

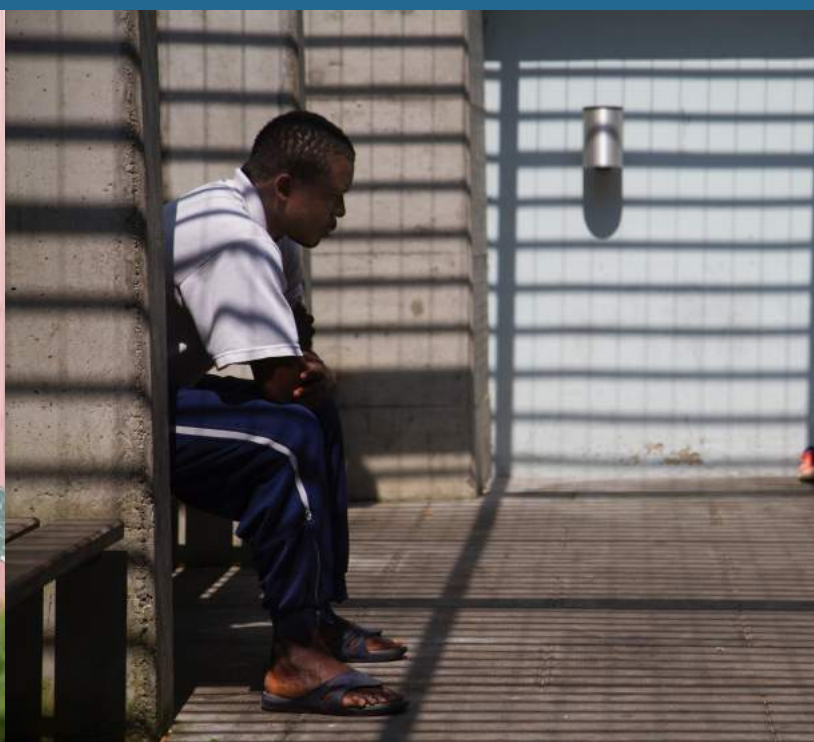


# GLOBALDETENTIONPROJECT

## **HARM REDUCTION IN IMMIGRATION DETENTION:** A COMPARATIVE STUDY OF DETENTION CENTRES IN FRANCE, GERMANY, NORWAY, SWEDEN, AND SWITZERLAND

*October 2018*

*Commissioned by the Norwegian Red Cross*



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# THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To **promote the human rights** of detained migrants, refugees, and asylum seekers;
- To **ensure transparency** in the treatment of immigration detainees;
- To **reinforce advocacy** aimed at reforming detention systems;
- To **nurture policy-relevant scholarship** on the causes and consequences of migration control policies.

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Front cover images: (Top left) Trandum Detention Centre, Norway (© Global Detention Project, 2018); (Top right) Ingelheim Detention Centre, Germany (© F.A.Z.-Foto/Frank Röth); (Bottom left) Mårsta Detention Centre, Sweden (© Swedish Migration Board); (Bottom right) Frambois Detention Centre, Switzerland (© Vol Special)

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## 1. INTRODUCTION

In late 2017, the Norwegian Red Cross commissioned the Global Detention Project (GDP) to undertake a study comparing conditions and procedures at Norway's Trandum Immigration Detention Centre to those at similar facilities in other European countries. The Red Cross commissioned the study because of growing concerns that needed reforms at Trandum have not been initiated despite repeated recommendations from relevant experts, in particular Norway's Parliamentary Ombudsman. The Red Cross hopes that a comparative study of this kind can lead to positive reforms in Norway and elsewhere.

The Parliamentary Ombudsman, which is mandated to visit all places of detention in Norway in its capacity as the country's National Preventive Mechanism (NPM),<sup>1</sup> has repeatedly identified a number of worrying practices at Trandum. A common theme arising from its visits to the facility has been that while detainees generally think they are "treated with respect and receive the necessary assistance in their day-to-day pursuits," as a 2015 Ombudsman report noted, detainees nevertheless consider themselves to be "treated as criminals" even when they have not committed any crimes. The Ombudsman concluded at the time that the facility was, *inter alia*, placing an "excessive attention to control and security at the expense of the individual detainee's integrity," employing the "same security procedures as the correctional services," and unsuitable for children.<sup>2</sup>

In March 2017, the Ombudsman made an unannounced follow up visit to Trandum, a goal of which was to examine the use of the high-security section where detainees can be placed in isolation and under restraint.<sup>3</sup> In its report on the visit, the Ombudsman noted progress in some areas, but continuing problems in others. For instance, it was clear that the centre had "implemented measures to prevent the use of force and placements in the security section, such as training and practice in using preventive alternatives." However, as during the Ombudsman's 2015 visit, while

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<sup>1</sup> "National Preventive Mechanisms" are designated bodies established by countries that have ratified the Optional Protocol to the UN Convention against Torture that are mandated to visit all places of deprivation of liberty to prevent torture and other cruel, inhuman or degrading treatment or punishment. For more information, see "Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>

<sup>2</sup> Parliamentary Ombudsman, "Visit Report: The Police Immigration Detention Centre at Trandum, 19-21 May 2015," <https://www.sivilombudsmannen.no/wp-content/uploads/2017/05/2015-Rapport-Police-immigration-detention-centre-Visit-report-EN.pdf>

<sup>3</sup> Parliamentary Ombudsman, "Visit Report: The Police Detention Centre at Trandum, the Security Section, 28-29 March 2017," <https://www.sivilombudsmannen.no/wp-content/uploads/2017/09/Visit-report-2017-Trandum.pdf>





*The 2017 Ombudsman Report examining Trandum's security section.*

detainees said they were treated “professionally,” the “authoritarian attitudes among some of the staff” were having negative repercussions on detainee morale that led “to the escalation of certain situations.” Among the key concerns were: continued high-frequency use of the security section including in some cases for children; questionable use of restraints and pepper spray; a high number of placements in the security section for mental health reasons; and involvement of medical personnel in decisions to place people in isolation cells, in contravention of medical ethics.

An *unstated* message that emerges from the Ombudsmen’s 2017 report is that while the Immigration Police and the Ministry of Justice and Public Security, which operate the facility, implemented important changes after the 2015 visit, they nevertheless showed an obstinate refusal to make some

reforms that could soften the traumatic impact of detention, especially on undocumented immigrants and asylum seekers who are not being charged with crimes and who have likely suffered extreme hardship and abuses.

After the release of the Ombudsman’s 2017 report, the Norwegian Red Cross, which has an active volunteer visitation program at Trandum, decided to commission this study in an effort to identify practices elsewhere in Europe that could serve as a basis for renewing calls for reforms at the detention centre. The failure to implement some of the recommendations that the Ombudsman has repeatedly made, together with on-going tensions and incidents at Trandum, spurred the Red Cross to seek out an independent organisation with experience assessing detention regimes across different national contexts. Ultimately, the Red Cross decided to invite the Global Detention Project to submit a research proposal. A non-profit research centre based in Geneva, Switzerland, the GDP has specialised in comparative research on immigration detention systems for more than 10 years. Its research encompasses more than 100 countries and 2,000 sites of immigration detention.<sup>4</sup>

The GDP’s analysis of detention systems, which is informed by international human rights norms and standards, emphasises how contrasting political and legal contexts—state-level indicators—lead to sharply different outcomes at the level of individual detention facility operations, ultimately impacting the safety and well-being of detainees. It is arguably an inexorable quality of immigration detention that it causes the individual to experience pain or injury, such as causing high levels of

<sup>4</sup> The GDP’s research is available on its website at <https://www.globaldetentionproject.org>

anxiety and stress (in some cases leading to long-term mental health problems), separating family members, reinforcing social stereotypes, or impairing asylum procedures, to name just a few of the potential harms.<sup>5</sup> The specific conditions of confinement, which can be heavily impacted by the bureaucratic context of a facility, can be a particularly acute source of pain and discomfort—including everything from a facility's internal operating rules to its quality of food and level of cleanliness. Detention decisions themselves may also violate a person's fundamental rights, like the right to liberty and freedom from arbitrary detention, which are protected under Article 5 of the European Convention on Human Rights (ECHR) and Article 9 of the International Covenant on Civil and Political Rights (ICCPR).

To assess the multi-faceted challenges posed by different detention systems and identify areas for reform, the GDP proposed a study involving two overlapping levels of analysis: (1) at the country-wide level, a comparative assessment of national laws and regulations relevant to detention conditions and regimes—as well as differences in relevant political, institutional, and legal contexts—in a selection of peer countries in Europe, including Norway; (2) at the level of the individual detention centre, an assessment of comparable detention centres in each country taking into account material conditions of detention and the internal regime.

**It seems to be an inexorable quality of immigration detention that it causes the individual to experience pain or injury. From a human rights perspective, is it possible to talk about “best practices”?**

With the evidence produced from these complementary assessments, the study addresses the following key questions: In what ways has the Norwegian system met or exceeded internationally recognized standards? In what ways has it fallen short, especially when compared to the detention practices of peer countries? And what are key reform priorities going forward that may help reduce the harmful impact of detention?

This analysis is grounded in two over-arching sets of international human rights norms that are relevant to immigration detention. On the one hand, immigration detention must comply with requirements stemming from the right to liberty, laid

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<sup>5</sup> S. Brooker, S. Albert, P. Young, and Z. Steel, "Mental Health Care in an Invalidating Environment: The Case of Immigration Detention in Australia" in M. J. Flynn and M. B. Flynn (eds.) *Challenging Immigration Detention: Academics, Activists and Policy-makers*, Elgar, 2017, 195-221; F. Webber, *Border Wars and Asylum Crimes*, Statewatch, 2006, <http://www.asylabwehramt.at/Material/border-wars-and-asylum-crimes.pdf>; J. Parkin, *The Criminalisation of Migration in Europe: A State-of-the-Art of the Academic Literature and Research*, Centre for European Policy Studies, 2013, <https://www.ceps.eu/system/files/Criminalisation%20of%20Migration%20in%20Europe%20J%20Parkin%20FIDUCIA%20final.pdf>; S. Rizzo, "The Facts about Trump's Policy of Separating Families at the Border," *Washington Post*, 19 June 2018, <https://www.washingtonpost.com/news/fact-checker/wp/2018/06/19/the-facts-about-trumps-policy-of-separating-families-at-the-border/>

down in Article 5 of the ECHR (ratified by Norway in 1952) and Article 9 of the ICCPR (ratified by Norway in 1972), such as the principle of lawfulness, necessity, and proportionality, the right to be notified about detention, and the right to a judicial review of detention.

Immigration detention is also subject to a set of norms and standards regulating conditions and treatment in detention. It is this second set of standards that this report focuses on. Thus, the report emphasises the standards that should be observed by states when they place a person in immigration detention, while keeping in mind concerns that efforts to “improve” detention may ultimately lead to more detention and more entrenched detention bureaucracies.<sup>6</sup>

**In what ways has the Norwegian system met or exceeded internationally recognised standards? In what ways has it fallen short, especially when compared to detention practices of peer countries? And what are the key reform priorities going forward that may help reduce the harmful impact of detention?**

Under Article 10(1) of the ICCPR, states should treat all people deprived of their liberty with humanity and with respect for the inherent dignity of the human person. Unlike the ICCPR, the ECHR does not contain any provision explicitly addressing the treatment of detainees. Hence, the European Court of Human Rights (ECtHR) assesses the conditions and treatment in detention within the ambit of the prohibition of ill-treatment under Article 3 of the ECHR. For states to comply with these provisions, they should afford immigration detainees, like all other detainees, basic standards—including adequate space, dignified material conditions, access to adequate sanitary facilities, food, outdoors time, and contact with the outside world.

Additionally, immigration-related detention regimes should reflect the administrative character of this measure. The ECtHR has highlighted that there must be some relationship between the reasons for deprivation of liberty and the place and conditions of detention.<sup>7</sup> The administrative character of immigration detention has a bearing on the place of detention, separation of different categories of detainees, and regime of detention. On this basis, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) holds that immigration detainees should be guaranteed a regime of detention that is appropriate to their legal situation. Thus, they should be allowed to move freely within the facility and benefit from a varied regime of activities. The layout of the

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<sup>6</sup> See, for example, M.J. Flynn, “Be Careful What You Wish For,” *Forced Migration Review*, September 2013, <http://www.fmreview.org/detention/flynn>

<sup>7</sup> European Court of Human Rights (ECtHR), *Ashingdane v. the United Kingdom*, 8225/78, (28 May 1985), para. 44.



premises should also avoid any impression of a carceral environment.<sup>8</sup> The UN Working Group on Arbitrary Detention frames these requirements as the non-punitive character of immigration detention and urges states to ensure that immigration detention is not imposed in a penal manner.<sup>9</sup>

It is against these standards that the following report has endeavoured to identify practices that may be used to develop harm reducing strategies in detention.<sup>10</sup>

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<sup>8</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Foreign Nationals Detained Under Aliens Legislation," 7th General Report of the CPT, CPT/Inf (97)10, 1997, <https://rm.coe.int/16806ce90e>, para. 29; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Safeguards for Irregular Migrants Deprived of their Liberty," 19th General Report of the CPT, CPT/Inf (2009)27, 2009, <https://rm.coe.int/16806cce8e>, para. 79. Also, the Parliamentary Assembly of the Council of Europe stresses that the material conditions of detention and detention regimes should be appropriate to the legal situation of immigration detainees, see: PACE, "Resolution 1707 (2010): Detention of Asylum Seekers and Irregular Migrants in Europe," para. 9(2)(5) and 9(2)(6).

<sup>9</sup> Working Group on Arbitrary Detention, "Revised Deliberation No.5 on Deprivation of Liberty of Migrants," 7 February 2018, <http://www.refworld.org/docid/5a903b514.html>

<sup>10</sup> The concept of "harm reduction" is commonly employed in the context of policies and practices aimed at reducing the harmful consequences of drug usage. However, it has increasingly been used in the context of the human rights of migrants. For instance, in a 2014 letter to the European Commission, the UN Special Rapporteur on the Human Rights of Migrants wrote: "Europe needs less repression of survival migration and more harm-reduction policies taking as a central concern the well-being of migrants." See: UN Special Rapporteur on the Human Rights of Migrations, "Open Letter on EU Border Management: Europe Can Stop Human Deaths and Suffering, and Regain Control of its Borders," 29 September 2014, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15119&LangID=E>



## 2. METHODOLOGY

An early strategic decision that informed the methodology for this study was that because the intent is to identify practices that can lead to reforms at Trandum, researchers had to select a group of peer countries in Europe that could be compared to Norway. Although possibly facing contrasting migration phenomena, all the countries had to have well developed independent oversight procedures in place—both official and non-governmental—as well as strong legal and institutional safeguards. The availability of up-to-date information about operations at facilities was also a critical factor. Ultimately, researchers selected **France, Germany, Sweden, and Switzerland**.

Researchers then chose one centre per country to assess. The criteria for choosing a detention centre included: the availability of up-to-date information about operations at facilities and/or likelihood that researchers would be granted access by officials; the need to cover a broad spectrum of detention situations, for instance including in the study some facilities where children and families are detained; having a reputation for adequate or comparatively superior operations; and having some key shared characteristics, like being a dedicated immigration detention facility and not a prison. Critically, since the study aimed at identifying “best practices” regarding conditions and detention regime—rather than naming and shaming—the selected detention centres are generally considered as providing comparably humane conditions and regimes. It is important to note that the selected centres are not necessarily representative of the overall immigration detention systems in their respective countries.

The following facilities were chosen:

- **Toulouse-Cornebarrieu near Toulouse, France:** Like all *centres de rétention administrative* (CRAs) in France, the Toulouse facility includes the offices of a non-governmental organisation that has a daily presence inside the facility. The facility has an office for the NGO *La Cimade*, whom the GDP has consulted on various occasions, including their annual reports concerning operations at CRAs. In addition, the Toulouse facility has dedicated spaces for detaining families with children.
- **Ingelheim near Frankfurt, Germany:** Until recently, the Ingelheim facility was one of Germany’s few dedicated immigration detention centres.

Previously, most immigration detainees were confined in prisons operated by the different federal states (*Länder*), similar to the system in Switzerland—although in contrast to the rest of Europe. This makes Ingelheim an interesting case to compare against Norway’s Trandum, since Trandum is also a dedicated facility but one with a very different institutional—systemic—framework. Speaking to GDP researchers, numerous actors in Germany, including local NGOs and Germany’s National Preventive Mechanism (NPM), also recommended the selection of Ingelheim for this study. The GDP was granted access to this facility.

- **Märsta near Stockholm, Sweden:** The Märsta facility, which like Toulouse detains families with children, has a long-standing reputation for having a comparably high standard of treatment of detainees and an internal regime that emphasises the needs of detainees over security. Because of its reputation, the Norwegian NPM visited the facility with colleagues from Sweden’s NPM in an effort to develop ideas that could be applied at Trandum. In its 2015 report on Trandum, the Ombudsman highlighted several practices at Märsta that should be considered at Trandum, including cell phone use, access to the internet, and stricter limits on body searches. Like Trandum, Märsta benefits from a Red Cross visitation programme.
- **Frambois near Geneva, Switzerland:** Researchers at the GDP have experience visiting limited areas of the Frambois facility, which has received some positive reports even if there have been criticisms about its operations and concerns about the treatment of detainees. Although there are no recent independent and publically available comprehensive assessments of Frambois, researchers assessed that there was a high degree of likelihood that they would be granted access for the purposes of this study (however, as we detail below, our request was rejected). Frambois is also one of only a very small number of facilities in Switzerland that operates as a dedicated long-term immigration detention centre. Because Switzerland is a confederation, immigration policy is implemented at the state (cantonal) level, and most cantons employ prisons for immigration detention purposes.

