THE BEST INTERESTS OF THE CHILD – MIGRANT MINORS IN DETENTION:

A COMMON EU APPROACH AND FACING LEGAL CHALLENGES

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ABSTRACT

This thesis focuses on the rights of the child and his/her best interests in regard to migration detention. The practices concerning this issue vary among the Member States of the European Union. The aim of the research is to identify whether a common European approach can be reached in regard to migrant minors in detention. After an attempt to define the term ‘child’ in law and practice and an analysis of the most important reasons why children get detained, the research aims to approach the problem by analysing it at three levels – the international level, the regional and the national one.

The research is based on an examination of the legal tools at all levels. Additionally, it focuses at international level on the discussion of contradictory interests of the child. At regional level it evaluates the developments of the European Court of Human Rights on the one hand and the European Union on the other hand. The part that deals with the issue at national level gives – additionally to the overview of legal tools – an insight into practice of four selected Member States of the European Union.

The findings on all levels are intended to draw conclusions whether a common European approach is possible, by which international standards such an approach is influenced and which consequences it has on national level.
ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>CAT</td>
<td>Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment</td>
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<td>CEAS</td>
<td>Common European Asylum System</td>
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<tr>
<td>CoE</td>
<td>Council of Europe</td>
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<td>CPT</td>
<td>Committee for the Prevention of Torture</td>
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<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>CRC Committee</td>
<td>Committee on the Rights of the Child</td>
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<tr>
<td>ECHR</td>
<td>European Convention for the Protection of Human Rights and Fundamental Freedoms</td>
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<td>ECtHR</td>
<td>European Court of Human Rights</td>
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<td>EU</td>
<td>European Union</td>
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<td>FRA</td>
<td>Fundamental Rights Agency</td>
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<td>GA</td>
<td>General Assembly</td>
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<td>GMG</td>
<td>Global Migration Group</td>
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<td>HRC</td>
<td>Human Rights Committee</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organisation</td>
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<tr>
<td>Res</td>
<td>Resolution</td>
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<td>RD</td>
<td>Reception Directive</td>
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<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
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UN  United Nations
UNHCR  United Nations High Commissioner for Refugees
(UN)WGAD  (United Nations) Working Group for Arbitrary Detention
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