

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.

DISPROPORTIONALITY IN DETENTION APPLICATION

The Portuguese Immigration and Asylum laws state that the detention of foreign citizens should only be used when other less severe and non-deprivation of liberty measure cannot be applied.

In the context of removal proceedings, the judge may, if there is a risk of absconding, determine the following coercive measures: Identity and Residence Term; bail; periodic reporting; electronic surveillance; or placement in a detention center.

However, in practice, detention is applied excessively and disproportionately, based on a presumption of absconding, which is not assessed carefully most of the times.

It is often applied even when people are working, have resident family members, or face serious obstacles in accessing the regularization process in Portugal.

THE STORY OF JOHN

John, a Brazilian man, had built a life in Portugal over two decades, working in construction. He already held all necessary numbers and papers (tax, social security and health). All his family was living in Portugal, with the exception of his mother, who stayed in Brazil. In 2015, his work permit was rejected due to his boss not paying the required taxes.

Despite efforts for a new permit, bureaucratic hurdles persisted. Disputes with his boss culminated in his detention. His lawyer managed to delay deportation once, but another flight was (re) scheduled. After 60 days in detention, John reluctantly accepted deportation and had to leave the life he had built.



* AI Generated Image.

JRS RECOMMENDATIONS

JRS Portugal calls on the Ministry of Internal Affairs to **replicate the existing cooperation protocol of Santo António Housing Unit in other detention facilities**. This Protocol allows the permanent presence of specialized technical teams of experienced NGOs that play an important role on communicating important facts to the authorities and lawyers that may contribute to the review of this harmful measure.

JRS Portugal also recommends a legislative change, **restricting the concept of "risk of absconding"** (art. 142 Portuguese Immigration Law), in order to rule out the use of detention when foreign citizens show proof of integration or connection to the Portuguese community.

JRS also considers it crucial to **raise awareness among judges about the importance of applying alternative measures to detention that are already provided for in Portuguese Law**.

Finally, JRS urges the Government to put in place the implementation of **pilot projects on alternatives to detention**.