To develop comparable country and detention facility data, researchers established a model “fact sheet” for each facility (see Annexes) as well as structured narrative reports (see Chapter 4: Reports) for each country. The detention centre fact sheets were prepared based on lists of safeguards that the CPT looks at during its country visits.<sup>11</sup> Given the broad geographical scope of the CPT’s monitoring and its focus on immigration detention, among other forms of deprivation of liberty, we considered these indicators the most representative. Besides material conditions, relevant for

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<sup>11</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Safeguards for Irregular Migrants Deprived of their Liberty,” 19th General Report of the CPT, CPT/Inf (2009)27, 2009, <https://rm.coe.int/16806cce8e>; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Foreign Nationals Detained Under Aliens Legislation,” 7th General Report of the CPT, CPT/Inf (97)10, 1997, <https://rm.coe.int/16806ce90e>

any deprivation of liberty, a particular emphasis was placed on treatment and regime in detention, which should reflect the non-punitive character of immigration detention, as discussed above.

The country chapters include a range of legal and institutional indicators that are standard elements in GDP country profiles. They were developed based on an assessment of relevant domestic laws and policies, as well as desk research reviewing reports made by regional and international human rights bodies, independent observers, and national human rights institutions like the NPMs. These sources were supplemented with information gleaned from interviews with experts in each country and, where possible, from site visits.

To complete the facility fact sheets, researchers first assessed which centres did not have enough current information in the public domain to develop an adequate characterisation for the purpose of this study. This led us to conclude that it would be necessary to visit Frambois and Ingelheim: **Frambois** because it had been several years since the European Committee for the Prevention of Torture had visited and a recent report by Switzerland's NPM provided few details about operations and, due to its mandate, cannot speak publicly about its visits; **Ingelheim** because there had not been any recent independent reports addressing in detail the conditions of detention at the facility, and the German NPM had last visited the facility in 2013. In addition, it was necessary to visit **Trandum** because it is the main subject of this report. The other two facilities, **Märsta** and **Toulouse**, were determined to have adequate expert sources available to document the key indicators used in the fact sheets.

Ingelheim and Trandum granted requests for visits, which included requests to see all areas of the centres including security cells and other areas where detainees can be vulnerable. Researchers found authorities at both these facilities to be accommodating and gracious, and that they made an effort to ensure that access to most—if not all—information was facilitated, despite the disruptions such visits inevitably had on operations and the likelihood that researchers would identify areas of concern.

In contrast, the head of the body that oversees the Frambois detention centre rejected visit requests, arguing that there was enough information already available and also citing issues related to detainee tranquillity and security, among others.<sup>12</sup> After the initial rejection, the GDP sent a follow up request providing additional details about the nature of the study and the lack of recent comprehensive resources about Frambois' operations to complete our assessment, as well as explaining that the primary purpose was to identify recommendations that could be applied in Norway. This request, which included a request to address questions to officials if we were not allowed to visit, was also rejected.<sup>13</sup> Researchers weighed the possibility of dropping Frambois from the study, but ultimately the decision was made to retain it. This decision was made in part because of the conviction that not including Frambois

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<sup>12</sup> Philippe Bertschy (*Office cantonal de la détention*), Email to the Global Detention Project, 21 March 2018.

<sup>13</sup> Philippe Bertschy (*Office cantonal de la détention*), Email to the Global Detention Project, 18 April 2018.

would represent a missed opportunity to identify practices that could be applied at Trandum, as well as because of the fact that academic researchers in Switzerland with whom the GDP is in contact had recently visited the facility and would be able to fill some of the gaps.





### 3. SUMMARY FINDINGS

The extensive assessment of detention systems and regimes completed for this study resulted in several key findings that could have relevance for how the Trandum detention centre is operated. Many of these practices could arguably also be applied in facilities elsewhere in Europe. The chart below provides a summary of these key findings and conclusions. Those practices that appear to be best suited to reducing the harmful effects of immigration detention are highlighted in green.

COMPARISON OF KEY INDICATORS IN FIVE DETENTION CENTRES			
	CUSTODIAL AUTHORITY	CARCERAL CHARACTERISTICS	STAFF
<b>FRAMBOIS (SWITZERLAND)</b>	Geneva Office Cantonal de la Population et Migration/Department of Security and Economy; Vaud Cantonal Service de la Population/Department of Economy, Innovation, and Sport; Neuchatel Cantonal Service des Migrations/Department of Economy and Social Action	NO: the staff are not uniformed and the layout does not give a punitive impression	Not uniformed, without arms, ethnically diverse, and specially trained; the centre employs a social assistant
<b>INGELHEIM (GERMANY)</b>	Rhineland-Palatinate Ministry of Family, Women, Youth, Integration, and Consumer Protection	PARTIALLY (layout: yes; staff: no)	Not uniformed, without arms
<b>MÄRSTA (SWEDEN)</b>	Ministry of Justice	PARTIALLY (layout partially; staff partially)	Not predominantly uniformed, not carrying weapons, ethnically diverse, and specially trained
<b>TOULOUSE (FRANCE)</b>	Interior Ministry	YES (layout; uniformed personnel)	Uniformed personnel, without arms, not trained
<b>TRANDUM (NORWAY)</b>	Ministry of Justice and Public Security	YES (layout, uniformed personnel)	Uniformed personnel (handcuffs, baton, and pepper spray in security and arrival units) ethnically diverse

	<b>FREEDOM OF MOVEMENT</b>	<b>TELECOMMUNICATIONS</b>	<b>MEALS</b>	<b>ACTIVITIES</b>
<b>FRAMBOIS (SWITZERLAND)</b>	YES (8.15 am – 9pm, detainees have keys to their rooms)	2 cabins accessible during the day, possibility to receive calls	Detainees can prepare their own meals	YES (assembly of firewood packages for sale to the public, washroom, cleaning, ironing, maintaining the kitchen, garden; remuneration 3CHF per hour)
<b>INGELHEIM (GERMANY)</b>	YES (detainees have in open regime (closed at night from 10pm-7am)	Cabins are located outside the detention area, so guards must accompany detainees upon request, detainees may make two calls for free (one upon arrival and one before removal)	Detainees placed in open regime can prepare their own meals	YES (gardening and cooking classes; possibility to borrow board games, DVDs, and books; possibility to play ping pong, basketball, and football)
<b>MÄRSTA (SWEDEN)</b>	YES (detainees have access codes to their rooms)	Detainees receive mobile phones that can be used while they are in the centre, they can call their lawyers for free as well as the Migration Agency, they have access to the internet in the centre's computer room	Culturally sensitive food	Not systematic
<b>TOULOUSE (FRANCE)</b>	YES 24 HOURS (rooms are never locked)	Detainees can use the centre's phones, they receive a phone card upon arrival if they have less than 7.50 EUR	Culturally sensitive food	NO (TV only)
<b>TRANDUM (NORWAY)</b>	YES (12 hours)	Lack of unrestricted access to telephone, limited access to internet	Partially culturally sensitive (non pork/vegetarian options)	YES (activity centre: spacious common area with board games, a small sports hall, a table tennis room, a room with a TV set and video games, a reading room, and a prayer room.

Overall, this study appears to show that Norway's Trandum detention centre applies more restrictive practices in several areas of its operations than do comparable facilities in other countries, which could be an important factor in the tensions and frustrations expressed by detainees at Trandum. Among the items highlighted in the chart that could address some of the challenges at Trandum, the following appear to be of particular relevance. (We briefly list these items here; a fuller discussion of each is provided in the section "Conclusions and recommendations.")

- **Replacing the custodial authority and facility operator with a social welfare institution;**
- **Removing carceral characteristics of the facility;**
- **De-emphasising the security orientation of core staff who are in daily contact with detainees;**
- **Employing social assistants and/or providing a larger role for humanitarian-oriented civil society actors;**
- **Increasing the freedom of movement of detainees inside the facility;**
- **Providing individual cell keys and/or codes;**
- **Enabling incoming calls to the centre;**
- **Installing telephone cabins in the detention area;**
- **Providing detainees with mobile phones for the duration of their confinement;**
- **Installing computers with access to internet;**
- **Providing more culturally sensitive food;**
- **Enabling detainees to take charge of their food preparation;**
- **Offering more remunerated work opportunities.**



## 4. REPORTS

### 4.1 Norway

Norway does not experience acute migratory pressures, has diminishing numbers of asylum seekers arriving at its borders, and has a comparatively small immigration detention system. However, the country operates its sole immigration detention centre according to a highly securitised regime and continues to boost the numbers of people it deports annually.<sup>14</sup> In 2016, Norway expelled 5,940 non-citizens, a number comparable to those deported from Italy that same year.<sup>15</sup>

Norway operates one dedicated immigration detention centre, the Trandum Detention Centre (*Trandum Utlendingsinternat*), which is a converted military barracks located near Oslo's Gardermoen Airport. While the centre generally offers good material conditions and is visited a few times a year by a Supervisory Board capable of making unannounced visits, it has also been the scene of several incidents, riots, and attempted suicides, as well as the subject of repeated criticisms from national and international experts because of the perceived severity of some aspects of its operations.

The centre is operated by uniformed police and has a decidedly prison-like regime. Following its 2015 visit, the Norwegian Ombudsman observed that the general impression was excessive attention to control and security at the expense of individual detainees' wellbeing. The Ombudsman highlighted security procedures that are used in correctional facilities, including: locking detainees in their rooms, frequent use of security cells and solitary confinement, and intrusive body searches, among other practices.<sup>16</sup> Following its visit in 2014, the Norwegian Association for Asylum Seekers remarked that these policies resulted in Trandum resembling an ordinary prison.<sup>17</sup>

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<sup>14</sup> F. Nelson, "The Norway Model: A New Approach to Immigration and Asylum," *The Spectator*, 25 November 2017, <https://blogs.spectator.co.uk/2017/11/the-norway-model-a-new-way-to-think-about-immigration-and-asylum-in-europe/>

<sup>15</sup> Eurostat, "Asylum and Dublin Statistics," <http://ec.europa.eu/eurostat/data/database>

<sup>16</sup> The Parliamentary Ombudsman Norway/ National Preventive Mechanism against Torture and Ill-Treatment, "Visit Report: The Police Immigration Detention Centre at Trandum, 19-21 May 2015," 2015, <https://www.sivilombudsmannen.no/en/visit-reports/trandum/>

<sup>17</sup> Norwegian Association for Asylum Seekers (NOAS), "Detention of Asylum Seekers: Analysis of Norway's International Obligations, Domestic Law and Practice," 2014, [http://www.noas.no/wp-content/uploads/2014/02/Detention-of-asylum-seekers\\_web.pdf](http://www.noas.no/wp-content/uploads/2014/02/Detention-of-asylum-seekers_web.pdf)

These overall impressions, variations of which have been repeated in both official and non-governmental reports for nearly a decade,<sup>18</sup> were largely confirmed during the visit to Trandum undertaken for this study.<sup>19</sup> During the visit, in February 2018, researchers found the facility to be in a good state of repair, and that it was well organised and orderly. The officials and staff members providing presentations of operations were generally responsive to our questions and gracious in demeanour. However, there were numerous countervailing impressions: staff members are uniformed and some carry security equipment, resembling militarised police attire; researchers did not request interactions with detainees, in part due to privacy concerns and a desire not to be intrusive, and staff never asked us whether we wished to meet detainees although after our visit we were told that we could have requested this (during the visit to Ingelheim, in Germany, the tour planned by staff included populated areas of the facility); and the person leading our tour repeatedly emphasised the need for security because of the potential for violence from detainees.<sup>20</sup>

**Following its 2015 visit, the Parliamentary Ombudsman observed that the general impression was excessive attention to control and security at the expense of individual detainees' wellbeing.**

Notably, the Trandum facility ceased being used in 2017 for the purposes of detaining families with children. Officials plan to open a new dedicated facility for family detention during the course of 2018. In the meantime, families are detained in a temporary facility located outside Oslo. During our tour of Trandum, we were told that the Immigration Police had decided not to use uniforms in the family detention centre in order to help create an environment that would be less prison-like.

#### **4.1.1 National context**

**Legal basis.** The Norwegian legislative framework governing immigration detention is provided in the 2008 Act on the Entry of Foreign Nationals into the Kingdom of

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<sup>18</sup> See, for instance, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Norwegian Government on the Visit to Norway Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 to 27 May 2011, CPT/Inf (2011) 33," December 2011, <https://www.coe.int/en/web/cpt/norway>

<sup>19</sup> GDP visit and tour of the Trandum Immigration Detention Centre led by O. Kvalen (National Police Immigration Service), 8 February 2018.

<sup>20</sup> O. Kvalen (National Police Immigration Service), Tour of the Trandum Immigration Detention Centre given to Karin Afeef and Elise Kaurin (Norwegian Red Cross) and Michael Flynn (Global Detention Project), 8 February 2018.



Norway and their Stay in the Realm (Immigration Act) (*Lov om utlendingers adgang til riket og deres opphold her (utlendingsloven)*).<sup>21</sup>

**Grounds for detention.** Section 106(1) of the Immigration Act lists eight grounds justifying the detention of non-citizens. These appear to apply to people in removal procedures as well as to asylum seekers. A non-citizen may be detained if: (a) he is not cooperating in clarifying his identity or if there are specific grounds for suspecting that he has given a false identity; (b) there are specific grounds for suspecting that he will evade the implementation of a return decision or Dublin transfer decision; (c) he fails to comply with the alternatives to detention; (d) he is subject to a final expulsion decision on account of being sentenced to a penalty and that there is a risk, in view of his personal circumstances, that he will commit new criminal offences; (e) he does not do what is necessary to fulfil his obligation to procure a valid travel document, and the purpose is to bring him to the foreign service mission of the country concerned so that he can be issued a travel document; (f) he is in transit in a Norwegian airport, with a view to removal; (g) his asylum claim is likely to be denied on account of the safe country principle, unless the person concerned is a child or has children who have also applied for protection; or (h) his asylum application is considered unfounded and is treated within 48 hours, unless the person concerned is a child or has children who have also applied for protection.

Section 106a details the criteria for assessing the risk of absconding. These are: (a) the foreign national has evaded implementation of a return decision, including failure to comply with the voluntary departure period; (b) the foreign national has explicitly refused to leave the country voluntarily, (c) the foreign national has been expelled from the country; (d) the foreign national has been sentenced to a penalty or a special sanction in the country; (e) the foreign national has demonstrated a lack of cooperation in response to doubt regarding his or her identity; (f) the foreign national is avoiding or complicating preparations for removal; (g) the foreign national has given false information to Norwegian authorities in connection with his or her application for a permit; (h) the foreign national has failed to give notification of a change of abode; (i) the foreign national is responsible for serious disturbances of the peace at a residential centre for asylum seekers; (j) the foreign national has been found to pose a threat to fundamental national interests; (k) the foreign national's asylum application has been rejected based on the safe country principle; or (l) the foreign national's application for a residence permit has been rejected as 'clearly unfounded.'

**Length of detention.** The length of deprivation of liberty depends on the justification of detention. Detention under Section 106(1)(g) can last up to seven days, while detention under Section 106(1)(h) cannot exceed three days. Detention under Section 106(1)(b)-(f) may be ordered for successive four-week periods for up to 12 weeks, unless there are particular reasons to the contrary (Section 106(3) and 106(5)). Mirroring the EU Returns Directive, detention can be extended up to 18

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<sup>21</sup> Act on the Entry of Foreign Nationals into the Kingdom of Norway and their Stay in the Realm (Immigration Act), 2008, <https://lovdata.no/dokument/NLE/lov/2008-05-15-35> (*Lov om utlendingers adgang til riket og deres opphold her (utlendingsloven)*), <https://lovdata.no/dokument/NL/lov/2008-05-15-35>

months if the person concerned does not cooperate in the removal process or if there are delays in procuring the necessary documents from the authorities of another country. Unlike the Returns Directive however, the Immigration Act allows the 18-month detention period to be extended if the foreign national has been expelled on account of a penalty or special sanction.

In practice however, people tend to be detained for much shorter periods than the maximum duration permitted by the legislation. In 2014, 48 percent of detainees were held for less than one day, 24 percent were detained for between one and three days, 17 percent for between four and 21 days, and 11 percent for over 21 days.

**Children.** The Immigration Act implicitly allows the detention of children. It states that if the detained person is a child, the police must bring him before the district court no later than one day after his detention, while adults are to be taken before the court within three days of their detention (Section 106(4)). Pursuant to Section 106(3) of the Immigration Act, Sections 174 to 191 of the Criminal Procedure Act (*Lov om rettergangsmåten i straffesaker (Straffeprosessloven)*) should apply to detention proceedings, “as appropriate.” Some of these provisions refer to children. Accordingly, children should not be detained unless specifically required or it is absolutely necessary. The Child Welfare Service must be notified when a child is detained and be present at the first hearing as well as during subsequent hearings, unless the court finds participation unnecessary.

In 2014, 330 children were detained at the Trandum detention centre—10 of whom were unaccompanied—compared to 229 in 2013.<sup>22</sup> According to the Ministry of Justice and Public Protection and the Norwegian Directorate of Immigration, women and families were placed in one unit and unaccompanied children were placed in another.<sup>23</sup> Since 2014, unaccompanied children have usually been detained for a maximum of one day prior to removal.<sup>24</sup>

In 2017, the government put forward a proposal to construct a new detention centre for families with children, with a “more civilian character” but managed by the same police unit that runs the Trandum detention centre. The centre would house three

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<sup>22</sup> The Parliamentary Ombudsman Norway/ National Preventive Mechanism against Torture and Ill-Treatment, “Visit Report: The Police Immigration Detention Centre at Trandum, 19-21 May 2015,” 2015, <https://www.sivilombudsmannen.no/en/visit-reports/trandum/>

<sup>23</sup> Ministry of Justice and Public Protection and the Norwegian Directorate of Immigration (EMN National Contact Point Norway), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: The Case of Norway,” 2014, <http://bit.ly/2EHdIKJ>

<sup>24</sup> Institute for Social Research, “Unaccompanied Minors in Norway: Policies, Practices and Data in 2014,” 2014, <http://bit.ly/2GwmUZH>; Norwegian Association for Asylum Seekers (NOAS), “Detention of Asylum Seekers: Analysis of Norway’s International Obligations, Domestic Law and Practice,” 2014, [http://www.noas.no/wp-content/uploads/2014/02/Detention-of-asylum-seekers\\_web.pdf](http://www.noas.no/wp-content/uploads/2014/02/Detention-of-asylum-seekers_web.pdf)



*Norwegian Red Cross volunteers visit detainees in Trandum detention centre. (Stills from Norwegian Red Cross, Youtube)*

families at a time.<sup>25</sup> As of early 2018, children and families are no longer detained at the Trandum detention centre but at a transitional facility, pending the opening of the new centre.<sup>26</sup>

**Institutional setting.** The National Police Immigration Service, a specialised police force under the Ministry of Justice and Public Protection, manages Norway's sole detention centre at Trandum. The overall custodial authority of detainees is the Ministry of Justice and Public Protection.

