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**Immigration Detention in Europe:
Transparency, Effectiveness, Awareness**

Keynote Presentation at the conference “Immigration Detention in Europe: Establishing Common Concerns and Developing Minimum Standards,” hosted by the Parliamentary Assembly, the Council of Europe, and Her Majesty’s Inspectorate of Prisons (United Kingdom).

I would like to thank the organizers for inviting me to this event, in particular Her Majesty’s Inspectorate of Prisons. It is both a pleasure and a privilege to have the opportunity to address an audience of practitioners from across Europe who are involved in the day-to-day effort to ensure that people deprived of their liberty for immigration-related reasons are treated properly and according to basic rights.

In contrast to your work, mine often seems distant and at times too abstract to be relevant to the realities faced by detainees. I head the [Global Detention Project](#), which is a research initiative based at the Graduate Institute’s Programme for the Study of Global Migration in Geneva, Switzerland. Our core activities and goals include developing rigorous data to assess the growth and evolution of detention practices and policies across the globe; undertaking comparative analysis of detention regimes; and facilitating accountability and transparency in the treatment of detainees.

As part of my presentation, I’ve been asked to identify some key issues regarding detention in Europe to help provide a larger context for our discussions over the next two days on establishing minimum standards for the treatment of immigration detainees. There are three themes in particular that I would like to stress, which could be summarized as the following: TRANSPARENCY, EFFECTIVENESS, and AWARENESS.

One potentially useful way to gauge the state of detention practices in Europe is to compare it to other regions of the world. How does Europe stack up?

Let's take, for example, Europe's immediate neighbors. I've just returned from Amman, Jordan, where I participated in two intensive days of discussions with activists from across the MENA region organized by the International Detention Coalition (IDC) who detailed the challenges immigration detainees face there. Among their concerns, to name just a few, were: (1) The growing use of immigration detention despite the fact that most of the countries in North Africa and the Middle East do not have a clear legal framework for this practice. (2) The pressures their countries face from Europe to block passage of migrants across their territories, resulting in increasing numbers of people being detained in generally appalling conditions for often very long periods of time. (3) The near total disregard for international human rights norms exhibited by most of the countries in the region when it comes to the treatment of non-citizens in custody. And (4) the use of so-called secret detention camps in the region, from Saudi Arabia to Libya, where migrants effectively disappear.

Of course, here in Europe, many of these concerns seem remote. Most of the countries in this region have made enormous strides over the last two decades to put in place detention regimes that adhere to core human rights standards. It is rare to find a country that lacks basic legal provisions regulating this practice. Further, recent trends appear to show that detention numbers have largely plateaued or even started to decrease during the past few years in parts of Europe (including in Austria, Finland, Denmark, Hungary, Ireland, Latvia, Poland, Spain, and Sweden). And, importantly, there have been noteworthy efforts by some countries to adopt alternatives to detention, with one country in particular, Belgium, providing a model for the region on how to implement alternatives in such a way as to effectively eliminate the detention of families.

Nevertheless, there are some uncomfortable similarities between Europe and its neighbors. For example, there are places in Europe where the conditions of detention are shockingly awful, in some cases arguably worse than those you would find in say Lebanon, whose sole immigration detention center is a converted parking garage located under a major expressway crossing the center of Beirut. Greece is perhaps the most notable culprit in this regard.

What about the issue of "secret detention centers"? One would be hard pressed to argue that such exist in Europe. However, many countries make getting information about immigration detention practices enormously challenging. National authorities in some countries—particularly two federal states, Germany and Switzerland—have told Global Detention Project researchers that they have no knowledge of where migrants and asylum seekers are being detained, arguing that that is the responsibility of local authorities. However, in a small handful of cases, when GDP researchers contacted local authorities in these countries, we were told that information about where migrants were being detained was sensitive or could not be shared with us. When we pressed the Swiss Federal Office for Migration on this issue, arguing that their purported lack

of knowledge of where people are being detained in the country could present challenging questions if abuses occurred that were eventually litigated in a regional court like the European Court of Human Rights, the Swiss replied saying that “the existing statistics and data (as well as the existing exchange platforms) are adequate to get an overview over the policy of administrative detention and the treatment of foreigners under aliens legislation.”

