



**Quaker
Council for
European
Affairs**

**International Conference
Immigration Detention of Children: Coming to a close?
25-26 September 2017**

**Organised in Prague, under the Chairship
of the Czech Republic of the Council of Europe.**

**SUMMARY REPORT
by Quaker Council of European Affairs (a member of the INGO
Conference of the Council of Europe)**

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The two-day conference provided an opportunity to gain in-depth knowledge about the immigration detention of children and the alternatives to it. It had three objectives:

1. Enhancing the overall understanding of relevant international human rights standards
2. Illustrating challenges encountered in upholding these standards
3. Identifying good practices and lessons learnt as well as exploring avenues for future actions.

The conference brought together a number of international stakeholders with extensive legal and practical expertise and provided a platform for constructive discussions and sharing of good practices.

Highlights of the Conference

Key note speech

The conference started with a key note speech by the Council of Europe's Commissioner for Human Rights, Nils Muiznieks, who deplored the fact that the immigration detention of children, despite a case law reducing the possibly of its use, is making a comeback in the context of the migration and refugee policy crisis in Europe. He called for an end to a practice which has negative impacts on children, even for a short period of time. To avoid such human rights violations, he said that the solution is to stop detaining them, implement alternatives and develop safe and legal pathways.

Plenary Session I – Immigration Detention of children: Experiences and findings from the field

During the first plenary session, there was a testimony from a former child detainee, Pinar Aksu. She recounted the two months detention she had endured with her family when seeking asylum in the UK. She called for alternatives which would enable children to live in the community while their migration status are being resolved. She particularly emphasised the following recommendations:

- Creation of local support communities
- Engaging with policy-makers and show them the human cost of detention
- Using evidence and legal instruments as tools to incite countries to change their policies

After that, we heard from Ivona Todorovska, a member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), who discussed the CPT's findings from the fields. She talked about the recurrent use of detention for migrant children in different kind of infrastructures in very poor conditions- as underlined by one of the latest CPT's report on Greece. She recalled CPT's position that every effort should be made to avoid resorting to the deprivation of liberty of an irregular migrant who is a child. She called on countries to amend their legal framework so as to ensure the implementation of adequate facilities with special care and trained staff.

Plenary Session II – Council of Europe and Other International Human Rights Standards on the Immigration Detention of Children

Throughout the second plenary, there was a former judge of European Court on Human Rights (Ann Power Forde), a member of the UN Committee on the Rights of the Child (Kristen Sandberg), a senior lawyer from the Inter-American Court of Human Rights (Romina Sijniensky) and the EU Commission coordinator on the rights of the Child (Margaret Tuite).

From the different interventions, we learned that the UN recommendations along with the ECHR and Inter-American Court case law indicated a global trend towards restricting the possibility for detention for children. They also underlined the importance of taking the best interests of the child into account and the positive obligation for countries to implement of alternatives in law and in practice.

Panel session A: Best interests of the child, identification procedures and guardianship

In this panel session, the Acting Head of Service for Criminal Policy, Ministry of Justice of Belgium (Christel de Craim) and a Senior Investigator, Greek Ombudsman Office (Ms Stamatina Poulou) discussed the challenges around the implementation of the best interests of the child. The vagueness of the concept has left too much room for misinterpretations and has created shortcomings which resulted in the use of detention for children in many cases. They underlined the need for better guidance regarding the concept and reiterate the need for its main-streaming through policies and laws as well as throughout the individual assessment procedures.

Thereafter, they discussed the need for the implementation of better guardianship systems where guardians would be independent and will receive trainings in identifying a child's needs. They also talked about the need for age assessment procedures to be coherent with the rights of the child.

Panel session B: Vulnerability and the Impact of Immigration Detention

In this panel, a psychologist (Maria Barna), explained the harm detention causes to children – even for very short periods of detention. Maria represented the Cordelia Foundation for the Rehabilitation of Torture Victims – the only organisation in Hungary providing support to asylum seekers in detention. Cordelia does not have access to the transit zone, where hundreds of children are thought to be living, including some children recently born there. A case of a 16 year old who spent 10 months in the transit zone was cited. Maria Barna was concerned about mental health issues developed as a result of detention with long lasting or permanent effects.

Thomas Straub, a Registry Lawyer at the European Court of Human Rights, reported that the ECtHR has recently accepted adjudication in relation to the Hungarian transit zones. He said that he would have difficult imagining a form of child immigration detention that would be compliant with the ECHR, and illustrated this with a number of recent cases.

The panel was chaired by Stephanos Stavros, Head of Office of the Special Representative of the Council of Europe Special Representative on Migration and Refugees. He highlighted the right to [education](#), and said that the Special Representative had not seen any examples of where education was being provided adequately or appropriately. He encouraged faith groups to play an active role, giving the example of [our recent report](#).

Plenary Session III - Actions of International Organisations: Bringing the Immigration Detention of Children to a Close?

For the last session of the first day of the Conference, Doris Fiala (General Rapporteur on ending immigration detention of children, PACE Committee) gave a powerful speech in which she shared her concerns on the issue. She called for more efforts and referred to her work, notably the Parliamentary campaign, on ending the practice.