Since 2008, the centre has been monitored by a Supervisory Board. Made up of three members (a judge, nurse, and specialist in health and safety issues), the Board has the authority to undertake visits, including unannounced ones, and to process

<sup>25</sup> M. Linha, "Historic Norway Ruling: Detention of Children is Inhumane," International Detention Coalition, 17 July 2017, <https://idcoalition.org/news/inhumane-detention-of-children-in-norway/>

<sup>26</sup> GDP visit and tour of the Trandum Immigration Detention Centre led by O. Kvallen (National Police Immigration Service), 8 February 2018.

individual complaints.<sup>27</sup> Regarding civil society involvement, volunteers of the Norwegian Red Cross and the Salvation Army regularly visit the centre.

Judicial authorities are automatically involved in detention decisions. If the police wish to detain an arrested person, they must bring them before the district court with an application for their detention at the earliest opportunity—and no later than the third day following their arrest (or the day after the arrest if the person is a minor) (Immigration Act, Section 106(3)-(4)).

**Trends and statistics.** Norway detained 4,112 non-citizens in the Trandum detention centre in 2016, 3,191 in 2015, 4,182 in 2014, 3,266 in 2013, and 2,164 in 2012.<sup>28</sup> These figures do not include individuals who were placed in detention the year before.

**Regulation of detention conditions.** According to Section 107(1) of the Immigration Act, a non-citizen who is subject to immigration detention should as a general rule be placed in an immigration detention centre (*utlendingsinternatet*) or another “special adapted accommodation” (*særskilt tilrettelagt innkvarteringssted*).

The detention centre (Trandum detention centre) is administered by the Immigration Police (Section 107(2)). In order to secure the purpose of the stay at the holding centre or special accommodation as well as the foreign national's rights, the police must keep a register of information regarding decisions taken, arrivals, control measures implemented, use of force and forcible means, incidents, internal transfers, departures, times of supervision, and treatment by public health personnel.

Unless otherwise provided by the Immigration Act, detainees are entitled to receive visitors, make telephone calls, receive and send mail, have access to health services, associate with others, spend time outdoors, engage in physical activity, have privacy, and practice their religion (Section 107(3)).

If it is necessary in order to maintain peace, order, or security, or to ensure the implementation of an administrative decision (such as a decision on expulsion, refusal of application for a residence permit, or admissibility of asylum claim), the police may (a) search the foreign national's person, room, and belongings and other objects, rooms, and sections of the holding centre's area; (b) temporarily remove and keep the foreign national's money and other objects; (c) check and limit the foreign national's visits, telephone conversations, and mail (telephone monitoring may not

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<sup>27</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Norwegian Government on the Visit to Norway Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 to 27 May 2011, CPT/Inf (2011) 33," December 2011, <https://www.coe.int/en/web/cpt/norway>

<sup>28</sup> *Tilsynsrådet for Politiets utlendingsinternat, Trandum, "Årsrapport 2016,"* 2017, <https://www.politiet.no/globalassets/dokumenter/pu/tilsynsradet-for-utlendingsinternatets-arsrapport-2016>; *Tilsynsrådet for Politiets utlendingsinternat, Trandum, "Årsrapport 2015,"* 2016, [https://www.regjeringen.no/contentassets/e19229021ca74bee9f678d1b52b70f4b/arsrapport\\_trandum\\_2015.pdf](https://www.regjeringen.no/contentassets/e19229021ca74bee9f678d1b52b70f4b/arsrapport_trandum_2015.pdf); The Parliamentary Ombudsman Norway/ National Preventive Mechanism against Torture and Ill-Treatment, "Visit Report: The Police Immigration Detention Centre at Trandum 19-21 May 2015," 2015, <https://www.sivilombudsmannen.no/en/visit-reports/trandum/>



be undertaken unless both parties to the telephone call are notified beforehand); (d) check and limit the foreign national's physical activity, time spent outdoors, exercise of religion, or life stance; or (e) search visitors (except the foreign national's legal counsel or representatives of a public authority) and others present in the holding centre's area. Measures under (a), (b), and (c) may also be implemented when where there is reason to believe that a foreign national is concealing or withholding information about their, or another foreign national's, identity or whereabouts. Measures under (e) may also be implemented in order to investigate whether any such person is concealing information about a foreign national's identity (Section 107(4)).

Where it is strictly necessary in order to maintain peace, order, or security, or to ensure the implementation of administrative decisions (such as a decision on expulsion, refusal of application for a residence permit, or admissibility of asylum claim) and if other less intrusive measures have been attempted to no avail or will clearly be inadequate, the police may (a) use force and approved forcible means; (b) place the foreign national in a high security wing or security cell; or (c) partly or totally exclude the foreign national from the company of others at the holding centre. If possible, a statement should be obtained from a doctor and be taken into consideration when assessing whether measures (b) and (c) shall be implemented or upheld (Section 107(5)).

The above listed security measures may not be applied when doing so would constitute disproportionate intervention. Such measures should be applied with caution, and the police should continuously assess whether there is a basis for upholding any such measure (Section 107(6)).

**Immigration detention estate.** Norway operates only one dedicated immigration detention centre, officially called the National Police Immigration Detention Centre. The facility is familiarly named Trandum Detention Centre after the small hamlet next to Gardermoen International Airport in which it is located.<sup>29</sup> As noted previously, officials are also planning to open a dedicated detention centre for families with children.

When the Trandum centre is at capacity, non-citizens are detained in ordinary prisons (where they are held separately from ordinary prisoners.)<sup>30</sup> Due to the lack of relevant statistics, it is not clear how frequently non-citizens are detained in

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<sup>29</sup> O. Kvaalen (National Police Immigration Service), National Police Immigration Detention Centre (Presentation to the Global Detention Project and Norwegian Red Cross), 12 February 2018.

<sup>30</sup> Ministry of Justice and Public Protection and the Norwegian Directorate of Immigration (EMN National Contact Point Norway), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies: The Case of Norway," 2014, <http://bit.ly/2EHdIKJ>





*Aerial view of Trandum Detention Centre (National Police Immigration Service)*

prisons.<sup>31</sup> As explained by one of the centre's personnel, non-citizens are generally detained in prisons for up to one day before being transferred to Trandum centre.<sup>32</sup>

#### **4.1.2 Trandum Detention Centre**

The Trandum centre, which is a former military barracks, was renovated in the early 2000s in conjunction with the opening of Gardermoen International Airport. The centre began operating in 2001 after the closure of Snarøya Aliens Detention Centre located at the former international airport. Until 2004, the facility was operated by the Oslo district police. In 2004, in an effort to separate detention under the Immigration Act from detention under the Criminal Act, the centre became the responsibility of the National Police Immigration Service, which was established in January of that year.<sup>33</sup>

<sup>31</sup> Norwegian Association for Asylum Seekers (NOAS), "Detention of Asylum Seekers: Analysis of Norway's International Obligations, Domestic Law and Practice," 2014, [http://www.noas.no/wp-content/uploads/2014/02/Detention-of-asylum-seekers\\_web.pdf](http://www.noas.no/wp-content/uploads/2014/02/Detention-of-asylum-seekers_web.pdf)

<sup>32</sup> GDP visit and tour of the Trandum Immigration Detention Centre led by O. Kvalen (National Police Immigration Service), 8 February 2018.

<sup>33</sup> Prior to 1998, Norway detained migrants in ordinary prisons. Dedicated migrant detention facilities were introduced only after recommendations were made by the Committee for the Prevention of Torture (in 1994) and the Justice and Police Department. See Ombudsman: "Særskilt melding fra Sivilombudsmannen: Ombudsmannens undersøkelse av Politiets utlendingsinternat på Trandum, Document nr 41 (2006-2007)," 2007, <http://bit.ly/2oks9nA>

The centre has a capacity of 198, compared to 150 in 2015, including 10 places in the security unit.<sup>34</sup> At the time of the GDP's visit to the centre in February 2018, the centre confined 90 people. In 2016, 4,112 people were detained at Trandum, and 3,191 in 2015. Around 90 percent of detainees are male and 10 percent women. Since late 2017, families and children have not been placed in the centre. Instead, they were placed in a temporary unit elsewhere.

The centre has several carceral characteristics: staff are uniformed and carry handcuffs, batons, and pepper spray in arrival and security units; and the layout of the facility resembles a prison, with narrow corridors and visible bars.



*Trandum guard demonstrates restraining devices while standing in security cell. (Michael Flynn/Global Detention Project 2018)*

The **material conditions** are generally considered adequate and have improved in the past years. In 2011, the CPT noted with concern that several cells were austere, equipped merely with beds, and were without tables, chairs, or lockers. A few years later, following his visit, the country's Ombudsman noted that the cells were equipped with a bed, table, and a shelf and also had private bathroom. This concurs with observations made by researchers for this report in February 2018.

In 2011, the CPT also noted that besides a TV in a common room, the detention units did not provide any board games and hardly any reading material. In contrast, in 2015 the Ombudsman observed that most of the units had a common room with a cupboard, benches, TV, sofa, table, and chairs. In each section, there were bookshelves with books in different languages and a few board games. In addition, the centre featured an activity centre which was comprised of a spacious common area with board games, a small sports hall, a table tennis room, a room with a TV set and video games, a reading room, and a prayer room. Detainees had

<sup>34</sup> This section was completed using the following sources: (1) O. Kvalen (National Police Immigration Service), "National Police Immigration Detention Centre," Presentation delivered to representatives of the Norwegian Red Cross and the Global Detention Project, 8 February 2018; (2) K. Afeef and E. Kaurin (Norwegian Red Cross) and M. Flynn (Global Detention Project), Notes from visit to the Trandum Immigration Detention Centre, 8 February 2018; (3) Norwegian Parliamentary Ombudsman, "Visit Report: The Police Detention Centre at Trandum, the Security Section," 28-29 March 2017; (4) Norwegian Parliamentary Ombudsman, "Visit Report: The Police Detention Centre at Trandum," 19-21 May 2015; (5) *Tilsynsrådet for Politiets utlendingsinternat, "Trandum," Årsrapport*, <http://docplayer.me/storage/65/54372949/1518802991/cg7csg4pnMNLzNRVzS7zaQ/54372949.pdf>

access to the activity centre for four hours per day. Regarding the freedom of movement within the facility, detainees are locked in their cells overnight and for two 45-minute periods during staff meetings in the daytime. Other than this, detainees can move freely within their units. They can go outdoors for one continuous hour and twice for 15 minutes, and they have full-time activity coordinators.

Improvements have also been made to health care provisions. A doctor comes to the centre five times a week and 1-2 nurses on duty every day. Previously, in 2011, the CPT observed that a doctor was visiting the centre three times a week and one doctor was always on call, but there were no nurses. Numerous observers have previously noted the lack of a psychological exam and systematic medical screening for detainees upon arrival, including the CPT in 2011. However, as of early 2018, there were still no exams (police say that two nurses have mental health expertise).

Health care is provided by a private health enterprise, based on a contract with the centre. According to the Ombudsman, this contractual relationship raises questions about the independence of the health service. In 2015, the Ombudsman expressed similar concerns regarding the professional independence of the nursing arrangement, as nurses are directly employed by the police. The Ombudsman thus urged authorities to establish an arrangement that ensures that medical assistance is provided by professionally independent medical staff, and that detainees can contact medical personnel in a way that safeguards their confidentiality. As of February 2018, this arrangement was still in place.

In 2011, the CPT commended authorities for granting detainees 5-minutes of free calls (local or international) per day. However, the Ombudsman expressed concern at the fact that detainees did not have access to their mobile phones and that visits were monitored by staff. Despite the Ombudsman's recommendation to remedy these practices, some continue, though detainees now can make limited free calls.

The use of **security measures** has been a long-standing area of concern. Following its 2015 visit, the Ombudsman observed an excessive attention to control and security at the expense of detainees' wellbeing. The centre employed security procedures similar to those used by correctional services, such as locking detainees in their rooms, using security cells and solitary confinement, and conducting room searches. Detainees also underwent strip searches not only upon admission but also after all visits, despite a staff member always being present during the visits. The Ombudsman therefore urged authorities to carry out strip searches only when necessary and following an individual risk assessment.

These security measures are reportedly a response to past incidents which occurred at the centre, including two riots in 2015, 18 suicide attempts, and cases of self-harm in 2014-2015. Yet, as the Ombudsman observed, control measures such as these can actually result in greater levels of unrest rather than any sense of security. Similarly, an external expert who reviewed an early draft of this report commented: "Trying to justify demeaning routine strip searches simply because of broad self-harm risks is very poor practice. Such an approach is more likely to increase risks."



Detainees can be placed in the secure unit to prevent self-harm, harm to others, or escape, and when necessary, they can be subject to mechanical restraint by a “body cuff” (restraint belts). However, as the Ombudsman highlighted, a large proportion of decisions to place detainees in the security unit were based on assessments of mental condition, and their risk of self-harming or suicide. Police decisions to place detainees in the security unit were also reportedly informed by advice of health care personnel, which the Ombudsman found problematic.

The Ombudsman also criticised the conditions in the security section, which is comprised of three security cells and eight reinforced cells. The security cells had just a mattress on the floor, detainees are often not given the opportunity to access outdoor space for an hour, and the security section’s yard consists of closed-off areas separated by high walls. The Ombudsman also expressed misgivings regarding the use of video surveillance systems and recommended that direct visual supervision of detainees’ state of health be carried out. This recommendation has not been implemented. On the other hand, the authorities implemented the Ombudsman’s recommendation to equip security cells with clocks and calendars, as researchers observed during their visit to the facility in February 2018.



*An isolation room at Trandum detention centre (Michael Flynn/ Global Detention Project, 2018)*

## 4.2 France

France has one of the oldest and largest immigration detention systems in Europe, which was formally constituted in 1981. Employing facilities located in both continental France and French overseas territories, the country confined a record 46,800 people during 2017 (including 25,274 in mainland France). Detainees spent on average 13 days in detention in 2017, considerably below the 45-day legal limit (which is set to double in 2018).<sup>35</sup> Importantly, only about half of the detainees were located in mainland France.

French detention centres are officially called *centres de rétention administrative* (CRAs), or “administrative retention centres.” This euphemistic language, first employed in the legal provisions establishing France’s detention system, has led to the “paradoxical” situation whereby immigration detainees formally deprived of their liberty are nevertheless considered to be “free” and only “momentarily retained,”<sup>36</sup> a fact that can have important legal consequences for detainees in terms of access to procedural safeguards. Similarly, the law states that children detained with their families are only “accompanying” them.

The [Toulouse-Cornebarrieu Detention Centre](#) (CRA de Toulouse-Cornebarrieu), the French detention facility profiled for this report, is one of 24 CRAs currently in operation. All CRAs are operated by the Border Police (*Police aux frontières*), which is part of the Interior Ministry. The Toulouse CRA continues to detain families with children, like Mårsta in Sweden. It also counts on a permanent office of the non-governmental organisation La Cimade, which is authorised by law to provide legal and social services to persons in immigration detention.

### 4.2.1 National Context

**Legal basis.** The *Code de l'entrée et du séjour des étrangers et du droit d'asile* (Code of Entry and Residence of Foreigners and of the Right to Asylum) (CESEDA)<sup>37</sup> provides the main legal framework for asylum procedures, reception conditions, and detention.

