in the Convention on the Rights of the Child, which has been ratified by all EU member states, applies equally to all children without discrimination of any kind.

Children's best interests come first

Migrant and refugee children deserve the same robust care and protection the EU grants to European children. This care and protection falls under states' responsibility and is an urgent priority. This means that children's best interests must be given priority over Europe's migration agenda. This is not only the right thing to do - it is a legal imperative, as stated by the European Court of Human Rights and the Committee on the Rights of the Child.¹

Detention hurts children and weakens families

Detention has a profoundly negative impact on children's health and psychosocial development. Even short periods of detention in so-called "child-friendly" centres threaten children's right to health, education and family life. Children are treated like criminals, separated from their friends, schools, communities and even their parents or loved ones. This is not how we should treat children who escape war and violence or who migrate in search of family or a better future.²

¹ ECHR (2011), *Case of R. and H. v. the United Kingdom*, Application no. 35348/06, European Court of Human Rights, Strasbourg, <http://hudoc.echr.coe.int/eng?i=001-104972>.

² The Committee on the Rights of the Child has reaffirmed in its forthcoming Joint General Comment that "the detention of a child because of their parent's migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child". Furthermore, the Council of Europe has recently stated the need to "avoid resorting to the deprivation of liberty of children on the sole ground of their migration status". See following sources: [Committee on the Rights of the Child, "Report of the 2012 Day of General Discussion: The rights of all children in the context of international migration"](#), and Council of Europe (2017), *Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019)*, Council of Europe, Strasbourg.

“I want to stress that throughout the course of our journeys, the lives of unaccompanied children are in great danger. Smugglers, traffickers, border guards, police or even fellow travellers take advantage of us, and everywhere I’ve been I’ve witnessed children become the targets of violence, exploitation, rape and abuse... Children deserve appropriate care, protection and support - not closed camps, hot spots and other forms of immigration detention.”

Gholam Hassanpour, assaulted by members of the coast guard and detained on arrival in Greece at 16 years old

Europe can and must do better

On 19 September 2016, the Heads of State of all 193 UN member states adopted the New York Declaration for Refugees and Migrants.³ The declaration commits all UN member states to work towards ending child immigration detention by prioritising alternatives to detention (para. 33). Furthermore, at the EU level, the European Commission communication on the protection of children in migration⁴ has recognised the negative impact of detention on children and that everything possible must be done to ensure that a viable range of alternatives to the immigration detention of children is available and accessible.

Yet immigration detention of children and families is still widely used in the EU and has become a growing feature of European migration policies. This risks sending the message that Europe cares more about migration enforcement than protecting children.

There are alternatives

It doesn’t have to be this way. Alternatives to detention exist, but in many countries they are only used for a small fraction of children and families, and focus more on enforcement and controlling migrants rather than ensuring the care, protection and welfare of children.

However, a recent report by the European Union Agency for Fundamental Rights shows that some EU member states, human rights institutions, UN agencies and civil society practitioners are investing in human rights-based, child-friendly alternatives to detention.⁵ The results are positive. For example, placement options within the community, with proper case-management support that focuses on ensuring the best interests of the child, have been shown to be effective in meeting states’ legitimate objectives around compliance and case resolution. Additionally, Ireland has successfully prohibited the immigration detention of children, while other states such as Spain, Italy, Malta, the UK and Portugal have implemented successful alternatives to detention for migrant children and families. Across Europe, civil society organisations are also developing case management-based alternatives to detention and sharing information and best practices through the European Alternatives to Detention (ATD) Network.⁶

In its analysis of alternatives to detention from around the world, the International Detention Coalition (IDC) has concluded that engagement-based alternatives produce compliance rates of between 70% and 99%,⁷ and that alternatives to detention lead to a reduction of costs of around 80% compared to detention, as well as to lowering litigation-related costs.⁸

³ UN General Assembly, New York Declaration for Refugees and Migrants, UN document A/71/L.1 of 13 September 2016.

⁴ European Commission (12 April 2017), “Communication from the Commission to the European Parliament and the Council: The protection of children in migration”, {SWD(2017) 129 final}, European Commission, Brussels, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52017DC0211&from=DE>.

⁵ FRA (2015), “Alternatives to detention for asylum seekers and people in return procedures”, European Union Agency for Fundamental Rights, Vienna, <http://fra.europa.eu/en/publication/2015/alternatives-detention-asylum-seekers-and-people-return-procedures>.

⁶ IDC (12 April 2017), “A new network of NGOs piloting alternatives in Europe”, International Detention Coalition, <https://idcoalition.org/news/showing-detention-is-not-necessary/>.

