



## For a Europe of liberty

The European Parliament can play an important role in shaping an EU policy that utilises **alternatives to detention**.

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# Did you know that...



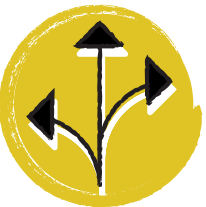
Most people held in detention because of immigration procedures have **never committed a crime**.



There is strong evidence that detention is **harmful** for people's **physical and mental health**.



Detention is often justified to **enforce returns** of irregularly staying migrants. However, there is **no evidence** that the enforcement of returns increases with the use of detention.



**Alternatives to detention** exist. They are effective, humane and affordable and should be used.

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**Detention** of migrants and asylum seekers is **not necessary**. The EU and its Member States should invest in manifestly more cost-efficient, more humane and more effective measures instead. We should leverage the experience gained from alternatives to detention and work toward an EU that leaves no one behind, true to its value of **freedom**.





## Right to liberty

a European fundamental right

The European Union (EU) recognises the right to liberty as a fundamental right. Individual liberty is such a precious right that its deprivation is generally only admissible in Europe in very specific cases, when individuals commit a particularly serious crime, and according to **strict legal provisions and guarantees**.



## Detention in asylum and migration procedures

a necessary evil?

Despite the high value given by the EU to the right to liberty, the detention of migrants within the framework of asylum and migration procedures is often presented by EU Member States' authorities as a necessary evil for such procedures to work effectively. The deprivation of liberty in these cases is not meant as a punishment for committing a crime. Most people held in administrative detention have never committed a crime. However, **detention centres are in fact the same as prisons**.



## Detention within the asylum procedure

only in limited number of situations

Asylum-seekers, that is, people asking for protection, can legally reside in the country that examines their claim until they get an answer. **Asylum-seekers in the EU cannot be detained only because they apply for asylum**, even if they have entered the EU without the necessary travel documents. However, EU legislation allows Member States to detain asylum-seekers in a number of situations, such as in order to determine their identity; for reasons of national security or public order; or when the asylum-seekers have received a return order and the responsible authority considers that they only applied for asylum in order to delay the ordered return.

Finally, asylum-seekers can also be detained in the framework of the so-called Dublin Regulation, that is, while a Member State's authority is determining which EU Member State is responsible for the examination of the asylum application. If the conclusion is that another Member State is responsible, the asylum seeker can be detained in order to enforce the transfer to that Member State.

Asylum seekers are more likely to be detained if the Member State's authorities consider that there is a risk that the person would go into hiding otherwise. However, one might reasonably argue that **the fear of being detained** is one of the reasons that a person would go into hiding in the first place.



## Detention to enforce returns

must be as short as possible

EU legislation also allows Member States to detain irregularly staying migrants, including asylum-seekers whose applications have been rejected, in order to **prepare and carry out their return**.

EU law explicitly says that detention should be as short as possible. Nevertheless, a **maximum term of 18 months** is set for detention with the purpose of returning an irregular migrant. That is one year and a half. This can hardly be considered a short period of imprisonment for a person who committed no crime.

Moreover, EU legislation stipulates that detention with the purpose of organising return should be terminated if there is **no real prospect** that the return of the concerned person will be carried out. In practice, however, it often happens that the same person is repeatedly detained, even though the likelihood of carrying out the return has not changed.



## Detention

not a necessary evil

There is **no evidence** that the use of detention increases the amount of

successfully enforced returns, nor that detention deters asylum-seekers from coming to Europe in the first place. There is also no evidence that the use of detention deters people who manage to arrive in Europe from moving across EU Member States instead of staying in the Member State to which they are first assigned.

We would not accept such a harmful practice as a necessary evil if it concerned innocent European citizens, and certainly would reject it, should the practice prove **ineffective in achieving its policy goals**. With this in mind, it is clear that we should not accept detention as a necessary evil in procedures concerning migrants, who have the **same fundamental human rights** as EU citizens.



## Detention of children and vulnerable groups

is detrimental to their health

EU legislation **does not prohibit** the **detention of children with their families**. As a result, children are detained nowadays in European countries such as Belgium, Bulgaria, Romania, Croatia... Other vulnerable groups, such as elderly people, (mentally) ill people and pregnant women can also be detained.

There is plenty of evidence that detention has far-reaching harmful consequences on the physical and mental health of the people involved, in particular when it comes to vulnerable people and children.



# The European Parliament can play a crucial role

in shaping an EU that truly respects the right of liberty for all. JRS Europe's electoral support goes to all political forces that commit to make detention in asylum and migration procedures a policy of the past, and in particular:

To **end** the detention of asylum seekers.

To **prohibit** the detention of migrant and asylum-seeking children.

To **invest** in the creation of alternatives to detention.

An alternative to detention is any **policy, practice or legislation** that allows asylum seekers and migrants to live in the community with **freedom of movement**, respecting their **right to liberty** and **security of person** while they work to resolve their migration status and/or work toward a sustainable return to their country of origin or another country. An effective alternative to detention will also ensure that during this process, asylum seekers and migrants can count on individual professional accompaniment.



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This project is co-funded by  
the European Union