**Grounds for detention.** As per CESEDA Article L551-1, “administrative authorities” are empowered to arrest and detain unauthorised migrants who are awaiting final determination of their status, and those who are subject to a deportation order or to a Schengen readmission. In 2016, 76 percent of immigration detainees were subject to a deportation order on grounds of their irregular status and 10 percent were detained

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<sup>35</sup> Assfam, *Forum Réfugiés, France terre d'asile, La Cimade, Ordre de Malte and Solidarité Mayotte, "Centres et locaux de rétention administrative - Rapport 2016,"* June 2017, <https://bit.ly/2rVQ7HN>

<sup>36</sup> GDP's own translation from B. Jullien et al., “*Mission d'audit de modernisation – Rapport sur la garde des centres de rétention administrative,*” *Ministère de la justice, Ministère de l'intérieur et de l'aménagement du territoire et Ministère de la défense*, PAM-05-004-01, December 2005, <https://bit.ly/2KFJBfX>

<sup>37</sup> *Code de l'entrée et du séjour des étrangers et du droit d'asile*, consolidated up to 7 March 2018, <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070158&dateTexte=20180307>



as part of the Dublin procedure, which determines the EU state that has the obligation to evaluate a person's asylum claim.<sup>38</sup>

**Length of detention.** The legal maximum length for detention of irregular immigrants awaiting deportation has been 45 days since 2011 (CESEDA Article L552-7). Legal reforms to be promulgated in September 2018 extend this limit to 90 days.<sup>39</sup> In 2017 immigration detainees spent on average approximately 13 days in detention in metropolitan France, but less than 24 hours in Mayotte, which accounts for nearly half of the country's detainee population.<sup>40</sup>

**Children.** French immigration law has not explicitly provided for the detention of children. Under CESEDA Article L554-1 foreigners can only be held in custody after they have been ordered to leave French territory and for the time strictly necessary for their departure. But under CESEDA Articles L511-4 and L521.4, minors cannot be served an expulsion order.<sup>41</sup> Hence, under law, it seems that children cannot be detained for immigration purposes. However, CESEDA Article 553-1 provides that detention centre registries must indicate the status of minor children who "accompany" the persons placed in detention, implying that children can be detained along with their families.<sup>42</sup> This is corroborated in the new March 2018 individual registration software for immigration detention, authorised under CESEDA Article L553-1, which includes records for data on accompanying minor children.<sup>43</sup>

Further, the Law of 7 March 2016 on the right of foreigners amended CESEDA Article L551-1 and authorised detention of children with a parent in three instances: 1) failure to respect a home arrest measure, 2) absconding during removal or refusing to be removed; and 3) while bearing in mind the best interest of the child, detention during the 48 hours prior to a "programmed removal" that protects the person concerned and the accompanying minor from the constraints related to the necessities of transfer. The text also provides that detention should take place in specially equipped premises. A subsequent ministerial circular both confirmed this first official shift authorising the detention of children and clarified that detention of accompanied children was not prohibited in principle but should remain

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<sup>38</sup> Assfam, *Forum Réfugiés, France terre d'asile, La Cimade, Ordre de Malte and Solidarité Mayotte*, "Centres et locaux de rétention administrative - Rapport 2016," June 2017, <https://bit.ly/2rVQ7HN>

<sup>39</sup> Gisti, "Projet de loi 'pour une immigration maîtrisée et un droit d'asile effectif,'" updated as of 13 March 2018, <https://www.gisti.org/spip.php?article5841>

<sup>40</sup> Assfam-groupe SOS solidarités, *Forum réfugiés-Cosi, France Terre d'asile, La Cimade, Ordre de Malte, and Solidarité Mayotte*, "Centres et locaux de rétention administrative, Rapport 2017," <https://bit.ly/2u1AnEb>

<sup>41</sup> "L'étranger mineur de 18 ans ne peut faire l'objet d'une mesure d'expulsion."

<sup>42</sup> "Il est tenu, dans tous les lieux recevant des personnes placées ou maintenues au titre du présent titre, un registre mentionnant l'état civil de ces personnes ainsi que les conditions de leur placement ou de leur maintien. Le registre mentionne également l'état civil des enfants mineurs accompagnant ces personnes ainsi que les conditions de leur accueil."

<sup>43</sup> See also, "Arrêté du 6 mars 2018 portant autorisation du registre de rétention prévu à l'article L. 553-1 du code de l'entrée et du séjour des étrangers et du droit d'asile et d'un traitement automatisé de données à caractère personnel dénommé "logiciel de gestion individualisée des centres de rétention administrative" (LOGICRA), NOR: INTC1733506A, <https://www.legifrance.gouv.fr/eli/arrete/2018/3/6/INTC1733506A/jo/texte>

exceptional.<sup>44</sup> In effect, while children can de facto be detained, they do not have a specific legal status in detention except in relation to their accompanying detained parent.

**An important characteristic of the French system is the permanent presence of NGOs in long-term detention facilities, who provide legal and social assistance to detainees.**

**Institutional setting.** The French immigration detention system is centralised under the authority of the Interior Ministry, and the Border Police, an agency of the Interior Ministry, manages the CRAs. However, the locations of immigration detention centres are chosen in coordination with various other ministries and the list of facilities is published. Officials from the *Office français de l'immigration et de l'intégration* (OFII) are present inside detention centres and provide services including luggage lockers and petty groceries.

Various institutions are authorised by law to visit and monitor places of immigration detention, including the French Ombudsman for places of deprivation of liberty, parliamentarians (who can visit together with media representatives), and the attorney general.

An important characteristic of the French system is the permanent presence of NGOs in long-term detention facilities, who provide legal and social assistance to detainees (CESEDA Article R-553-14). NGOs are present in the facilities five to six days a week. The agreement with the Interior Ministry is for five years, renewable for the same period of time. This legal accompaniment, pioneered by *La Cimade* in 1984, has faced legal challenges from the government, which have resulted in additional NGOs being invited to take over responsibilities in some CRAs.<sup>45</sup>

In addition to NGOs being allowed inside detention centres on a daily basis, a decree adopted in June 2014 provides the possibility for other humanitarian NGOs to carry out visits to CRAs and *locaux de rétention administrative* (LRAs) as per CESEDA Article R553-14-4.<sup>46</sup> Such agreements are valid for five years, renewable. Accredited NGOs

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<sup>44</sup> Circulaire du ministre de l'intérieur, "Application de la loi n° 2016-274 du 7 mars 2016 relative au droit des étrangers en France - dispositions applicables à compter des 1er novembre 2016 et 1er janvier 2017," 2 November 2016 <https://www.gisti.org/spip.php?article5521>

<sup>45</sup> RFI, "Aide en rétention: la justice donne raison à la Cimade face à Besson," 31 May 2009, [http://www1.rfi.fr/actufr/articles/113/article\\_81488.asp](http://www1.rfi.fr/actufr/articles/113/article_81488.asp)

<sup>46</sup> Decree on the access of associations to administrative detention facilities that modified the Articles R.553-14-4 à R.553-14-8 CESEDA, completed by an information note from the Interior Ministry in October 2014. <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000029136361&dateTexte=20150101>



*Toulouse detention centre's open communal space, with La Cimade's office in the background. (DDM, F. Charmeux)*

can nominate a maximum of five national and local representatives per detention centre. CRAs' authorities have to be informed at least 24 hours in advance and LRAs' 12 hours in advance. During visits, NGO representatives can meet with the manager of the place of detention, officials from the French Office for the Protection of Refugees and Stateless Persons (OFPRA) and French Office for Immigration and Integration (OFII), representatives of NGOs authorised to be present inside CRAs to deliver legal advice and social assistance, and medical staff. They can also meet with detainees in a confidential manner.

**Trends and statistics.** In 2017, France placed 46,800 persons in immigration detention. 38 percent of detentions occur in the French overseas territory of Mayotte, an Island of the Comoros archipelago in the Indian Ocean. Since 2009, the country has been detaining more than 40,000 persons per year. In 2017, 26,055 persons were detained in mainland France.<sup>47</sup> On average, women represent five percent of immigration detainees. In 2017, France detained 304 children in mainland territory and 2,493 in overseas territories.

**Regulation of detention conditions.** CESEDA Article R553-3 regulates requirements for the management of, and conditions in, detention centres. Although observers comment that the conditions and atmosphere inside detention centres are more akin to prison conditions (see "Toulouse detention centre" below), the law states that CRA's offer "hotel-type equipment and catering services" (*offrent aux étrangers retenus des équipements de type hôtelier et des prestations de restauration collective*).

<sup>47</sup> *Assemblée nationale, "Etude d'impact – Projet de loi pour une immigration maîtrisée et un droit d'asile effectif," NOR: INTX1801788L/Bleue-1, 20 February 2018, <http://www.assemblee-nationale.fr/15/projets/pl0714-ei.asp>*

Standards set out in law include: maximum capacity of 140; minimum usable floor space of 10m<sup>2</sup> per detainee, including bedroom and common space accessible during working hours (*heures ouvrables*); gender segregated collective bedrooms not exceeding six per room; free access to sanitary equipment areas (one for 10 persons) and to a telephone (one for 50 persons); premises for use by lawyers, medical staff, and the NGO present in the centre; and common space for recreation and open air space. Detention centres likely to receive families must include specially designed rooms.

**Immigration detention estate.** Administrative detention facilities for foreigners were officially created by the Law of 29 October 1981. Immigration detainees are held in two types of secure facilities in mainland and overseas territories: “administrative retention centres” (*centres de rétention administrative*, or CRAs) for longer term detention (up to 45 days, due to be extended to 90 days in 2018); and “places of administrative retention” (*locaux de rétention administrative* (LRAs)) for shorter periods. CESEDA does not describe the legal nature (*statut juridique*) of CRAs and LRAs but lists a number of safeguards (see 2.7 Procedural guarantees). France does not use prisons for the purpose of immigration detention. Administrative detention centres are controlled and managed by the Border Police (*Police aux Frontières* under the Interior Ministry), which is not part of the regular prison administration (under the authority of the Justice Ministry). Immigration detainees are not held with common law accused and convicted prisoners.



*Toulouse detention centre. (Google Maps)*



There are 24 CRAs and more than 20 LRAs.<sup>48</sup> The CRAs are located in the country's main cities: Bordeaux, Coquelles, Hendaye, Lille-Lesquin, Lyon Saint-Exupéry, Marseille, Mesnil-Amelot, Metz-Queuleu, Nice, Nîmes, Palaiseau, Paris, Perpignan, Plaisir, Rennes-Saint-Jacques-de-la-Lande, Rouen-Oissel, Sète, Strasbourg-Geispolsheim and Toulouse-Cornebarrieu. Another four are located in the overseas territories of Guadeloupe, Guyane, Mayotte, and the Réunion. The total immigration detention capacity is 2,054 beds, including metropolitan France and overseas territories, and in 2017 the authorities announced plans to create an additional 400 beds.<sup>49</sup>

#### 4.2.2 Toulouse detention centre

The Toulouse CRA opened in 2006. Although it was constructed 12 years ago, observers say that it has fallen rapidly into disrepair because it was built cheaply alongside the airport tarmac, on grounds classified as non-constructible due to aeronautical constraints, vibrations, and noise exposure. The one-building facility is surrounded by fences topped with barbed wire. There is no parking space for visitors, who must park their vehicles on the lower side of the road 200 meters from the centre and walk alongside a road with heavy traffic.

The building is stark and minimalist with grey walls devoid of any ornament. There are five different sectors: three for men, one for women, and one for families. Each includes various bedrooms and a room with a television. *La Cimade's* office is located in a glassed area (described as an "aquarium") next to the room for medical staff, alongside a large 200 to 300 square meter shared open area "*zone collective*" with a coffee machine. The independent detention centre and prison inspectorate (*Le Contrôleur général des lieux de privation de liberté*, or CGLPL) reported in 2015 that access to this zone has to be allowed by staff at a guardhouse ("*poste de garde*."). Times for access are posted in French only. Guards are asked to open the door through an interphone or asked to change TV channels, which at times generates tensions when guards are inexperienced.

The head of the *La Cimade* office says that the detention centre is akin to a carceral environment, the only difference being that bedrooms are open day and night, and detainees have access to the outside courtyard. This leads to small thefts if detainees leave some belongings in the unlocked rooms. The CGLPL has reported that detainees at one point began asking for sleeping pills after the rooms were left open at night. Bedding is clean and detainees are given a hygiene kit upon arrival, with a mini toothpaste, toothbrush, bath towel, and sheets. According to *La Cimade*, although there are dozens of nationalities in the centre, the atmosphere among detainees is usually convivial and detainees loudly rejoice when someone is

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<sup>48</sup> Assfam, *Forum Réfugiés, France terre d'asile, La Cimade, Ordre de Malte and Solidarité Mayotte, "Centres et locaux de rétention administrative - Rapport 2016,"* <https://bit.ly/2rVQ7HN>

<sup>49</sup> Assfam, *Forum Réfugiés, France terre d'asile, La Cimade, Ordre de Malte and Solidarité Mayotte, "Centres et locaux de rétention administrative - Rapport 2016,"* <https://bit.ly/2rVQ7HN>; Assfam-groupe SOS solidarités, *Forum réfugiés-Cosi, France Terre d'asile, La Cimade, Ordre de Malte, and Solidarité Mayotte, "Centres et locaux de rétention administrative - Rapport 2017,"* <https://bit.ly/2u1AnEb>

released. Foam mattresses are changed every two years or so. However, there has been a surge in detention due to tougher immigration policies in 2018 and a young man committed suicide at the CRA as this report goes to print.<sup>50</sup>

Security cells are most often used for medical rather than disciplinary reasons. This is corroborated by CGLPL, which reported: "The reasons for placing a detainee in the isolation (*mise à l'écart*) room may be based on medical reasons, which introduces a confusion between care and discipline." In 2017 there were cases of detainees with contagious diseases who were placed for short periods in security cells.

According to *La Cimade*, doctors and nurses at the facility have backgrounds in prison medical care and show no understanding of the specifics of immigration detention. Thus, for instance, they tend to treat detainees as if they are constantly acting in bad faith.

CRAAs are managed by the Border Police (*Police aux frontières*, PAF) under the authority of the Interior Ministry and the local authority of the Prefects. The CGLPL reports that civil servants assigned to the CRA do not receive any specific training. According to *la Cimade*, staff rarely come from the police academy, rather they are recruited through the unemployment office into the police force, aged 20 to 25. Police work is rarely their preferred call. They sign a three-year contract. Upon termination it gives them priority to enter the police academy. *La Cimade* has in the past been approached by officials to provide training to young recruits. Following this short induction, new recruits might initially show some understanding of the specificity of the situation of immigration detainees. The CGLPL reports that young recruits can find it challenging to adapt to the carceral environment in immigration detention. However, in *La Cimade's* experience, civil servants working in CRAAs generally ask to be assigned to this type of place of deprivation of liberty, often due to family reasons.

In July 2016, the European Court of Human Rights (ECtHR) issued five judgments regarding the detention of "underage children" accompanying their parents in France. Four of the five 2016 ECtHR cases concerned families held at the Toulouse-Cornebarrieu CRA between 2011 and 2014. The court did not find the detention of children to be contrary to domestic law but the judges ruled that their confinement violated Article 3 of the European Convention on Human Rights, which prohibits torture and inhuman or degrading treatment or punishment, based on three combined factors: age, duration of detention, and conditions inherent to their detention.<sup>51</sup>

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<sup>50</sup> *France Bleu*, "Un migrant se suicide au centre de rétention de Cornebarrieu, près de Toulouse," 22 September 2018, <https://www.francebleu.fr/infos/faits-divers-justice/un-migrant-se-suicide-au-centre-de-retention-de-cornebarrieu-pres-de-toulouse-1537588821>

<sup>51</sup> *A.B. and Others v. France* (no. 11593/12) [Articles 3, 5 §§ 1 and 4, 8], 12 July 2016; *A.M. and Others v. France* (no. 24587/12) [Articles 3, 5 §§ 1 and 4, 8], 12 July 2016; *R.C. and V.C. v. France* (no. 76491/14) [Articles 3, 5 §§ 1 and 4, 8], 12 July 2016; *R.K. and Others v. France* (no. 68264/14) [Articles 3, 5 §§ 1 and 4, 8], 12 July 2016. *R.M. and Others v. France* (no. 33201/11) [Articles 3, 5 §§ 1 and 4, 8], 12 July 2016.

### 4.3 Germany

Germany has experienced a sea change in its approach to refugees and asylum seekers, shifting from being one of the few welcoming EU countries that emphasises a humanitarian approach to a country characterised by its rapidly escalating restrictions. In 2015, Chancellor Angela Merkel agreed to open the country's borders to more than 10,000 asylum seekers stranded in Hungary and declared that Syrian refugees were welcome to stay, regardless of where they had first entered the EU.<sup>52</sup> Subsequently, however, the country has: increased rates of deportations to Afghanistan;<sup>53</sup> adopted new limitations on family unification;<sup>54</sup> developed plans to set up "shelters" for returned children in Morocco;<sup>55</sup> and resumed returns to Greece under the Dublin Regulation, which had previously been disallowed because of the terrible conditions in the country.<sup>56</sup>

Similar to Switzerland, Germany's federal institutional set up influences the practice of immigration detention. The responsibility for carrying out pre-removal detention lies with Germany's federal states.<sup>57</sup> Consequently, the custodial authority and management of detention facilities differs across the country. While in a few states pre-removal detention falls under the regional Ministry of Justice or Social Affairs, in most of the states it is under the remit of the regional Interior Ministry.

Until recently, the Ingelheim facility, featured in this study, was one of Germany's few dedicated immigration detention centres. Previously, like Switzerland and in contrast to nearly all EU countries, Germany systematically used prisons for detaining migrants. In 2014, the Court of Justice of the European Union called upon Germany to stop using prisons. This prompted a broad overhaul of Germany's immigration detention estate, with several dedicated centres being set up. With Eisenhüttenstadt (another dedicated centre which predates the reforms) temporarily closed for

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<sup>52</sup> A. Hall and J. Lichfield, "Germany Opens its Gates: Berlin Says all Syrian Asylum-Seekers are Welcome to Remain, as Britain is Urged to Make a 'Similar Statement'," *Independent*, 24 August 2015, <http://www.independent.co.uk/news/world/europe/germany-opens-its-gates-berlin-says-all-syrian-asylum-seekers-are-welcome-to-remain-as-britain-is-10470062.html>; K. Connolly, "Angela Merkel Defends Germany's Refugee Policy after Attacks," *The Guardian*, 28 July 2016, <https://www.theguardian.com/world/2016/jul/28/merkel-rejects-calls-to-change-germanys-refugee-policy-after-attacks>

<sup>53</sup> M. Bulman, "Germany Suspends Deportations to Afghanistan Following Kabul Attack," *Independent*, 31 May 2017, <http://www.independent.co.uk/news/world/europe/germany-kabul-attack-deportation-flight-afghanistan-migrants-cancel-a7764811.html>; UNICEF, "Geplantes Gesetz zur besseren Durchsetzung der Ausreisepflicht muss das Wohl der betroffenen Kinder berücksichtigen," 22 February 2017, <https://www.unicef.de/informieren/aktuelles/presse/2017/stellungnahme-unicef-ausreisepflicht/135618>

<sup>54</sup> AITIMA, "Serious Problem Regarding Family Reunification For Asylum Seekers In Germany Under Dublin III Regulation," 14 July 2017, <http://aitima.gr/index.php/en/news/421-14-07-2017-serious-problem-regarding-family-reunification-for-asylum-seekers-in-germany-under-dublin-iii-regulation>

<sup>55</sup> L. Gazzotti, "German Plans to Send Migrant Children to Reception Centres in Morocco Ignore Lessons from History," *The Conversation*, 29 June 2017, <https://bit.ly/2x5F1T3>

<sup>56</sup> BBC News, "Germany to Resume Sending Migrants Back to Greece," *BBC News*, 7 August 2017, <http://www.bbc.com/news/world-europe-40850938>

<sup>57</sup> Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), December 2017, <http://www.asylumineurope.org/reports/country/germany>



renovation, the Ingelheim facility is the longest standing dedicated detention centre in Germany. Following the recommendation of numerous actors in Germany, including local NGOs and the country's National Preventative Mechanism, GDP researchers sought—and were granted—access to Ingelheim as part of this study. The research team was welcomed by the centre's director and other staff members, were guided on a walk through the centre that included accessing key areas including high security sections, and were given a presentation about operations at the facility.

