Detention of irregular migrants prior to removal in the EU Mediterranean member states.

Adjusting the focus: Alternatives to detention.

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ABSTRACT

The continuously denounced inhumane conditions of detention centres for irregular migrants prior to removal in the EU Mediterranean member states should be a primary matter of concern both for the states involved and for the EU itself, and efforts should be made trying to find the most effective methods of addressing them. In an attempt to make a practical contribution on the issue, this thesis, after assessing the fundamental human rights standards applicable to the administrate detention of irregular migrants during procedures with a view to their removal, develops the hypothesis that the most effective way to improve conditions in detention centres while respecting the human rights of irregular migrants is to place the focus on a primary human rights standard: the use of detention as an exceptional measure of last resort and the comprehensive provision for alternatives to detention. Instances of automatic detention and of inhuman conditions of detention have been systematically observed in the practices of Spain, Malta, Italy, Greece and Cyprus, as demonstrated in this thesis. Moreover, alternatives to detention are neither used nor provided for by the domestic legislation of these states. In light of the hypothesis elaborated throughout this thesis, EU Mediterranean member states urgently need to place the focus on using alternatives to the detention of irregular migrants in the context of removal procedures. Furthermore, as the issue clearly remains an EU one, the EU itself must play a greater role in helping them to properly implement alternatives to detention, an idea further developed in the last part of this thesis matched with a proposed solution using the Return Directive as the fundamental tool.
ACRONYMS


CAT: United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

CIEs: Spanish detention centres for irregular migrants (Centros de Internamiento de Extranjeros).

CoE: Council of Europe.

CPT: European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.


ECPT: European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

ECtHR: European Court of Human Rights.

EU: European Union.

FRA: European Union Agency for Fundamental Rights.


ICCPR: International Covenant on Civil and Political Rights.

NGOs: Non-governmental organisations.

OPCAT: Optional Protocol of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

PACE: Parliamentary Assembly of the Council of Europe.


TEU: Treaty on European Union.

UN: United Nations.
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