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COMMITTEE ON MIGRATION, REFUGEES AND POPULATION

Unexpected large scale arrival of migrants and asylum seekers in Europe

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Draft guidelines for parliamentarians when monitoring holding centres for irregular migrants and asylum seekers

I. Introduction

1. These guidelines have been prepared to assist Parliamentarians when undertaking visits to reception and detention centres where irregular migrants or asylum seekers are held.

2. The trigger for preparing these guidelines has been the mass arrival of irregular migrants and asylum seekers on Europe's Southern shores. This has become a regular phenomena, creating enormous challenges for receiving countries in terms of accommodating these arrivals and also processing them. The arrival, reception and in some cases the return of these irregular migrants and asylum seekers raises important humanitarian and human rights issues and concerns which Parliamentarians need to be aware of and monitor. This is not just the case in the countries on Europe's Southern shores, but in any country receiving and detaining large numbers of irregular migrants and asylum seekers.

3. These guidelines outline how Parliamentarians might set about visiting reception and detention centres for migrants and asylum seekers. It highlights the type of issues that Parliamentarians could examine and the questions to ask in the context of any monitoring visit.

II. Preparations for a visit

4. Adequate preparation for a visit is essential.

5. The authorities should normally be informed in advance and where necessary authorisations need to be obtained. In some cases unannounced visits may be possible and appropriate.

6. Research should be carried out on the places to be visited. Material may be available from a diverse range of sources. A check-list of source could include the following:

- governmental departments
- local authorities
- NGOs (national and international¹)
- international organisations²
- the media.

7. If possible, briefings before the visit should be sought from the above sources.

8. During the visit efforts should be made to meet with governmental, non-governmental and international representatives in order to have a balanced view of the issues to be addressed.

9. Interpretation may be essential for communicating with the persons being held. This needs to be organised in advance.

III. Conduct of the visit

10. During the visit, arrange to meet with the authorities concerned both before and at the end of the visit in order to be briefed at the outset and to report back on your findings (which do not need to be detailed at this stage).

11. Be prepared to provide information to the press at the outset of the visit and the end of the visit and be ready to explain how you plan to proceed with your findings.

12. From the background research carried out before the visit you will already have an idea of the issues on which you wish to concentrate. Attached in Appendix I is a list of questions covering a spectrum of matter that could be of relevance and need following up upon.

IV. Carrying out interviews

13. In carrying out interviews with detainees, the following guidelines can be given:
- explain who you are and the reason for your visit and what you plan to do after your visit
 - be ready to interview detainees in private without the presence of the authorities, if possible with your own interpreter

V. After the visit

14. Decide how you wish to follow-up with your findings. It is essential that you have some form of written record of your visit and findings. You may choose a confidential dialogue with the authorities concerned, you may use Parliamentary mechanisms (Committees, Reporting, questions to the Government, etc.), you may wish to involve human rights actors (Ombudsperson, civil society representatives), or the media.

15. You may also choose to follow up with a second visit to monitor how matters have progressed since a first visit.

¹ See for example Red Cross / Red Crescent Movements, Medecins Sans Frontieres, Amnesty International, etc.

² UNHCR and IOM for example may have a presence in the field or be monitoring the situation closely. Visits may have been carried out by other bodies including the European Committee for the Prevention of Torture (CPT) or by the European Parliament. FRONTEX may be involved in assisting in the processing of the arrivals, etc.

APPENDIX I

Questionnaire for use by Parliamentarians when visiting holding centres for irregular migrants and asylum seekers³

1. Accommodation

- What number of persons can be accommodated and how many are in fact accommodated (single men, single women, unaccompanied minors, families)?
- Are single men, single women, families, couples, unaccompanied children, kept separately?
- How suitable is the accommodation (purpose built, temporary, police facility, prison, etc.)?
- Are detainees held in the same facilities as criminals?
- What is the state of repair of buildings?
- Is there suitable heating / cooling / ventilation / light?
- Is there suitable bed and bedding?
- What other furniture is available (lockers, tables and chairs)

2. Services

- Is suitable clothing and suitable toiletries available (including children's nappies, women's sanitary products and contraception which should be available free of charge)?
- Is there access to a shop to purchase basic goods?
- Is there access to a telephone and means to pay for a telephone if necessary?
- Is there access to mail facilities and e-mail facilities?

3. Health care

- Are all arrivals fully screened on arrival?
- Is there access to primary [and secondary] healthcare, dental care, maternity care, neonatal care and mental healthcare?
- Are there appropriately trained healthcare officials?
- Is interpretation available?
- Are examinations carried out in private and in a culturally sensitive fashion?
- Is there a right to be examined by a doctor of one's own choice?