### 4.3.1 National context

**Legal basis.** Germany's legal framework for immigration detention is provided in the 2008 Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (Residence Act) (*Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet (Aufenthaltsgesetz)*)<sup>58</sup> and the 2008 Asylum Act (*Asylgesetz*).<sup>59</sup>

Within Germany's decentralised legal and administrative framework, the enforcement of immigration detention is under the remit of the 16 federal states. Federal legal provisions are intended to provide only a general framework for immigration detention.<sup>60</sup> The Residence Act provides the grounds for detention, rules on the length of detention, and basic procedural safeguards. Yet, it contains few provisions dealing with conditions of detention. It is in the federal states' capacity to adopt such laws, since they are in charge of the implementation of detention orders. Only four states—Berlin, Brandenburg, Bremen, and North Rhine-Westphalia—appear to have adopted specific laws regulating enforcement of immigration detention.<sup>61</sup> In the remaining 13 states the Prison Act (*Strafvollzugsgesetz*), complemented by non-binding federal states' standards, regulates conditions and overall detention regimes. This situation has been criticised by the CPT, which on numerous occasions has called upon the German authorities to ensure that detention pending deportation is governed by specific rules reflecting the particular status of immigration detainees in all federal states.

**Grounds for detention.** The Residence Act and the Asylum Act provide several grounds for immigration detention.

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<sup>58</sup> Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (Residence Act) (*Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet (Aufenthaltsgesetz)*), 25 February 2008, [http://www.gesetze-im-internet.de/englisch\\_aufenthg/index.html](http://www.gesetze-im-internet.de/englisch_aufenthg/index.html)

<sup>59</sup> Asylum Act (*Asylgesetz*), 25 February 2008, [http://www.gesetze-im-internet.de/englisch\\_aufenthg/englisch\\_aufenthg.html#p0010](http://www.gesetze-im-internet.de/englisch_aufenthg/englisch_aufenthg.html#p0010)

<sup>60</sup> Federal Office for Migration and Refugees (EMN National Contact Point Germany), "The Use of Detention and Alternatives to Detention in Germany," 2014, <http://www.asyl-in-deutschland.rs/SharedDocs/Anlagen/EN/Publikationen/EMN/Studien/wp59-emn-abschiebungshaft.html?nn=7660242>

<sup>61</sup> Federal government, "Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769," Drucksache 18/7196," 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>. However, in some other federal states, there are regulations or decrees adopted by Interior Ministries.

At ports of entry, if a non-citizen is refused entry but the refusal cannot be enforced immediately, then the individual is to be placed in “detention pending exit from the federal territory” (*Zurückweisungshaft*) (Residence Act, Section 15(5)). If a person has reached German territory by air and “detention pending exit from the federal territory” is not applied, the person is to be taken to an airport transit area or other place of accommodation from which exit from Germany is possible (Residence Act, Section 15(6)). Besides border-related procedures, there are three main forms of immigration detention: “custody to prepare deportation” (*Vorbereitungshaft*), “custody to secure deportation” (*Sicherungshaft*), and “custody to secure departure” (*Ausreisegewahrsam*). Each of these forms of detention is justified on a differing set of grounds depending on the status of removal or adjudication procedures.

**Length of detention.** The duration of “custody to prepare deportation” should not exceed six weeks (Residence Act, Section 62(2)). However, the General Administrative Regulation to the Residence Act describes “atypical” scenarios in which immigration detention can last longer, for instance when there is a delay in ordering expulsion due to circumstances provoked by the detainee (General administrative regulation to the Residence Act, Section 62.1.3).

“Custody to secure deportation” and “detention pending exit from the federal territory” may be ordered for up to six months. If an immigration detainee hinders his deportation, detention may be extended up to maximum of 18 months (Residence Act, Sections 62(4) and 15(5)). The General Administrative Regulation to the Residence Act provides examples of such behaviour, which include lack of participation in getting travel documents, breach of the requirement to surrender the passport, and refusal to contact the diplomatic mission of the non-citizen’s country of origin (Section 62.3.2). The period of time a detainee has been subject to “custody to prepare deportation” should count towards the overall duration of “custody to secure deportation” or “detention pending exit from the federal territory” (Residence Act, Section 62(4)).

Asylum seekers coming from “safe countries” can be confined in the airport transit zones for up to 19 days.<sup>62</sup>

The detention of persons who apply for asylum while in detention should be terminated as soon as the decision on the asylum application has been delivered and no later than four weeks after the Federal Office for Migration and Refugees has received the application, unless another country has been requested to admit or re-admit the foreigner on the basis of European Community law or of an international treaty on the responsibility of processing asylum applications, or unless the application for asylum has been rejected as inadmissible or manifestly unfounded (Asylum Act, Section 14(3)). Thus, the maximum one-month period of detention

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<sup>62</sup> Informationsverbund Asyl und Migration, “Country Report: Germany,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), December 2016, <http://www.asylumineurope.org/reports/country/germany>

applies only to persons for whose asylum claims Germany is responsible. Those subject to the Dublin Regulation may stay in detention during the entire proceedings.

**Children.** The detention of children, including unaccompanied children, is not prohibited under German law. The Residence Act merely provides that children and families with children may be placed in pre-removal detention only in exceptional cases and only for as long as is reasonable, taking into account the well-being of the child (Section 62(1)).

There are considerable differences between federal states in terms of both regulation and practice of detention of children. In some states there are no age-limits on detention, while in others there are regulations setting the minimum age of detention at 16, such as in North Rhine-Westphalia. However, even in states with age limits, children can still be accommodated in special youth facilities, like in Brandenburg. In Schleswig-Holstein unaccompanied children under 16 are not detained but 10-year-old children may be detained as long as they are with their mothers.<sup>63</sup>

According to the government, children are detained “extremely rarely” in practice.<sup>64</sup> Non-governmental sources concur that the numbers of detained children have dropped since 2011. 15 children were placed in immigration detention in 2013; 55 in 2012; 61 in 2011; 114 in 2010; and 142 in 2009.<sup>65</sup>

Regarding the conditions of detention for detained children and families, the Residence Act provides (Section 62(a)(1)) that if several members of a family are detained, they should be accommodated separately from other detainees awaiting deportation and be guaranteed adequate privacy. Further, age-dependent needs should be taken into account in line with Article 17 of the EU Returns Directive (Section 62(a)(3)). According to this provision, children in detention should have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and should have, depending on the length of their stay, access to education. In addition, unaccompanied minors should as far as possible be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age.

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<sup>63</sup> Jesuit Refugee Service (JRS) Europe, “From Deprivation to Liberty: Alternatives to Detention in Belgium, Germany and the United Kingdom,” December 2011, <http://www.refworld.org/docid/4f0c10a72.html>; H. Cremer, “Detention and Human Rights: The Duration of the Detention and the Detention of Unaccompanied Minors in Germany,” *German Institute for Human Rights*, March 2011, [www.institut-fuer-menschenrechte.de/publikationen/detailansicht.html](http://www.institut-fuer-menschenrechte.de/publikationen/detailansicht.html)

<sup>64</sup> Working Group on Arbitrary Detention, “Report of the Working Group on Arbitrary Detention: Addendum: Follow-Up Mission to Germany, A/HRC/30/36/Add.1,” 10 July 2015, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/DEIndex.aspx>

<sup>65</sup> Federal Government, “Response of the Federal Government to the Major Interpellation of the Deputies Ulla Jelpke, Jan Korte, Agnes Alpers, other MPs and the DIE LINKE: printed matter 17/10597: Implementation of the Deportation Policy of the European Union and the Practice of Detention,” *Ministry of Interior*, 4 September 2012, [dipbt.bundestag.de/dip21/btd/17/105/1710597.pdf](http://dipbt.bundestag.de/dip21/btd/17/105/1710597.pdf); Pro Asyl and Diakonie in Hessen and Nassau, “*Schutzlos hinter Gittern: Abschiebungshaft in Deutschland*,” June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>

**Institutional setting.** Under the Residence Act, the judicial authorities are involved in ordering detention. A non-citizen can only be placed in detention by a judicial order (Section 62(2)-(3)). Pre-removal detention decisions are the responsibility of the district courts where the non-citizen in question resides or, if he is not a permanent resident, where detention is to take place (General Administrative Regulation to the Residence Act, Section 62.0.3). Authorities may detain without a prior judicial order when: 1) there is strong suspicion the person will be required to leave federal territory because of unlawful entry; 2) it is not possible to obtain the judicial order for detention to secure deportation beforehand; and 3) there is a well-founded suspicion that he intends to evade the detention order. In such cases, the person is to be brought before the court without delay for a detention order (Residence Act, Section 62(5)).

Germany's federal institutional set up influences the practice of immigration detention. The responsibility for carrying out pre-removal detention lies with Germany's federal states.<sup>66</sup> Consequently, the custodial authority and management of detention facilities differ across the country. In a few states, pre-removal detention falls under the Ministry of Justice or Social Affairs, while in most states it is under the remit of the Interior Ministry.

Detention centres are regularly visited by federal refugee councils (for instance *Hessischer Flüchtlingsrat*, *Münchner Flüchtlingsrat*, and *Flüchtlingsrat Hamburg*) or pastoral groups (*Ökumenische Beratungsstelle in der Gewahrsamseinrichtung für Ausreisepflichtige Ingelheim*).

**Trends and statistics.** The number of immigration detainees has decreased in recent years. According to official sources, in 2014 the country detained 1,850 non-citizens slated for removal and in the first half of 2015, 563. According to the National Agency for the Prevention of Torture, the country detained 4,812 non-citizens in 2013, compared to 5,748 in 2012, and 6,781 in 2011.<sup>67</sup>

**Regulation of detention conditions.** Under the Residence Act (Section 62(a)), as a general principle, pre-removal detention should be enforced in specialised detention facilities. If there are no specialised detention facilities in the federal territory, custody awaiting deportation may be enforced in other custodial institutions. In such cases the persons in detention awaiting deportation shall be accommodated separately from prisoners serving criminal sentences. This provision, effectively prioritising the use of dedicated facilities, was inserted as a response to the CJEU's ruling in *Bero & Bouzalmate* (see below).

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<sup>66</sup> Informationsverbund Asyl und Migration, "Country Report: Germany," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), December 2017, <http://www.asylumineurope.org/reports/country/germany>

<sup>67</sup> It is important to note that these figures may sometimes not be completely coherent because some federal states include Dublin detainees in these statistics and others do not. Federal Government, "Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196," 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>, National Agency for the Prevention of Torture, "Annual Report 2013 of the Federal Agency and the Commission Countries," April 2014, <https://bit.ly/2CLiSzH>

The Residence Act does not regulate conditions and treatment in detention in a detailed way. It provides that if several members of a family are detained, they should be accommodated separately from other detainees awaiting deportation. They should be guaranteed adequate privacy. Detainees awaiting deportation should be permitted to establish contact with legal representatives, family members, the competent consular authorities and the relevant aid and support organisations (Section 62(a)).

**Like Switzerland, Germany formerly made widespread use of prisons for carrying out pre-removal detention. In 2014, the Court of Justice of the European Union ruled in the *Bero & Bouzalmate* and *Pham* cases that this practice was incompatible with Article 16(1) of the EU Returns Directive.**

Basic rules spelled out in the Residence Act are supplemented at the federal states' level merely in a few federal states. It appears that only federal states of Berlin, Brandenburg, Bremen, and North Rhine-Westphalia have adopted specific laws regulating enforcement of immigration detention.<sup>68</sup> Berlin's 1995 *Gesetz über den Abschiebungsgewahrsam im Land Berlin*; Brandenburg's 1996 *Gesetz über den Vollzug der Abschiebungshaft ausserhalb von Justizvollzugsanstalten*; Bremen's 2001 *Gesetz über den Abschiebungsgewahrsam* and North Rhine-Westphalia's 2015 *Gesetz über den Vollzug der Abschiebungshaft in Nordrhein-Westfalen* provide a number of guarantees, including that detainees should be informed, if possible in their language, about their rights and obligations; men and women should be confined separately; family members should be accommodated together or at the least have the possibility to spend time together; detainees should be able to file complaints with the facility management and have access to recreational activities, receive visits, and have access to mail.

**Immigration detention estate.** In the past few years, Germany's immigration detention estate has undergone a massive overhaul. Like Switzerland, Germany formerly made widespread use of prisons for carrying out pre-removal detention. In 2014, the Court of Justice of the European Union ruled in the *Bero & Bouzalmate* and *Pham* cases that this practice was incompatible with Article 16(1) of the EU Returns Directive. The court found that Germany cannot rely on the fact that there are no dedicated detention facilities in some of its federal states to justify holding non-citizens in prison pending their removal. The same rule applies even if an immigration detainee consents to being confined in penitentiary. The court established that a federal country like Germany is not obliged to set up specialised

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<sup>68</sup> Federal Government, "Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Sevim Dağdelen, weiterer Abgeordneter und der Fraktion DIE LINKE: Drucksache 18/3769, Drucksache 18/7196," 6 January 2016, <http://dipbt.bundestag.de/doc/btd/18/071/1807196.pdf>



centres in each of its states. However, it is obliged to establish procedures that enable federal states that do not have dedicated facilities to place migrants in specialised facilities located in other states.

Prior to the 2014 Court of Justice of the European Union's (CJEU) ruling, out of 23 facilities used for immigration detention, merely four were dedicated immigration detention centres, three were airport transit centres, and three were police stations. The vast majority—seventeen facilities—were prisons.<sup>69</sup> As a result of the CJEU's rulings, the country stopped using prisons. Some federal states opened dedicated centres, but the majority agreed with other federal states to enforce their detention orders. Currently, Germany uses six facilities for immigration detention purposes: five dedicated long-term immigration detention facilities, in **Pforzheim** (Baden-Württemberg), **Eichstätt** (Bavaria), **Hannover (Langenhagen)** (Lower Saxony), **Büren** (North Rhine-Westphalia), and **Ingelheim am Rhein** (Rhineland-Palatinate); and one police station, in **Bremen**.<sup>70</sup> In addition, it operates five medium-term airport detention centres (at the **Berlin, Düsseldorf, Frankfurt, Munich, and Hamburg** airports).<sup>71</sup>

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<sup>69</sup> For a detailed description of the detention infrastructure before the overhaul in 2014, see: Global Detention Project, "Immigration Detention in Germany – 2014," <https://www.globaldetentionproject.org/immigration-detention-in-germany>

<sup>70</sup> Stefan Kessler (Jesuit Refugee Service Germany), Email correspondence with Izabella Majcher (Global Detention Project), July-August 2017; *Informationsverbund Asyl und Migration*, "Country Report: Germany," *Asylum Information Database (AIDA)*, *European Council on Refugees and Exiles (ECRE)*, December 2016, <http://www.asylumineurope.org/reports/country/germany>; Migreurop, "Fiche de pays: Allemagne," *Close the Camps*, February 2016, <http://closethecamps.org/pays/DEU>; R. Breyton and T. Heimbach, "Das Comeback der Abschiebehaft in Deutschland," *Welt*, 1 August 2017, <https://www.welt.de/politik/deutschland/article167243145/Das-Comeback-der-Abschiebehaft-in-Deutschland.html>

<sup>71</sup> *Flüchtlingsrat NRW*, Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Timmo Scherenberg (*Hessischer Flüchtlingsrat*), Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Loulou Kinski (*Münchner Flüchtlingsrat*), Email correspondence with Izabella Majcher (Global Detention Project), August 2017; Anne Lausmann (*Caritasverband Frankfurt*), Telephone conversation with Izabella Majcher (Global Detention Project), 16 August 2017; *Flüchtlingsrat Hamburg*, Telephone conversation with Izabella Majcher (Global Detention Project), 17 August 2017; Federal Office for Migration and Refugees, "Flughafenverfahren," August 2016, <http://www.bamf.de/DE/Fluechtlingschutz/Sonderverfahren/FlughafenVerfahren/flughafenverfahren-node.html>; Migreurop, "Fiche de pays: Allemagne," *Close the Camps*, February 2016, <http://closethecamps.org/pays/DEU>; Federal Office for Migration and Refugees, "Flughafenverfahren," August 2016, <http://www.bamf.de/DE/Fluechtlingschutz/Sonderverfahren/FlughafenVerfahren/flughafenverfahren-node.html>



*Aerial view of Ingelheim detention centre. (Google Earth)*

### 4.3.2 Ingelheim detention centre<sup>72</sup>

The Ingelheim dedicated immigration detention centre is the only currently operating facility that operated as a specialised immigration facility before the 2014 CJEU rulings.<sup>73</sup> Established in 2001, the centre was renovated in 2012. The centre is run by the Supervision and Services Directorate (*Aufsichts und Dienstleistungsdirektion*), which is under the Rhineland-Palatinate Ministry of Family, Women, Youth, Integration, and Consumer Protection (*Ministerium für Familie, Frauen, Jugend, Integration und Verbraucherschutz*). Prior to 2011 elections in Rhineland-Palatine, it was under the authority of the Interior Ministry.

The centre's environment is partially carceral. Although staff members are not uniformed and appear to exhibit a more relaxed manner than uniformed police staff at facilities like Trandum in Norway, the layout of the facility is decidedly prison-like, characterised by narrow corridors that are delimited by barred doors.

