



Roundtable
For a Europe without detained migrant children
In the framework of the
Parliamentary Campaign to End Immigration Detention of Children

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Mr Chairperson,
Mr Lewis,
Members of Parliament,

Let me first extend my thanks to the Committee on Migration, Refugees and Displaced Persons, for inviting the Office of the High Commissioner for Human Rights to participate in this Roundtable. We very much welcome the Parliamentary Campaign to End Immigration Detention of Children, as well as the work the International Detention Coalition has been undertaking globally on this issue.

For some years now, the issue of immigration detention has been a subject of concern for the Office, as well as the UN human rights mechanisms. The Office has consistently held that, in general, there should be a presumption against immigration detention, established by law. The High Commissioner, the Child Rights Committee and Special Rapporteurs have all emphasised that children should not be held in immigration detention, as it is never in the best interest of a child and always constitutes a violation of the rights of the child. The Office's Recommended Principles and Guidelines on Human Rights at International Borders note that children should also never be detained based on their migration status or that of their parents.

In 2010, the High Commissioner presented a study to the Human Rights Council on the human rights of children in the context of migration. The study identified that children's health, educational and emotional needs are rarely met in detention and lengthy detention, in particular, can be severely detrimental to the well-being of children.

Last year, the Office published a study on "The Economic, Social and Cultural Rights of Migrants in an Irregular Situation", which details some of the legal and practical obstacles migrants face in enjoying these rights. For example, it refers to evidence that the physical health of migrants deteriorates in proportion to the length of detention: Thereby, one in four persons detained for one month, and 3 out of four individuals detained for four to five months, reported poor health. Long-term administrative detention is linked to mental health problems, partly owing to lack of access to mental health care and services.

In addition, children who are detained in immigration detention rarely have access to adequate education, play and leisure facilities, possibilities to interact with their

communities, or staff who are trained to respond to the specific needs of migrant children. The findings from the Australian Human Rights Commission's inquiry into children in immigration detention last year underscored the severe consequences of immigration detention on the development of the child. One in three children were assessed as having mental health disorders. As a comparison, it noted that these disorders were prevalent in only two per cent of children in the Australian population. The adverse effect of detention on children's enjoyment of their social and cultural rights is unequivocal.

Children are further especially vulnerable and at a high risk of being exposed to inhuman and degrading treatment or detention conditions, including deplorable living conditions, physical and sexual abuse and violence, overcrowding and inadequate nutrition. They can be detained along with unrelated adults, or arbitrarily separated from their parents or other family members. Children in immigration detention will often be traumatized and have difficulty understanding why they are being "punished" despite having committed no crime. Some may be at risk of re-traumatization, due to human rights violations and abuses they suffered along their journey.

In a recent report, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment found that children in detention are five times as likely to be subjected to a substantiated incident of sexual violence, are much more likely to witness or experience other forms of violence, including physical harm by facility staff members, and are also more likely to commit suicide or engage in other forms of self-harm when housed in adult facilities. The Special Rapporteur held that due to the different procedural purposes between immigration and criminal proceedings, the deprivation of liberty of children for immigration enforcement can never be construed as a measure that complies with the child's best interests and may constitute cruel, inhuman or degrading treatment.

There is an urgent need to question the assumptions under which migration policy is made and applied. By way of principle, immigration control should not be put before the rights of the child. The Office has expressed concern at the overall context which facilitates such treatment of children, including the disturbing trend to criminalise irregular migration. In addition, the association of irregular migration with criminality promotes the stigmatisation of migrants and can encourage a climate of xenophobia and hostility against them.

The Office of the High Commissioner for Human Rights would herewith like to use this opportunity to reiterate our support for the Global Campaign to end immigration detention.

Thank you for your attention.