⁷ Sampson, R. et al. (2015), *There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention (Revised)*, International Detention Coalition, Melbourne, pp. 9-11.

⁸ *Ibid.*, pp. 11-12.

Data collection and monitoring are critical

Many EU member states do not collect or make public the numbers, length and reasons for the detention of migrant children. Yet adequate data is crucial for well-informed decision making, documenting good practices (including alternatives to detention) and providing recommendations for law, policy and practice to prevent and significantly reduce the number of children deprived of liberty. For this reason, the UN General Assembly has invited the UN Secretary-General to commission an in-depth Global Study on Children Deprived of Liberty. It is vital that this study be undertaken.

RECOMMENDED URGENT ACTIONS

WE URGENTLY ASK ALL EU MEMBER STATES TO:

- 1 Listen to the voices of affected children.**
Provide space for the views and perspectives of refugee, migrant and stateless children to be brought into EU decision-making processes, including those involving immigration-related detention.
- 2 Translate the New York Declaration commitment – to work to end child immigration detention – into concrete goals, targets and indicators.**
The Global Compact on Safe, Orderly and Regular Migration and the Global Compact for Refugees – to be adopted in late 2018 – represents a critical opportunity for EU member states to demonstrate leadership on child protection. To do so, words must be translated into action.
- 3 Adopt laws and policies that prohibit the immigration detention of children whether unaccompanied or accompanied and prioritise the best interests of the child over state migration management, with a view to fully respecting obligations under the Convention on the Rights of the Child.**
- 4 Provide protection, care and support for children in an appropriate, safe and nurturing environment.**
Child detention is not a measure that “protects” children. There is no evidence that detention deters irregular migration. Given the harmful impact of detention on children, the only adequate way to protect them from going missing or being exploited by traffickers is to create appropriate community-based placement and integration options, and to ensure the immediate appointment of guardians for unaccompanied children.
- 5 Invest in, develop and implement human rights-based alternatives to detention that prioritise the best interests of the child, working together with civil society, UN partners and other stakeholders.**
Expand the range of alternatives available for children and families, focusing on the type of care arrangements and community-based programmes that are proven to work - those that build trust and support, and engage with children and their families, in particular through holistic case management.
- 6 Provide crucially needed financial support to develop a more robust evidence base and research efforts related to child detention.**
In particular, make specific contributions to allow for the completion of the UN Global Study on Children Deprived of Liberty.

This statement is endorsed by the following members of UN agencies and bodies, global, European and national organisations, and the Initiative for Child Rights in the Global Compacts:

1. Caritas Europa
2. Caritas Internationalis
3. Child Circle
4. Child Fund Alliance
5. Children of Prisoners Europe (COPE)
6. COFACE Families Europe
7. Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)
8. Cross-Regional Centre for Refugees and Migrants
9. Defence for Children International
10. Destination Unknown campaign
11. Don Bosco International
12. ECPAT United Kingdom
13. Eurochild
14. Eurodiaconia
15. European Council on Refugees and Exiles (ECRE)
16. European Federation of Public Service Unions
17. European Network of Migrant Women (ENOMW)
18. European Network on Statelessness (ENS)
19. Global Partnership to End Violence Against Children
20. 'Hope For Children' CRC Policy Center
21. Immigrant Council of Ireland Independent Law Centre
22. International Catholic Migration Commission (ICMC), Europe
23. International Child Development Initiatives (ICDI)
24. International Commission of Jurists (ICJ)
25. International Detention Coalition (IDC)
26. International Organization for Migration (IOM) - The UN Migration Agency
27. International Social Service (ISS)
28. International Youth Association for Training and Inter-Employment Programs (TIP)
29. Kopin, Malta
30. Maisha e.V.- African Women in Germany
31. Mental Health Europe
32. Migrant Forum in Asia (MFA)
33. Missing Children Europe
34. Mixed Migration Platform (MMP)
35. NGO Committee on Migration
36. Norwegian Refugee Council
37. Oak Foundation
38. Office of the United Nations High Commissioner for Human Rights (OHCHR)
39. Platform for International Cooperation on Undocumented Migrants (PICUM)
40. Public Services International (PSI)
41. Quaker Council for European Affairs (QCEA)
42. Save the Children
43. Separated Children in Europe Programme (SCEP)
44. Slovene Philanthropy
45. SOS Children's Villages International
46. Terre des Hommes (TDH)
47. The Salvation Army, EU Affairs Office
48. World Organization for Early Childhood Education (OMEP)
49. World Vision