As of 2016, it had a capacity of 70, which was reduced to 40 in 2017. The facility is comprised mainly of single-room cells. It accommodates men and women in

<sup>72</sup> In addition to the other sources cited herein, the characterisation of Ingelheim provided in this report comes from personal observations of researchers: Michael Flynn and Izabella Majcher (Global Detention Project), Visit to the Ingelheim centre, 12 April 2018.

<sup>73</sup> This section was completed using the following sources: (1) Stefan Mollner (director of the Ingelheim centre), Ms. Kreuzberg-Lauterbach, and Jürgen Siegers (employees of the centre), Presentation of the Ingelheim centre provided to Michael Flynn and Izabella Majcher (Global Detention Project), 12 April 2018; (2) Michael Flynn and Izabella Majcher (Global Detention Project), Visit to the Ingelheim centre, 12 April 2018; (3) Andreas Kreiner-Wolf (*Ökumenische Beratungsstelle in der Gewahrsamseinrichtung für Ausreisepflichtige Ingelheim*) Email communication and interview, March-May 2018; (4) *Diakonie und Caritas*, "Mehr Menschen in Abschiebungshaft," Press Release, 17 April 2018; (5) National Agency for the Prevention of Torture, "Annual Report 2013 of the Federal Agency and the Commission Countries," April 2014, [https://www.nationale-stelle.de/fileadmin/dateiablage/Dokumente/Berichte/Jahresberichte/Annual\\_Report\\_2013\\_National\\_Agency.pdf](https://www.nationale-stelle.de/fileadmin/dateiablage/Dokumente/Berichte/Jahresberichte/Annual_Report_2013_National_Agency.pdf); (6) Pro Asyl and Diakonie in Hessen and Nassau, "Schutzlos hinter Gittern: Abschiebungshaft in Deutschland," June 2013, <https://www.proasyl.de/material/schutzlos-hinter-gittern-abschiebungshaft-in-deutschland/>



separate sections. The rooms are equipped with a bed, a table, a chair, a locker, and a wardrobe. There is also a separate area with a sink and a toilet.

Previously, *Pro Asyl* and *Diakonie Hessen* reported that in Berlin, Büren, and Ingelheim, families and couples could be housed *en groupe*. During the GDP's visit, researchers learned that there is no longer a special section for families. However, there are cells providing for couples.

Following its 2013 visit, the National Agency for the Prevention of Torture found the rooms and sitting rooms to be clean and in a good state of repair. During the GDP's visit for this study, researchers observed that rooms and sitting rooms were clean but aging and worn out.

The National Agency for the Prevention of Torture commented on the facility's regime. The cells were open during the day and detainees could spend four hours a day outside. During the GDP's visit, this remained the case for detainees placed in units with an "open regime" (they could move freely within their unit from 7am to 10pm). Those placed in units with a "closed regime" were locked in their cells during the day, except for 1 to 1.5 hours of outdoor exercise, and time for voluntary work or visiting other detainees in their cells. After the ongoing renovations, the centre will have more units with an "open regime." The outdoor space is of adequate size but it



*A double room at Ingelheim detention centre. (F.A.Z.-Foto/Frank Röth)*



*A guard patrols Ingelheim detention facility (F.A.Z.-Foto/Frank Röth)*

has limited equipment (there are no benches and it is not covered, leaving detainees exposed to the elements).

According to official sources, as of 2015/2016, detainees had access to the internet and could use their phones, (provided they did not have cameras), receive visits every day, and wear their own clothes. This policy has now changed. After an alleged escape attempt during which some detainees used mobile phones to trick staff—no more than a prank, according to an advocate who works with the detainees—a policy was adopted preventing the use of mobile phones and the internet. Detainees can use phones located on each floor. However, detainees are entitled to only two free calls—upon admission and before removal.

The Ingelheim centre has also ramped up other security measures since the “escape attempt,” including making more widespread use of barbed wire and reducing outdoor time. Additionally, non-governmental visitors to the facility have expressed concerns about limited health care provisions, insufficient number of guards (in particular in the female section), and the lack of specific law regulating conditions at the centre.<sup>74</sup>

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<sup>74</sup> Andreas Kreiner-Wolf (*Ökumenische Beratungsstelle in der Gewahrsamseinrichtung für Ausreisepflichtige Ingelheim*), Email exchange with Izabella Majcher (Global Detention Project), September 2018.

## 4.4 Sweden

Sweden is often lauded for having more humane detention practices than its Scandinavian neighbours, including Norway and Denmark. Yet, sharp increases in asylum applications during the peak of the “refugee crisis” spurred hardening policies and public sentiment. Even though asylum cases have dropped dramatically since 2016, the country continues to pursue restrictive reforms, including regarding immigration detention.

The total immigration detention capacity increased from 255 in 2015<sup>75</sup> to 357 in 2016.<sup>76</sup> The government also plans to increase detention capacity in 2018-2019, including by opening new centres. The yearly number of detainees increased from around 3,200 in 2014 to 4,400 in 2017.<sup>77</sup> Likewise, the average length of detention increased from 18 days in 2015 to 31.5 days in 2017.<sup>78</sup>

According to the Swedish government, the need for detention has been increasing because growing numbers of people who arrived in 2015 are receiving expulsion orders and police are tightening internal migration controls.<sup>79</sup>

Sweden’s Mårsta detention centre, which is profiled for this study, is Sweden’s largest detention centre. Like France’s Toulouse detention centre, also profiled in this study, Mårsta detains families with children. However, it has a long-standing reputation for having a comparably high standard of treatment of detainees and an internal regime that emphasises the needs of detainees rather than an over-emphasis on security. Because of its reputation, the Norwegian NPM visited the facility in 2015 in an effort to develop best practices and lessons learned that could be applied at Trandum. More recently, however, civil society organisations have observed some worrying trends at Mårsta, in particular a growing tendency not to provide adequate or timely information to detainees about their deportation procedures, leading to increased anxiety among detainees.<sup>80</sup>

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<sup>75</sup> Caritas Sweden and Swedish Network of Refugee Support Groups (FARR), “Country Report: Sweden,” *Asylum Information Database (AIDA)*, December 2015, <http://www.asylumineurope.org/reports/country/sweden>

<sup>76</sup> Swedish Network of Refugee Support Groups (FARR), “Country Report: Sweden,” *Asylum Information Database (AIDA)*, December 2016, <http://www.asylumineurope.org/reports/country/sweden>

<sup>77</sup> Swedish Network of Refugee Support Groups (FARR), “Country Report: Sweden,” *Asylum Information Database (AIDA)*, December 2017, <http://www.asylumineurope.org/reports/country/sweden>

<sup>78</sup> Swedish Network of Refugee Support Groups (FARR), “Country Report: Sweden,” *Asylum Information Database (AIDA)*, December 2017, <http://www.asylumineurope.org/reports/country/sweden>; Swedish Network of Refugee Support Groups (FARR), “Country Report: Sweden,” *Asylum Information Database (AIDA)*, December 2016, <http://www.asylumineurope.org/reports/country/sweden>

<sup>79</sup> Migration Board, “*Tomtförfrågan om nytt förvar i norra Sverige*,” 17 January 2018, <https://www.migrationsverket.se/Om-Migrationsverket/Nyhetsarkiv/Nyhetsarkiv-2018/2018-01-17-Tomtforfragan-om-nytt-forvar-i-norra-Sverige.html>

<sup>80</sup> Swedish Network of Refugee Support Groups (FARR)’s visiting group to detention centres, Interview with Izabella Majcher (Global Detention Project), 26 September 2018.

#### 4.4.1 National context

**Legal basis.** The 2005 Aliens Act (2005:716) (*Utlänningslag*)<sup>81</sup> regulates the country's migration policy, including conditions for issuance of visas, long-term resident status, work permits, and refusal of entry to the country, as well as "coercive" control measures, which include immigration detention and penal sanctions.

**Grounds for detention.** Immigration detention (*förvar*) is addressed in Chapter 10 of the Aliens Act. The Act provides that non-citizens over the age of 18 may be detained when: their identities cannot be clearly established; they are unable to show proof of the right to enter or stay in Sweden; or when detention is deemed necessary to carry out an investigation of the right to remain in Sweden. In cases when it appears likely that a person will be refused entry or deported, the person can be detained if authorities deem him or her to be a flight risk or potentially engaged in criminal activities (Chapter 10, Section 1). The grounds for detention do not clarify whether they apply to people in asylum or removal proceedings, hence both categories are arguably targeted. Observers in Sweden, including [Caritas Sweden](#), have argued that these grounds have proved ambiguous as they are applied in practice.<sup>82</sup>

**Length of detention.** The legal limits on the length of detention vary according to the grounds for detention. Detention for the purposes of investigating the migrant's right to remain in Sweden cannot be longer than 48 hours (Chapter 10, Section 4, paragraph 1). Detention during the verification of the right of a foreign national to enter or stay in Sweden is limited to two weeks, unless there are exceptional grounds for a longer period. Individuals detained awaiting deportation may be detained for two months, although this can be extended on exceptional grounds. If it is likely that an expulsion will take longer because of the lack of cooperation by the non-citizen or delays in receiving necessary documents, detention can last for up to 12 months. Detention time limits do not apply in situations where expulsion is sought because of the migrant's criminal activities (Chapter 10, Section 4, paragraph 2).

Children may be detained for 72 hours, subject to renewal of another 72 hours in exceptional circumstances (Chapter 10, Section 5).

The average length of detention was 31.5 days in 2017, 26.6 in 2016, and 18 in 2015.<sup>83</sup>

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<sup>81</sup> Aliens Act (2005:716), 29 September 2005, [https://www.government.se/contentassets/784b3d7be3a54a0185f284bbb2683055/aliens-act-2005\\_716.pdf](https://www.government.se/contentassets/784b3d7be3a54a0185f284bbb2683055/aliens-act-2005_716.pdf) (*Utlänningslag*), [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utlanningslag-2005716\\_sfs-2005-716](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utlanningslag-2005716_sfs-2005-716)

<sup>82</sup> Caritas Sweden, "Country Report: Sweden," *Asylum Information Database (AIDA)*, December 2015, <http://www.asylumineurope.org/reports/country/sweden>

<sup>83</sup> Swedish Network of Refugee Support Groups (FARR), "Country Report: Sweden," *Asylum Information Database (AIDA)*, December 2016, <http://www.asylumineurope.org/reports/country/sweden>; Swedish Network of Refugee Support Groups (FARR), "Country Report: Sweden," *Asylum Information Database (AIDA)*, December 2017, <http://www.asylumineurope.org/reports/country/sweden>

**Children.** The Aliens Act provides that non-citizens can be detained on immigration grounds when they reach the age of 18. It does, however, describe two situations in which children may be detained for immigration-related reasons (Chapter 10, Section 2, paragraphs 1 and 2). A child can be detained if: (1) it is probable that the child will be refused entry or has already been issued a deportation order and/or there is an “obvious” risk of absconding; or (2) it is deemed that supervision is not sufficient to carry out the order. Detention can also be ordered to enforce a refusal of entry or expulsion order in cases where child supervision proved insufficient to enforce a previous order. The Aliens Act does not clarify whether it addresses accompanied or unaccompanied children, thus this provision applies to both categories.

The Aliens Act provides an additional safeguard for unaccompanied children. Accordingly, unaccompanied children can be detained only in exceptional circumstances (Chapter 10, Section 3). Children may not be detained for more than 72 hours or, in exceptional circumstances, for an additional 72 hours (Chapter 10, Section 5), and children cannot be separated from their guardians by detaining either the guardian or the child.

In 2017, 78 children were detained, 108 in 2016,<sup>84</sup> and 80 in 2015.<sup>85</sup> The average length of detention of children decreased from 3.9 days in 2016 to 2.5 days in 2017.<sup>86</sup>

**Institutional setting.** The Aliens Act specifies the authorities with decision-making and enforcement powers regarding immigration detention. Authorities empowered to issue immigration-related detention orders include the Swedish Migration Agency (*Migrationsverket*), the Migration Courts, the Migration Court of Appeal, and the police (Chapter 10, Sections 13, 14, and 17). The Migration Agency is part of the Ministry of Justice and is responsible for enforcement of detention orders (Chapter 10, Section 18) and for operating detention centres (Chapter 11, Section 2).

The Märsta centre is regularly visited by the Swedish Network of Refugee Support Groups (FARR), Swedish Red Cross, and Swedish Church in Märsta.

**Trends and statistics.** According to the Migration Agency, 4,379 non-citizens were detained in 2017, the largest number in recent history. In 2016, 3,714 were detained; 3,959 in 2015; 3,201 in 2014; 2,893 in 2013; 2,564 in 2012; and 1,941 in 2011.<sup>87</sup>

Out of 4,379 migrants detained in 2017, 4,301 were adults (3,810 men and 491 women) and 78 children (43 boys and 35 girls). At the end of December 2017 the

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<sup>84</sup> Swedish Network of Refugee Support Groups (FARR), “Country Report: Sweden,” *Asylum Information Database (AIDA)*, December 2017, <http://www.asylumineurope.org/reports/country/sweden>

<sup>85</sup> Caritas Sweden, “Country Report: Sweden,” *Asylum Information Database (AIDA)*, December 2015, <http://www.asylumineurope.org/reports/country/sweden>

<sup>86</sup> Swedish Network of Refugee Support Groups (FARR), “Country Report: Sweden,” *Asylum Information Database (AIDA)*, December 2017, <http://www.asylumineurope.org/reports/country/sweden>

<sup>87</sup> Swedish Network of Refugee Support Groups (FARR), “Country Report: Sweden,” *Asylum Information Database (AIDA)*, December 2017, <http://www.asylumineurope.org/reports/country/sweden>





*Mårsta detention centre. (Swedish Migration Board)*

number of non-citizens detained was 466, while the total detention capacity in dedicated centres was 357, which suggests a lack of appropriate detention space or overcrowding.<sup>88</sup> The average length of detention has also grown, from 18 days in 2015 to 31.5 days in 2017.<sup>89</sup>

**Regulation of detention conditions.** Pursuant to the Aliens Act, individuals detained for immigration-related reasons are to be held in premises that have been specially designed for this purpose. The Migration Agency is responsible for such premises (Chapter 11, Section 2, paragraph 1).

In addition to these facilities, immigration detainees can be held for short periods in police stations and in specially designed units located in some of the country's prisons. The Migration Agency may place adult non-citizens in prisons, remand prisons, or police arrest facilities if the non-citizen is expelled for having committed a criminal offence, he is being held in isolation in dedicated detention centre and cannot be held there anymore for security reasons, or for "some other exceptional

<sup>88</sup> Swedish Network of Refugee Support Groups (FARR), "Country Report: Sweden," *Asylum Information Database (AIDA)*, December 2017, <http://www.asylumineurope.org/reports/country/sweden>

<sup>89</sup> Swedish Network of Refugee Support Groups (FARR), "Country Report: Sweden," *Asylum Information Database (AIDA)*, December 2017, <http://www.asylumineurope.org/reports/country/sweden>; Swedish Network of Refugee Support Groups (FARR), "Country Report: Sweden," *Asylum Information Database (AIDA)*, December 2016, <http://www.asylumineurope.org/reports/country/sweden>



grounds.” In the last two cases, the migration detainee is to be confined separately from prisoners (Chapter 10, Section 20).

The Aliens Act provides a number of specific rules for how detention centres are to be operated and the appropriate environments for different detainees. Detention facilities are to be organised in a way that infringes least upon detainees’ integrity and rights (Chapter 11, Section 1). Non-citizens are to be informed of the rules applicable in their place of detention (Chapter 11, Section 1, paragraph 1). They are to have access to recreation activities, physical training, and outdoor exercises. Children in detention are to have an opportunity to play and to have access to activities appropriate for their age. Families are to be accommodated together (Chapter 11, Section 3). Detainees must be able to receive visits and have contact with the outside world, except where it would hamper carrying out detention in a particular case. If necessary for security reasons, visits may be monitored. Visits conducted by a public counsel or a member of the Swedish Bar may only be monitored if the detainee specifically requests it (Chapter 11, Section 4). Detainees should have the same daily allowances as asylum seekers accommodated in the reception centres (Chapter 11, Section 13).

Under the Aliens Act, immigration detainees are entitled to the same level of medical health care as applicants for international protection. Detainees who need hospital care during the period of detention shall have access to such treatment (Chapter 11, Section 5). Health care is covered if it cannot be deferred, which includes care and treatment of diseases and injuries in cases where even a moderate delay can be expected to result in serious consequences for the patient. Preventive child and maternity care and care of communicable diseases are free of charge. However, detainees pay approximately five EUR for visits to public primary doctors and for treatment given after the physician’s referral.<sup>90</sup>

**The Aliens Act provides a number of specific rules for how detention centres are to be operated and the appropriate environments for different detainees. Detention facilities are to be organised in a way that infringes least upon detainees’ integrity and rights.**

The Aliens Act permits placing adult detainees in isolation in their room, if it is necessary for order and security in the detention centre or if the person poses a serious danger to himself or others. If the non-citizen is to be kept separate because he is a danger to himself, he must be examined by a doctor as soon as possible. The decision to place a migrant in isolation is taken by the Migration Agency and should

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<sup>90</sup> Swedish Migration Board, “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Sweden,” *European Migration Network (EMN)*, 2014, [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/studies/results/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm)

be reviewed every third day (Chapter 11, Section 7). The Märsta facility has a few isolation rooms with surveillance rooms, equipped with a bed and bathroom with shower.

**Immigration detention estate.** Sweden operates five dedicated detention centres: Gävle, Märsta, Flen, Kålleröd, and Åstorp. They have a total capacity of 357.<sup>91</sup> Non-citizens can also be detained in special units for immigration detainees in the Norrtälje and Storboda prisons.

#### 4.4.2 Märsta detention centre

Sweden's largest immigration detention centre, Märsta was established in 2003.<sup>92</sup> Its capacity recently increased from 75 in 2017 to 126 in 2018; it is slated to increase again, to 150, during summer 2018. The centre is run by the Migration Agency and is located close to Stockholm Arlanda Airport. It has three units for men and one unit for women, families, and vulnerable persons.