4. Food and water

- Is food provided regularly? Is it healthy, varied, balanced and culturally appropriate?
- Is there a constant source of drinking water?

5. Sanitation

- Is there appropriate and sufficient sanitation and washing facilities?

³ In preparing this questionnaire a number of resources were used, including:

- Her Majesty's Inspectorate of Prison, IRC Expectations, Criteria for assessing the conditions for and treatment of immigration detainees
- Committee of Ministers Forced return: 20 guidelines and commentaries
- Parliamentary Assembly, Resolution 1509 (2006) on Human rights of irregular migrants
- The CPT standards. "Substantive" sections of the CPT's General Reports

6. Activities

- Are there sufficient activities to alleviate boredom and provide stimulation?
- What period of time are detainees allowed outside in fresh air?

7. Security issues

- Have all fire and other hazards been taken into account?
- Have issues such as stress / self-harm / group conflicts / individual conflicts / bullying/ sexual protection been taken into account?
- Is the level of security appropriate to the level of the risk?
- How are troublesome detainees handled / detained / monitored
- What level of force is used (techniques, tools) and are staff trained in applying these?

8. Legal rights

Information

- Are arrivals informed of their rights and given information on the centre and the reception process within first 24 hours of arrival (in writing/orally) in a language they understand?

Detention

- Do they receive written individual reasons for their detention in a language they understand?
- Is detention judicially authorised? Can it be challenged and is it subject to regular judicial scrutiny? Is the detention period kept to the minimum?
- Is bail possible?
- Is there a maximum period of detention? If so, how long does it last and what happens at the end of the period?

Legal process

- Is legal aid / legal representation available?
- Do they have a right to a hearing to explain the reasons for entering the country and lodging an asylum claim if necessary?
- Do they have a right to an effective remedy (with suspensive effect if they consider that their rights under the European Convention on Human Rights will be infringed by their return (in particular their right to freedom from torture and inhuman or degrading treatment and punishment))?
- Is the principle of family unity taken into account?
- Are they kept informed of the progress of their case?
- Is the expulsion decision given in writing

Contacts and access to information

- Do they have a right to contact a legal representative, speak in private and have present during any interview?
- Do they have access to an interpreter / interpretation hot-line
- Are consular visits available?
- Are other contacts / visits possible (relatives, friends, UNHCR, NGOs, etc.)
- Does the media have access to the reception / detention centres?
- Do they have access to documents to help them prepare their immigration or asylum cases?

Complaints procedure

- Is there a complaints procedure which is accessible and prompt for inmates?

9. Monitoring of the reception / detention centre

- Does UNHCR / IOM / have access?
- What humanitarian NGOs have access (Red Cross / Red Crescent/ Medecins Sans Frontieres, etc.)
- What human rights and other NGOs have access (Amnesty International, Human Rights Watch, International Helsinki Federation, etc.)?
- Is there any other form of independent monitoring (ombudsperson, visiting services, etc.)?

10. Children and other vulnerable groups

- Are the best interests of the child treated as paramount?
- Are children detained, if so are they accommodated with parents in separate facilities?
- Are unaccompanied minors detained? If they are detained are they kept separate from adults? Are they accommodated outside the detention / reception facilities?
- Are there appropriate recreation and educational facilities for children?
- Are the needs of other vulnerable groups taken into account (aged, handicapped, victims of torture, those with psychological problems, etc.)?

11. Departure and return

- Are the preparations for departure or return sufficient?
 - o Are there contacts with social welfare / legal advisers / others
- Is adequate notice given of departure and return?
- Is the return procedure (with all the legal safeguards) conducted on an individual basis?
- Is the opportunity for voluntary return offered?
- Are persons released with orders to leave the country but not expelled? If so how are they prepared for this departure?
- Are coercive measures used during the return process? If so what type of measures and what safeguards are applied?
- Is information about the returnee kept confidential from the authorities to whom the returnee is being sent back?
- Are returnees examined to make sure they are medically fit to be returned?
- Are they returned in dignity and security?
- Are restraining methods proportionate? When medication is used, is this authorised by an individual medical decision?
- Are staff handling and escorting returnees fully qualified to deal with the return process?

12. Origins of persons being held

- From which countries do arrivals come?
- Do readmission agreements exist with the countries of origin of arrivals?

13. Staff

- What is the ratio of staff to inmates? Is it sufficient?
- Are staff courteous, and do they have the necessary level of training and cultural sensitivity?