This leads me to the first theme mentioned earlier: The need for more TRANSPARENCY in Europe about immigration detention. This need was underscored recently when the Global Detention Project, working in collaboration with the Madrid-based NGO Access Info, sent information requests to some 30 member states of the Council of Europe following, whenever possible, formal freedom of information procedures. We asked for very basic information, including a comprehensive list of facilities used for immigration detention purposes, and recent statistics on the numbers of people detained annually in each country. These requests were initially sent out in March of this year, and then several reminders were sent out during the course of the year to countries that were not responsive. To date, only about half have provided complete answers. Many countries have simply ignored our requests. Others have said that they do not keep detailed statistics. Malta informed us that you have to be an EU citizen and resident in Malta for the last 5 years to make such a request. Still another country, Bulgaria, claimed that it was unnecessary to respond to our request because it regularly sends the information to Eurostat. When we contacted Eurostat, however, we were told that this could not be the case because it does not keep such statistics.

This state of affairs urgently needs to be addressed. Any initiative aimed at improving the treatment of migrant detainees requires having easy public access to detailed knowledge about this issue. To be sure, a few countries in the region provide excellent statistical information about immigration detention. Nevertheless, it is critically important that a regional mechanism be developed to facilitate public access to accurate and up-to-date statistics on immigration detention for every country in the region.

To address the second main theme of my presentation, EFFECTIVENESS, it is useful to begin by comparing Europe to its peers in North America. One of the more notable differences is the widespread use of criminal incarceration facilities in both Canada and the United States for immigration detention. In contrast, during the course of the last 20 years, most European countries have phased out the use of prison facilities, in part no doubt because of advocacy on this issue by the region’s various rights watchdogs, including in particular the European Committee for the Prevention of Torture. Reading the CPT’s country reports from the last two decades, one finds an impressive consistency and insistence on this issue in its recommendations to member states.

However, running parallel to this maturation of detention regimes in the region has been growth in the use of immigration detention. More people are being detained today than 20 years ago. Regardless of whether there is a causal relationship between these two phenomena, the apparent correlation between the emergence of formal detention institutions and growing numbers of immigration detainees points to an important question: has detention been effective in achieving any of the policy objectives identified by states regarding asylum seekers and undocumented migrants during this period? While it is critically important to make every effort to improve how people are treated in detention, it is at least equally important that we take a hard look at whether better detention centers and more detainees have helped Europe respond effectively to the issue of migration.

The final issue I'd like to highlight here today is AWARENESS. As the tragic deaths of more than 300 people off the Italian island of Lampedusa last month tragically demonstrated, Europe's actions—or, inaction, as the case may be—with respect to migrants and asylum seekers can have a dramatic impact on their lives even before they reach European shores. This is equally true with respect to the region's detention policies, in two key respects: first, as the concerns expressed by the participants at the meeting in Amman this week highlighted, Europe—or rather, the European Union—pressures and finances its neighbors to block migrants, which helps encourage more detention, more corruption, and more suffering.

Secondly, and perhaps of more relevance to this conference—Europe can also influence its neighbors through example. There can be no doubt that the way we treat non-citizens on our shores is scrutinized and internalized by our neighbors. If Europe takes a hard line, so will our neighbors. On the other hand, if Europe emphasizes the humanity of migrants and asylum seekers and seeks to treat those who find themselves in detention with dignity, putting in place the highest minimum standards for their treatment, this too will be noticed and, hopefully, one day emulated by our counterparts on the other side of the border. Awareness of this impact could serve as one of our motivators as we seek to determine how best to treat foreigners in Europe who have been deprived of their liberty solely because of their immigration status.

Thank you very much for your time. I look forward to our discussions over the next two days.