The centre was visited by the CPT in 2015 and the Swedish Ombudsman in 2014. Both institutions gave a positive account of the material conditions of the centre. The rooms were of adequate size (15 square metres for up to three persons), were bright, and were adequately heated and ventilated. According to more recent accounts, some cells were worn out and inadequately equipped (there was only a single bedside table and shelf for a cell, most of which accommodate three people). Moreover, in the summer temperatures tend to be high as ventilation is not working properly.

According to characterisations provided by independent observers who visit the facility regularly, the centre has a partially carceral character. Some staff members are uniformed and the layout—narrow corridors and the presence of surveillance systems—gives a penitentiary impression.

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<sup>91</sup> Migration Board, "Tomtförfrågan om nytt förvar i norra Sverige," 17 January 2018, <https://www.migrationsverket.se/Om-Migrationsverket/Nyhetsarkiv/Nyhetsarkiv-2018/2018-01-17-Tomtförfragan-om-nytt-förvar-i-norra-Sverige.html>

<sup>92</sup> This section is completed using the following sources: (1) European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Swedish Government on the Visit to Sweden Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 to 28 May 2015, CPT/Inf (2016) 1," February 2016, <http://www.cpt.coe.int/documents/swe/2016-01-inf-eng.pdf>; (2) European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Swedish Government on the Visit to Sweden Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 18 June 2009, CPT/Inf (2009) 34," December 2009, <https://rm.coe.int/1680697f4d>; (3) Parliamentary Ombudsman, "Inspektion av Migrationsverkets förvarsenhet i Märsta den 15–16 maj 2014," 2014, <https://www.jo.se/Global/NPM-protokoll/NPM-protokoll%202188-2014.pdf?epslanguage=sv>; (4) Swedish Network of Refugee Support Groups (FARR)'s visiting group to detention centres (based on interviews with detainees and former detainees), May 2018; (5) Swedish Church in Märsta, interview, May 2018; (6) Migration Board, "Tomtförfrågan om nytt förvar i norra Sverige," 17 January 2018, <https://www.migrationsverket.se/Om-Migrationsverket/Nyhetsarkiv/Nyhetsarkiv-2018/2018-01-17-Tomtförfragan-om-nytt-förvar-i-norra-Sverige.html>



*Detainees in Mårsta detention centre use the centre's computers to access the internet.  
(Swedish Migration Board)*

During the day, detainees can move freely within their unit and have access codes to their rooms. The centre has a recreational area (with sofas, TV set, and board and computer games), gym, and a small library. The centre has offered arts and crafts classes but these do not appear to be offered on a regular basis as of 2018. Detainees can access the outdoor yard—which is equipped with chairs and benches, and offers the possibility to play volleyball, football, and basketball—for one to two hours per day.

The Mårsta centre stands out among centres covered by the study because of the access detainees have to the modern means of telecommunication. While their phones are stored, detainees receive mobile phones without cameras for the period of their detention. The centre also has a computer room where detainees can use the internet.

The centre's guards are not armed, have varied cultural backgrounds, and speak several languages. Most of the detainees interviewed by the CPT admitted that the overall atmosphere in the centre was relaxed.

On the other hand, the CPT expressed concerns regarding medical care. First, there is no medical screening upon arrival. Secondly, under an agreement between the detention centre and a local health centre, a general practitioner visited the centre once a week and a nurse three days per week. However, the hours of their visits were not fixed but rather planned based on the number of detainees who had

registered for a consultation with the custodial staff. Hence, custodial staff screen requests for medical consultations. The CPT's concerns from 2015 were largely confirmed by the recent interviews the GDP conducted for this study.

## 4.5 Switzerland

Switzerland's immigration detention system is shaped by the country's federal governance structure. Similar to Germany, national immigration policy is enforced at the cantonal (state) level in Switzerland, which results in varied use and duration of detention from canton to canton.<sup>93</sup> Additionally, when information about detention practices is sought from federal authorities, they generally redirect questions to cantonal agencies, some of which have repeatedly rejected or ignored requests for information.<sup>94</sup> As a result, Switzerland is arguably one of the least transparent countries in Europe when it comes to immigration detention.<sup>95</sup>

Experts have pointed to other concerns in Switzerland. For example, in 2017, after an official visit to Switzerland, the Council of Europe's (COE) Commissioner for Human Rights emphasised the need to reform child detention practices in the country. In particular, he called on Switzerland to end the administrative detention of migrant children over the age of 15, which is practiced in some cantons (those under the age of 15 cannot be detained). Concerned about the separation of parents from their children when they are placed in detention, the Commissioner urged the authorities to respect the right to family unity.<sup>96</sup>

The Frambois centre located in Geneva is one of Switzerland's few dedicated detention facilities (most cantons use prisons for immigration-related detention). Frambois is generally considered to have comparably higher standards than do other Swiss detention sites. Nevertheless, migrant advocates who monitor Frambois are quick to point out that the centre is not representative of immigration detention practices elsewhere in Switzerland, or even in Geneva itself.<sup>97</sup> Additionally, civil society groups have highlighted the sometimes lengthy periods of detention (more than nine months), as well as the detention of people who cannot be deported or who have mental health issues that cannot be properly treated in detention.<sup>98</sup>

Although Frambois management refused researchers access to the facility for the purposes of this study and there is a lack of information about some key indicators, it

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<sup>93</sup> Swiss Refugee Council, "Country Report: Switzerland," *AIDA (Asylum Information Database)*, 2018, <http://www.asylumineurope.org/reports/country/switzerland/detention-asylum-seekers/general>

<sup>94</sup> See, for instance, Terre des Hommes, "Detention of Migrant Children in Switzerland: A Status Report," June 2016, <https://www.globaldetentionproject.org/illegal-detention-of-migrant-children-in-switzerland-a-status-report>

<sup>95</sup> For a detailed assessment of how Switzerland compares to other European countries with respect to access to immigration detention information, see the joint GDP-Access Info study, "The Uncounted: Detention of Migrants and Asylum Seekers in Europe," December 2015, available at: <https://www.globaldetentionproject.org/the-uncounted-the-detention-of-migrants-and-asylum-seekers-in-europe>

<sup>96</sup> Council of Europe Commissioner for Human Rights, "Switzerland Should Reinforce its Human Rights Protection Framework and Better Respond to the Needs of Vulnerable Migrants," October 2017, <https://www.coe.int/en/web/commissioner/-/switzerland-should-reinforce-its-human-rights-protection-framework-and-better-respond-to-the-needs-of-vulnerable-migrants>

<sup>97</sup> Another detention centre in Geneva, "Favra," has a significantly stricter and more security-oriented regime.

<sup>98</sup> Anne-Madeleine Reinmann (Agora), Email exchange with Izabella Majcher (Global Detention Project), September 2018; Marc Morel (*Ligue Suisse des Droits de l'Homme*), Email exchange with Izabella Majcher (Global Detention Project), September 2018.

was decided to include the centre because some of its practices compare favourably to those at Norway's Trandum detention facility.

#### 4.5.1 National context

**Legal basis.** The legal framework relevant to immigration detention (*Ausschaffungshaft*) is based on the 2005 Federal Act on Foreign Nationals (FNA)<sup>99</sup> and the 1998 Asylum Act (AA).<sup>100</sup>

**Grounds for detention.** Swiss legislation stands out because of the plethora of grounds justifying immigration detention. The FNA and AA set forth several provisions, which justify immigration detention. These can be clustered into eight categories: 1) detention at the airport for refusal of entry; 2) detention of asylum seekers; 3) temporary detention; 4) detention in preparation for departure; 5) detention pending deportation; 6) detention under the Dublin procedure; 7) detention pending deportation due to lack of cooperation in obtaining travel documents; 8) coercive detention.

**Length of detention.** The total length of detention in preparation for departure, detention pending deportation, detention under the Dublin procedure, detention pending deportation due to lack of cooperation in obtaining travel documents, and coercive detention may not exceed six months. This length may be extended by 12 months—or six months in cases of children aged between 15 and 18—due to lack of cooperation by the person concerned with the competent authority or delay in issuing travel documents by a third country (FNA, Article 79). The average length of detention was 25 days in 2017.<sup>101</sup>

**Children.** Swiss legislation does not prohibit placing children in immigration detention. However, it forbids detaining children below the age of 15 (FNA, Articles 80(4) and 80a(5)). Children above 15 can be detained for up to 12 months. In 2015, Switzerland detained 142 children, 131 in 2014, and 130 in 2013.<sup>102</sup>

**Institutional setting.** Similar to Germany, Switzerland's federal institutional setting influences the practice of immigration detention. Most frequently, immigration detention is ordered by the cantonal authorities (FNA, Article 80(1)). Because cantons have discretion in their implementation of federal immigration law, enforcement practices can differ from one canton to the next.

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<sup>99</sup> Federal Act on Foreign Nationals No. 142.20 (Foreign Nationals Act or FNA). 16 December 2005 (*Loi fédérale sur les étrangers* or LEtr), <https://www.admin.ch/opc/en/classified-compilation/20020232/index.html>

<sup>100</sup> Asylum Act No. 142.31, 26 June 1998, (*Loi sur l'asile* or LAsi), <https://www.admin.ch/opc/en/classified-compilation/19995092/index.html#id-ni1>

<sup>101</sup> Swiss Refugee Council, "Country Report: Switzerland," *AIDA (Asylum Information Database)*, 2018, <http://www.asylumineurope.org/reports/country/switzerland/detention-asylum-seekers/general>

<sup>102</sup> Terre des Hommes, "Illegal Detention of Migrant Children in Switzerland: A Status Report," June 2016, <https://www.tdh.ch/en/media-library/documents/illegal-detention-migrant-children-switzerland>



The cantonal courts and the Federal Supreme Court (*Tribunal fédéral*) are the appeal instances.<sup>103</sup> However, in cases of “detention pending deportation” under Article 76(1)(b)(5) of the FNA, if the removal decision is issued in a “reception centre” or “special centre” governed by Article 26(1)(bis) of the AA and the enforcement of the removal is imminent, detention is ordered by the State Secretariat for Migration (SEM), which is part of the Federal Department of Justice and Police (*Département fédéral de justice et police* - DFJP). The Federal Administrative Court (*Tribunal administratif fédéral* - TAF) is the appeal instance against the decisions adopted by the SEM (FNA, Article 80(1)).

**Trends and statistics.** According to statistics provided by the SEM to the GDP, between 2011 and 2014 there was a steady decrease in the numbers of people placed in immigration-related detention: 7,540 in 2011, 6,806 in 2012, 6,039 in 2013, and 5,417 in 2014.<sup>104</sup>

**Regulation of detention conditions.** In contrast to Sweden and Norway, Swiss legislation does not regulate the conditions and regime of detention in a detailed manner. Article 81 of the FNA provides that detention must take place in “appropriate premises” and the authorities should, if possible, avoid placing immigration detainees alongside pre-trial detainees or detainees serving prison sentences. Confining non-citizens with these other categories may be ordered as a temporary measure to overcome shortages of accommodation in administrative detention. The needs of vulnerable people, unaccompanied children, and families with minor children must be taken into account in detention arrangements.

**Immigration detention estate.** Switzerland appears to be the sole country bound to the EU Returns Directive that continues to regularly uses prisons for carrying out immigration detention. As of 2015, the GDP was aware of 23 facilities detaining non-citizens on account of migration-related issues.<sup>105</sup> More recently in 2017, the Swiss

<sup>103</sup> Swiss Refugee Council, “Country Report: Switzerland,” *AIDA (Asylum Information Database)*, 2018, <http://www.asylumineurope.org/reports/country/switzerland/detention-asylum-seekers/general>

<sup>104</sup> Philippe Feliser (State Secretariat for Migration), Email to Michael Flynn (Global Detention Project), 8 October 2015; Philippe Feliser, Response to Global Detention Project/Access Info Questionnaire, 9-24 October 2013.

<sup>105</sup> Aarau District Prison (Bezirksgefängnis Aarau-Amtshaus), Altstätten Regional Prison (Regionalgefängnis Altstätten), Appenzell Ausserrhoden Cantonal Prison (Strafanstalt Gmünden AND Kantonales Gefängnis Appenzell Ausserrhoden), Appenzell Innerrhoden Cantonal Police Prison (Gefängnis Appenzell / Kantonalen Polizeigegefängnis), Basel City Deportation Prison (Ausschaffungsgefängnis Basel-Stadt) (Ausschaffungsgefängnis Bälertgut), Bazenheid Deportation Prison (Ausschaffungsgefängnis Bazenheid), Bern Regional Prison (Regionalgefängnis Bern), Biberbrugg Security Base Cantonal Prison (Kantonsgefängnis Sicherheitsstützpunkt Biberbrugg, Benna), Eglzwil Deportation Prison, Lucerne, Etablissements de détention de La Promenade, Frambois Certified Establishment for Administrative Detention (Etablissement concordataire de détention administratif de Frambois), Fribourg Central Prison (Prison centrale de Fribourg), Glarus Cantonal Prison (Kantonales Gefängnis Glarus), Granges Centre for Coercive Measures (Centre des mesures de contrainte, Grange), Grison Cantonal Prison Sennhof (Kantonale Strafanstalt Sennhof), Haft- und Untersuchungsgefängnis Grosshof, Justizvollzugsanstalt Realta Prison, Maison d'arrêt de Favra, Olten Remand Centre (Untersuchungsgefängnis Olten), Prison de Champ Dollon, Prison de Porrentruy, Regionalgefängnis Burgdorf, Regionalgefängnis Thun, Sarnen Police Detention Facility, Solothurn Remand Centre (Untersuchungsgefängnis Solothurn), St Gallen Prison (Gefängnis St. Gallen), Stans Remand and Criminal Prison (Untersuchungs-und Strafgefängnis Stans), Widnau Deportation Prison (Gefängnis Widnau), Witzwil Penitentiary (Anstalten Witzwil), Zug Cantonal Prison (Kantonale Strafanstalt Zug), Zurich Airport Prison (Flughafengegefängnis Abt. Ausschaffungshaft), Zurich Airport transit zone, and Frambois detention centre. Source: Global Detention Project, “Switzerland: Detention Centres,” <https://www.globaldetentionproject.org/countries/europe/switzerland>

Refugee Council reported that there were 20 facilities in Switzerland being used for immigration-related detention, which had a total combined immigration-related capacity of 415.<sup>106</sup>

#### 4.5.2 Frambois detention centre

Frambois detention centre (*Etablissement concordataire de détention administrative*) is one of a few dedicated immigration detention facilities in Switzerland.<sup>107</sup> It is managed by the *Conseil de la Fondation Romande de Detention Administrative*, which is under authority of the Department of Security and Economy. Based on a *concordat* between three cantons, the centre holds detainees from the cantons of Geneva, Vaud, and Neuchatel, and thus the custodial authority of detainees can be one of three different regional authorities.



*Aerial view of Frambois detention centre. (Google Maps)*

<sup>106</sup> Swiss Refugee Council, "Country Report: Switzerland," *AIDA (Asylum Information Database)*, 2018, <http://www.asylumineurope.org/reports/country/switzerland/detention-asylum-seekers/general>

<sup>107</sup> This section was completed using the following sources: **(1)** *Commission nationale de prévention de la torture (CNPT), "Visite de suivi de la CNPT dans l'établissement concordataire de Frambois,"* 18 January 2018; **(2)** Interview avec Agora, 15 May 2018; **(3)** Interview avec Laura Rezzonico, 15 May 2018; **(4)** *Conseil de la Fondation Romande de detention administrative, "Rapport d'activité de la Fondation romande de detention LMC,"* 2016.



The centre has a capacity of 20 and is usually full or nearly so. It detains solely adult males in single cells. In some key respects, the facility provides a non-carceral environment. The layout of the facility is intended to disguise or soften penitentiary characteristics. Guards are not uniformed, speak various languages, come from diverse ethnic backgrounds, and are trained in intercultural skills. The centre also employs a social assistant, whose role is to assist detainees with administrative processes (like contacting their lawyers or managing their paperwork), liaises with doctors when necessary, and provides moral support.

During the day, detainees can move freely within the centre and have access to a spacious common room, equipped with tables, chairs, board games, and a ping pong table. The common room has a small outdoor terrace (surrounded by a wall) that detainees can use throughout the day. Following its January 2018 visit to the centre, the Swiss National Preventive Mechanism (NMP) (*Commission nationale de prévention de la torture* (CNPT)), applauded the regime of detention for emphasising the non-penal character of immigration detention.



*Detainees play football in Frambois detention centre's outdoor space. ([Vol Special](#))*

One of the more notable features of Frambois, and something that differentiates it from other centres examined in this study, is its policy of allowing detainees to cook for themselves. The ability to prepare their own meals empowers detainees and keeps them busy. For people deprived of control, certainty, and family, the ability to prepare and share meals can help “humanise” the experience of confinement. Detainees can also perform small jobs for the centre (cleaning, ironing, maintaining the kitchen, gardening) for which they receive a small remuneration (3 CHF per hour).

Despite the non-penal character of the centre, and in contrast to the Mårsta centre in Sweden, Frambois does not allow detainees to use mobile phones nor does it allow them to access the internet. Following its 2018 visit to the centre, the NPM noted that given the non-penal character of immigration detention and in light of international standards, the authorities should consider offering free internet access and the possibility of limited access to mobile phones. Also, as mentioned previously, civil society groups express concern over the practice of detaining people at Frambois who cannot be deported, which can lead to lengthy periods of confinement.<sup>108</sup>

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<sup>108</sup> Anne-Madeleine Reinmann (Agora), Email exchange with Izabella Majcher (Global Detention Project), September 2018 ; Marc Morel (Ligue Suisse des Droits de l’Homme), Email exchange with Izabella Majcher (Global Detention Project), September 2018.