From the European Union Agency for Fundamental Rights (FRA), Adriano Silvestri, described the main findings of the FRA report on the European policy and legal framework on the immigration detention of children.

The last speaker from UNHRC, Xavier Créach, oriented his speech on the broader context that needs to be taken into account when we talk about child immigration detention. He emphasised that the solution would be to create more legal and safe pathways so as to avoid having children put at risk.

Plenary Session IV - Alternatives to Detention: Effective and Beneficial Tools for States?

The second day of the conference started by the intervention of Frank Schürmann (the Rapporteur of the Drafting Group on Migration and Human Rights CDDH-MIG Council of Europe) who discussed the ECHR case law on alternatives and the need to demonstrate their effectiveness, notably by ensuring that they do not raise other human rights issues.

The second speaker from UNHCR, Maciej Fagasinski, explained the Beyond Detention strategy and its objectives, a strategy developed by the UNHCR in cooperation with a number of countries. He then enumerated different examples of good practices of proper care arrangement for children from different countries (Argentina, Uruguay, Costa Rica, Canada, Mexico, Israel, Indonesia and Yemen)

The last speaker from the Global Detention Project, Michael Flynn, made a thought provoking presentation by asking whether, as currently framed, alternatives really reduce the use of detention. According to him, the evidence to date suggest that this is not the case. He argued that if we want to end child immigration detention, we need to adopt policies and laws which would create some level of prohibition of the practice while developing alternatives.

Plenary Session V - Promising Practices of Alternatives to Detention

This session brought together panellists with practical insight into existing alternatives to immigration detention in different contexts. Robyn Sampson (International Detention Coalition) explained the model developed by her organisation, the Child-sensitive community and assessment placement model (CCAP): a five step process ensuring that countries move from a focus on restrictions, conditions and enforcement measures to engagement-based alternatives.

Antigoni Angelaki, from the Greek NGO METAdrasi, explained the work of her NGO operating mainly in the following two sectors, interpretation services and the protection of unaccompanied children. She called on civil society organisations to be more active and be in a more in a logic of supporting the work of governmental authorities instead of simply denouncing their actions or the lack thereof.

On the Member States side, there was Irene Ritman from the Dutch Migration Policy Department, who presented the work her government has been doing in trying to balance the imperatives of enforcing returns and the well-being of the child. She discussed a form of alternatives being developed in cooperation with the NGO Nidos: a more child friendly closed detention centre.

Panel session C: Effective Cooperation with Civil Society in Achieving Results

This panel took the form of a panel between Nuala Mole (The AIRE Centre), Adriana van Dooijeweert (President of the Netherlands Institute of Human Rights) and Benoit Van Keirsbilck (Director of Defence for Children International – Belgium).

Panellists contributed reflections on why civil society has come to assume such an important role, and why governments must give them the space to act. Adriana van Dooijeweert talked about the role of NGOs supporting victims of anti-migrant hate crime through the community and criminal justice systems. Benoit Van Keirsbilck explained recent legal cases in Belgium and the role of CSOs to inform the public about the harmful things that governments sometimes do on their behalf. Many agreed that there was an important balance to be found between criticism and cooperation.

“Children only have one childhood, and when it is lost, it is lost forever”
Nuala Mole

D. Implementation of Alternatives: Challenges and Solutions

On the last panel of the Conference, there was Eva Pflieger (Deputy Head of the Department for Legal Migration in Austria) who discussed the procedures in Austria and explained the challenges in balancing the need to avoid putting children in detention and enforcing return decisions. She said that it is difficult not to resort to a limited form of detention at some point of the process if we want to minimize the risks of absconding.

The last speaker, Katarzyna Słubik, talked about an ongoing pilot project undertaken in Poland so as to make the case for alternatives. Together with other NGOs, they have formed the European Alternatives to Detention network which are supported by the International Detention Coalition and PICUM.

Conclusion

The conference provided a lot of interesting information on the issue of child immigration detention. There is clearly a momentum to expand the use of alternatives to a practice that is proven to be detrimental to the well-being and development of a child. If we want to hope to see change we need to focus our work around those three main arguments:

1. A moral argument

Studies have proven that detention has averse impacts on a child's well-being and development, even for a short period of time. A child is a child regardless of where she or he comes from and, in that respect, they deserve to be treated like any other child, that is, with care and dignity.

2. A legal argument

Because of the detrimental effects of detention on children, there is a growing international trend towards ending the practice. Through legal standards, recommendations and case law, international human rights bodies have furthered restricted the possibility for the use of detention for children and have imposed a positive obligation for countries to implement alternatives in practice and in law.

3. A practical argument

There is an ongoing attempt to make the case for alternatives by demonstrating that there are not only better for the best interests of the child but that they would be more cost effective and would better achieve government objectives in terms of compliance with immigration outcomes, including returns.

The bottom line is that I personally think that we, as NGOs and civil society organisations, need to keep pressuring countries to adopt stronger policies and laws creating a higher level of prohibition/restrictions in the use of detention for children. And, for it to be really successful we need to practically demonstrate that there are alternatives which work better than detention in all aspects.