

# DETENTION UNDER THE SPOTLIGHT

*JRS visits people in immigration detention across Europe. We witness detention's negative impact on detainees and the effects of flawed migration systems. By exposing some of it, we hope to gain support in our call to end immigration detention. Stories are real. Names and other details were adapted for people's protection.*

## DETENTION IN MALTA

Since 2018, asylum seekers arriving in Malta by sea have been subject to increasingly long periods of detention, using a complex web of immigration and public health rules.

All arrivals are detained under public health legislation, to prevent the spread of contagious diseases. According to law, movement can be restricted for **4 weeks**, which may be **extended to ten**, to conduct tests, if strictly necessary in the individual case. In practice, there is no individual assessment of the need to detain, and liberty is not simply restricted, it is taken away without any possibility of review.

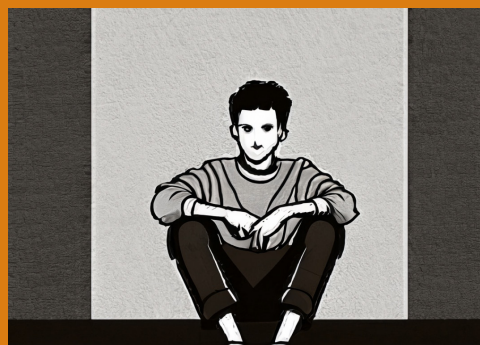
Once medical screening is conducted, a detention order may be issued in terms of the Reception Regulations. Asylum seekers from safe countries are always detained, usually on grounds related to verification of identity and risk of absconding. The maximum length of detention under the Regulations is **9 months**. Detention is subject to review, but in most cases the Immigration Appeals Board confirms the lawfulness of detention.

If an asylum application is rejected, the immigration police issue a removal order under the Immigration Act, which in most cases results in automatic detention until removal can be arranged, even though the law provides for the use of alternatives. The maximum length of detention for removal is **18 months**.

## AHMED'S STORY

Ahmed\*, an asylum seeker from Egypt, arrived in Malta in July 2021. He was detained upon arrival **to undergo medical screenings** for Covid-19 and tuberculosis. For a period of 70 days, he remained detained and was never given a detention order. **4 months later**, he was allowed to **apply for asylum** and was issued with a detention order, which stated that he was detained to determine his nationality/ identity and due to risk of absconding. Upon review of the detention order, the Immigration Appeals Board confirmed its lawfulness. In January, he was **verbally informed** that his application was rejected and a removal order was issued. His return could not be secured by the authorities, and he was released in May.

He spent **664 days** in detention.



\*AI generated image

## RECOMMENDATIONS

- JRS Malta recommends **deprivation of liberty** under the public health legislation must be based on an individual **assessment** and the **possibility of review should be provided**.
- All detained persons should be **informed of the reasons** why they are detained, how to challenge the decision and where they can get legal assistance. **This should be in a language and manner that can be understood**.
- **Alternatives to detention** should be utilised wherever possible, in accordance with the law, both for asylum seekers and for those awaiting return.