

Resolution 2020 (2014)¹

Final version

The alternatives to immigration detention of children

Parliamentary Assembly

1. The Parliamentary Assembly is very concerned to note that the immigration detention of children is a growing phenomenon in Council of Europe member States. Despite improvements in legislation and practice in some European countries, tens of thousands of migrant children still end up in detention every year. The practice is contrary to the best interests of the child and a clear and unequivocal child rights violation.
2. Migrant children are frequently detained in member States simply because they do not have the right immigration documents. They have committed no crime. Yet they may be subjected to criminal penalties, prison-like conditions, be separated from the support and protection of their families, and be denied a number of fundamental rights, such as access to health care, education and play.
3. The Assembly recalls its position expressed in [Resolution 1810 \(2011\)](#) on unaccompanied children in Europe: issues of arrival, stay and return, which states that unaccompanied children should never be detained. The detention of children on the basis of their or their parents' immigration status is contrary to the best interests of the child and constitutes a child rights violation as defined in the United Nations Convention on the Rights of the Child.
4. The Assembly is particularly concerned that detention, even for very short periods of time and in relatively humane conditions, has severe negative short- and long-term effects on children's physical and mental health. Children in immigration detention are particularly vulnerable to the negative effects of detention and can be severely traumatised. Also, there is a high risk of detained children being subjected to different forms of violence.
5. In addition to deprivation of liberty, children in immigration detention are frequently deprived of other fundamental rights, such as the right to family unity, the right of access to education and the right to adequate health care.
6. The Assembly welcomes the promotion by some European countries of alternative solutions to the detention of migrant children. Such alternatives to detention, when implemented properly, are more effective and cheaper, better protect the rights and dignity of children and lead to better health and well-being for migrant children.
7. The Assembly notes with satisfaction that a number of member States, including Belgium, Denmark, France, Hungary, Ireland, Italy, the Netherlands and the United Kingdom, have taken steps towards ending the immigration detention of children. In these countries, migrant children are either not detained or there is a legal, political or practical provision for the release of migrant children from detention.
8. However, although the legislation of most member States provides for the introduction of alternatives to detention, the majority of countries are not applying them in practice.

1. *Assembly debate* on 3 October 2014 (36th Sitting) (see [Doc. 13597](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Ms Tinatin Bokuchava). *Text adopted by the Assembly* on 3 October 2014 (36th Sitting).

See also [Recommendation 2056 \(2014\)](#).



9. The Assembly considers that it is urgent to put an end to the detention of migrant children and that this requires concerted efforts from the relevant national authorities. The Assembly therefore calls on the member States to:

- 9.1. acknowledge that it is never in the best interests of a child to be detained on the basis of their or their parents' immigration status;
- 9.2. introduce legislation prohibiting the detention of children for immigration reasons, if it has not yet been done, and ensure its full implementation in practice;
- 9.3. refrain from placing unaccompanied or separated children in administrative detention;
- 9.4. ensure that children are treated as children first and foremost, and that persons who claim to be children are treated as such until proven otherwise;
- 9.5. develop child-friendly age-assessment procedures for migrant children;
- 9.6. continue efforts to make their legislation on foreign nationals conform with the best international standards, while taking into account the best interests of the child as enshrined in Article 3 of the United Nations Convention on the Rights of the Child and promoting various forms of internationally recognised alternatives to detention;
- 9.7. adopt alternatives to detention that meet the best interests of the child and allow children to remain with their family members and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved;
- 9.8. provide necessary resources in order to develop alternatives to the detention of migrant children;
- 9.9. seek to develop and implement non-custodial, community-based alternatives to detention programmes for children and their families, using the "Child-sensitive Community Assessment and Placement (CCAP) Model";
- 9.10. raise the awareness of all public officials, including the police, prosecutors and judges dealing with migration matters, of international human rights standards, by emphasising the rights of children and the alternatives to detention;
- 9.11. share best practices on the alternatives to the detention of migrant children in all member States;
- 9.12. encourage collaboration between governments of member States, the Council of Europe, United Nations agencies, intergovernmental organisations and civil society organisations to end child immigration detention and implement non-custodial, community-based alternatives to detention for children and their families.