## 5. CONCLUSIONS AND RECOMMENDATIONS

Experts have long noted how, from one country to the next, immigration detention practices tend to vary widely, even in regions like the European Union (and the Schengen area) where member states have harmonised many of their relevant laws. This diversity is clearly evidenced in the comparative analysis of the five countries included in this study: France, Germany, Norway, Sweden, and Switzerland. Although they share some similar migration concerns, the institutional and practical arrangements in their detention systems are in many respects quite different. This study aims to increase awareness among officials and civil society actors—with a particular emphasis on Norway—of these various distinctions to foster consideration of reforms that could improve the wellbeing of people placed in immigration detention.

One point that appears to be well documented by this study is that Norway's Trandum detention centre applies more restrictive practices in several areas of its operations. This is particularly evident when Trandum is compared to Germany's Ingelheim facility or the Frambois centre in Geneva, Switzerland (see the chart in Chapter 3).

In recent years, Norwegian authorities have implemented important reforms, including changing practices related to the detention of children and adopting strategies that may diminish the use of security cells and other coercive measures. Trandum also has comparatively high material conditions and is subject to important safeguards like receiving unannounced visits from a Supervisory Board, in addition to the regular visits made by the Norwegian Red Cross and the Salvation Army.

Nevertheless, it is hard to avoid the conclusion that Trandum's regime is overzealously punitive and restrictive, particularly with respect to its operational procedures, staff composition, custodial authority, and the variety of limits placed on its detainees. The trappings of incarceration are, of course, impossible to wholly avoid in any place where people are deprived of their liberty, and all of the facilities in this study reflect this fact. But officials at Trandum appear to have embraced a carceral model to a much greater extent, which would seem to contravene norms and guidelines detailed in international law and promoted by national and regional human rights bodies such as Norway's Parliamentary Ombudsman and the European Committee on the Prevention of Torture (CPT).

Another salient issue, which was not fully recognised at the outset of this investigation, is whether differing detention systems appear to be products of each



country's varying migration pressures. As the authors of this study honed in the numerous distinctive characteristics of each of the national contexts assessed here, it became increasingly evident that these pressures had in fact little correlation with the perceived restrictiveness of each detention system. For instance, in 2017, among all 32 EU and Schengen area countries, Germany was the one that received the highest number of asylum applications whereas Norway ranked last among the five countries assessed here. Likewise, with respect to the numbers of apprehensions of non-citizens without proper documentation, Germany ranked the highest among Schengen countries whereas Norway ranked the lowest among the five countries and 16th among all Schengen countries.<sup>109</sup> Seen from this vantage point, the contrasting regimes between Norway's Trandum detention centre and its peer facilities in the other four countries stand out in particularly stark relief.

Based on the systematic comparison developed in this study, the following procedures, institutional contexts, and material qualities at the four peer facilities outside Norway could be considered for developing a set of reform recommendations for Trandum:

- **Replacing the custodial authority and facility operator with a social welfare institution:** A notable finding from this study is how important operational reforms were introduced at the Ingelheim facility in Germany after the *Land* in question decided to shift the overall authority from a security to a social welfare institution. In Norway, the fact that Trandum is under police management and detainees under the custody of the Ministry of Justice and Public Security may be critical barriers to reform.
- **Removing carceral characteristics of the facility:** According to the CPT, the layout of immigration detention premises should avoid exhibiting carceral characteristics.<sup>110</sup> Geneva's Frambois facility exhibits comparatively better practices in this regard as it uses non-uniformed guards and has a non-penal-like internal layout and design (for instance, bars are not visible and there is a broad communal space with unconstrained access to an outdoor area).
- **De-emphasising the security orientation of core staff who are in daily contact with detainees:** Arguably, aside from the layout of a facility, staff composition is one of the more critical elements to developing a non-punitive

<sup>109</sup> Eurostat Database, "Population and Social Conditions: Asylum and Managed Migration: Asylum and Dublin Statistics: Applications: Asylum and First Time Asylum Applicants by Citizenship, Age and Sex. Annual Aggregated data," <https://ec.europa.eu/eurostat/data/database>; Eurostat Database, "Population and Social Conditions: Asylum and Managed Migration: Enforcement of Immigration Legislation: Third Country Nationals Found to be Illegally Present - Annual Data," <https://ec.europa.eu/eurostat/data/database>

<sup>110</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Foreign Nationals Detained Under Aliens Legislation," 7th General Report of the CPT, CPT/Inf (97)10, 1997, <https://rm.coe.int/16806ce90e>, para. 29; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Safeguards for Irregular Migrants Deprived of their Liberty," 19th General Report of the CPT, CPT/Inf (2009)27, 2009, <https://rm.coe.int/16806c8e8e>, para. 79. Also the Parliamentary Assembly of the Council of Europe stresses that the material conditions of detention and detention regime should be appropriate to the legal situation of immigration detainees, see PACE, "Resolution 1707 (2010): Detention of Asylum Seekers and Irregular Migrants in Europe," para. 9(2)(5) and 9(2)(6).



*Varied staff attire. (L) Trandum (Norway) security and arrival units attire ; (R) Ingelheim (Germany) standard attire for all units (Michael Flynn/Global Detention Project, 2018)*

environment. Staff should be specifically trained to support immigration detainees. According to the CPT, staff should possess well-developed qualities in the fields of interpersonal communication and cultural sensitivity, particularly in light of the diverse backgrounds of immigration detainees.<sup>111</sup> Sweden's Märsta and Switzerland's Frambois stand out among the five centres in this area, including their use of non-uniformed guards, no display of security devices or arms, focus on training, and emphasis on employing staff with diverse ethnic backgrounds.

- **Employing social assistants and/or providing a larger role for humanitarian-oriented civil society actors:** According to the CPT, independent monitoring ensures adequate conditions of detention and prevents ill-treatment. To be fully effective, monitoring visits should be both frequent and unannounced and monitors should be allowed to interview detainees in private.<sup>112</sup> Notable in this regard is France's Toulouse Cornebarrieu detention centre, which has an NGO office located in a highly

<sup>111</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Immigration Detention: Fact Sheet," March 2017, <https://rm.coe.int/16806fbf12>

<sup>112</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Safeguards for Irregular Migrants Deprived of their Liberty," 19th General Report of the CPT, CPT/Inf (2009)27, 2009, <https://rm.coe.int/16806cce8e>

visible area of the detention centre and offers legal and social services. Also worthy of note is Frambois' employment of a "Social Assistant" staff member.

- **Increasing detainees' freedom of movement inside the facility:** The CPT recommends that immigration detainees be guaranteed a regime of detention that is appropriate to their legal situation, hence, they should be allowed to move freely within the facility and benefit from a varied regime of activities.<sup>113</sup> Frambois, Mårsta, and Toulouse provide freedom of movement continually throughout the day.
- **Providing individual cell keys and/or codes:** A corollary to the freedom of movement addressed above is enabling detainees to close their cells when they leave to go to other areas of the facility. Frambois and Mårsta provide best practices in this respect.
- **Enabling incoming calls to the centre:** According to the CPT, immigration detainees should be entitled to maintain contact with the outside world during their detention, and in particular to have access to a telephone.<sup>114</sup> To facilitate the contact with the outside world via telephone, the practice of enabling incoming calls in Frambois deserves attention since it helps detainees without adequate financial means to enjoy this entitlement.
- **Installing telephone cabins in the detention area:** Immigration detainees should be entitled to maintain contact with the outside world during their detention, and in particular to have easy access to a telephone.<sup>115</sup> To enable detainees adequate access to telephone, Frambois displays a good practice of installing cabins in the detention area, which is accessible to detainees daily. At Trandum, each unit has wireless phones that can be used privately.
- **Giving detainees mobile phones for the duration of their confinement:** The CPT has highlighted practices at Mårsta, characterising detainees' ability to maintain contact with the outside world as "excellent," in part because they

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<sup>113</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Safeguards for Irregular Migrants Deprived of their Liberty," 19th General Report of the CPT, CPT/Inf (2009)27, 2009, <https://rm.coe.int/16806cce8e>; para. 79; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Foreign Nationals Detained Under Aliens Legislation," 7th General Report of the CPT, CPT/Inf (97)10, 1997, <https://rm.coe.int/16806ce90e>, para. 29; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Immigration Detention: Fact Sheet," March 2017, <https://rm.coe.int/16806fbf12>. Also the Parliamentary Assembly of the Council of Europe stresses that the material conditions of detention and detention regime should be appropriate to the legal situation of immigration detainees, see PACE, "Resolution 1707 (2010): Detention of Asylum Seekers and Irregular Migrants in Europe," para. 9(2)(5) and 9(2)(6).

<sup>114</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Foreign Nationals Detained Under Aliens Legislation," 7th General Report of the CPT, CPT/Inf (97)10, 1997, <https://rm.coe.int/16806ce90e>

<sup>115</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Foreign Nationals Detained Under Aliens Legislation," 7th General Report of the CPT, CPT/Inf (97)10, 1997, <https://rm.coe.int/16806ce90e>



*A detainee uses Mårsta detention centre's computers. (Swedish Migration Board)*

could use their own mobile phones.<sup>116</sup> The ability to maintain contact through cell phones or internet leads to a calmer centre and less potential for trouble. The CPT has noted that detainees at Mårsta were allowed to use mobile phones without a camera function or were given such phones.<sup>117</sup>

- **Installing computers with access to internet:** According to the CPT, immigration detainees should have access to computers along with Voice over Internet Protocol or Skype facilities and basic internet access.<sup>118</sup> Mårsta provides a good practice in that respect.
- **Providing more culturally sensitive food:** According to the CPT, meals should take into account the detainees' religious requirements and dietary habits.<sup>119</sup> The centres in Geneva and Mårsta seem to implement this well, including Halal, while Trandum only offers non pork and vegetarian options.

<sup>116</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Swedish Government on the Visit to Sweden Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 18 June 2009," CPT/Inf (2009) 34, December 2009, <https://rm.coe.int/1680697f4d>

<sup>117</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Swedish Government on the Visit to Sweden Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 to 28 May 2015," CPT/Inf (2016) 1, February 2016, <https://rm.coe.int/1680697f60>

<sup>118</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Immigration detention: Fact Sheet," March 2017, <https://rm.coe.int/16806fbf12>

<sup>119</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Immigration Detention: Fact Sheet," March 2017, <https://rm.coe.int/16806fbf12>



- **Enabling detainees to take charge of their food preparation:** Regarding the religious requirements and dietary habits of detainees, as required by the CPT,<sup>120</sup> and measures to release stress and reduce boredom of detainees, Frambois revealed the most innovative solution, giving detainees the means to prepare their own meals when they like.
- **Offering remunerated work opportunities:** In order to help detainees release stress and earn some money, the practice of offering remunerated work opportunities at Frambois should be considered.

As the various rationales provided for each of the items listed above suggest, there are two separate but complementary over-arching arguments for advocating reforms: a practical argument and a human-rights-based one.

On the practical side, an important concern shared by both official and non-governmental actors who have been active in monitoring or working in Trandum is the frequent expressions of anger and frustration by detainees, which have led to instances of violence, self-harming, and collective unrest. To some extent, this is an unavoidable result of placing people behind bars and upending their hopes and dreams. However, based on the findings of this report, it seems that the levels of frustration and discontent—as measured by the frequency of security incidents—are quite high at Trandum compared to other facilities.

A partial explanation for this may be found in the type of environment people are subjected to at Trandum, which the Parliamentary Ombudsman has repeatedly highlighted in its reports. Trandum's comparatively more restrictive regime (including intrusive body searches, limitations on telecommunications, militarised staff, failure to provide constructive outlets like food choices) may increase detainees' mistrust of authorities and official processes, leading to predictable results. Seen from this perspective, it may be reasonable to suggest to authorities in Norway that the same rationale that led them to end the detention of children at Trandum and place them in a less securitised environment be applied to adults.

Just as importantly, while immigration detention may be a manifestation of a state's sovereign power to control its borders, this power must be exercised in conformity with international human rights obligations.<sup>121</sup> In the context of immigration detention, the human rights legal framework, discussed in this report's introduction, requires that states impose detention as a last resort, when there are no non-custodial measures available, for the shortest possible time, and in conditions that guarantee personal safety and protection from injury. Detention conditions and regimes must also reflect the administrative character of immigration detention and thus not be punitive.

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<sup>120</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Immigration Detention: Fact Sheet," March 2017, <https://rm.coe.int/16806fbf12>

<sup>121</sup> International Law Commission Special Rapporteur on the expulsion of aliens, "Third Report on the Expulsion of Aliens by Mr. Maurice Kamto, Special Rapporteur," A/CN.4/581, 19 April 2007.



Arguably, when it comes to immigration detention, there are no “best practices,” at least not in the sense of solutions that can ensure the long-term happiness and wellbeing of those detained. As mentioned in the introduction to this report, it seems to be an inescapable quality of immigration detention that it causes pain and discomfort. However, as states continue to rely on and expand detention as a tool of immigration control, the effort to identify ways to reduce harm in detention remains imperative. Hopefully this report can serve as a source of ideas and arguments for both officials and civil society actors in Norway and elsewhere who share this conviction.

## **6. ANNEXES**

### **DETENTION CENTRE FACT SHEETS**

## 6.1 TRANDUM DETENTION CENTRE (NORWAY): FACT SHEET



- I. Facility Details<sup>122</sup>
- II. Key Statistics
- III. Conditions of Detention
- IV. Detention Regime

### I. Facility Details

- **Name:** Trandum National Police Immigration Detention Centre
- **Type:** Dedicated Immigration Detention Centre
- **Location:** Trandum, Norway (near Oslo Airport)
- **Operator:** Immigration Police (Ministry of Justice and Public Security)
- **Custodial Authority:** Ministry of Justice and Public Security

### II. Key Statistics

- **Capacity:** 211 (2018)

<sup>122</sup> This Fact Sheet was completed using the following sources: (1) Olve Kvallen (National Police Immigration Service), "National Police Immigration Detention Centre," Presentation delivered to representatives of the Norwegian Red Cross and the Global Detention Project, 8 February 2018; (2) Karin Afeef and Elise Kaurin (Norwegian Red Cross) and Michael Flynn (Global Detention Project), Notes from visit to the Trandum Immigration Detention Centre, 8 February 2018; (3) Norwegian Parliamentary Ombudsman, "Visit Report: The Police Detention Centre at Trandum, the Security Section," 28-29 March 2017; (4) Norwegian Parliamentary Ombudsman, "Visit Report: The Police Detention centre at Trandum," 19-21 May 2015; (5) *Tilsynsrådet for Politiets utlendingsinternat*, "Trandum," Årsrapport, <http://docplayer.me/storage/65/54372949/1518802991/cg7csg4pnMNLzNRVzS7zaQ/54372949.pdf>

- **Average Daily Population:** NOT AVAILABLE
- **Yearly population:** 4,112 (2016); 3,191 (2015)
- **Population on a given day:** 90 (8 February 2018)
- **Demographics of detainees (by %):** 90 percent adult male, 10 percent adult female (no children or families as of end 2017)
- **Average length of detention:** NOT AVAILABLE (in 2016, 75 percent were detained for less than 10 days and 21 percent for 10-21 days)
- **Countries of origin (by order of importance):** Morocco, Algeria, Somalia
- **Percentage of detainees publicly released in the country:** NOT AVAILABLE (“most” are deported)

### III. Conditions of Detention

- **Carceral environment:** YES
- **Access places of highest risk during independent monitoring visits:** YES
- **Personnel**
  - **Predominately uniformed officers:** YES
  - **Interior staff with firearms:** NO (but with handcuffs, baton, pepper spray in arrival and security sections)
  - **Culturally/ethnically diverse:** YES
  - **Specially trained:** YES (10 weeks training)
  - **Ill treatment reports:** NO
  - **Overall ratio (staff on duty/detainees):** NOT AVAILABLE
  - **Percentage of female staff in women’s sections:** 80 percent
- **Adequate material conditions:** YES (good state of repair and clean)
- **Cells**
  - **Detainees per cell:** 1
  - **At least three square meters per detainee:** YES
  - **Cells adequately equipped (beds, tables, shelves, chairs):** YES
  - **Security and/or isolation cells:** YES
- **Segregation by gender and age and family:** YES (male/female)
- **Family accommodation:** NOT APPLICABLE
- **Non-carceral spaces for children:** NOT APPLICABLE
- **Clean bedding, provision of hygienic products:** YES
- **Adequate temperature:** YES
- **Adequate lighting:** YES
- **Toilets and showers**
  - **Privacy:** YES
  - **Clean:** YES
  - **Accessible around the clock:** YES
- **Indoor communal space**
  - **Adequate communal space available:** YES
  - **Hours per day:** 12 hours
  - **Indoor equipment:** YES (sporting equipment in indoor gym, televisions, radios, board games)
- **Outdoor space**

- **Adequate outdoor space available:** PARTIALLY (consists only of asphalt)
- **At least partially covered:** NO
- **Hours per day:** 75 minutes
- **Outdoor equipment:** LIMITED
- **Health care**
  - **Medical screening upon arrival:** YES
  - **Psychological evaluation upon arrival:** NO
  - **Qualified nurse present on daily basis:** YES (7 days a week)
  - **Doctor on duty:** YES (5 days a week)
  - **Regular visits by psychologist:** NO
- **Food**
  - **Three meals per day, at least one warm:** YES
  - **Culturally sensitive food:** PARTIALLY (non-pork/vegetarian options)
- **Incident logs:** YES

#### IV. Detention Regime

- **Daytime out-of-cell time with few restrictions:** YES (12 hours)
- **At least two hours of outdoor exercise daily:** NO
- **Daytime access to communal space with few restrictions:** YES
- **Length of time in security cells:** 24 hours with some cases of up to 3 days or more
- **Frequency of use of security section (isolation chambers, exclusion cells, high-security areas):** 368 orders (2016), 537 (2015)
- **Telecommunications**
  - **Unrestricted access to telephone:** NO
  - **Availability of free calls:** YES
  - **Access to internet:** LIMITED
  - **Possibility to use one's own mobile phone:** NO
- **Visiting time:** YES
- **Possibility to prepare one's own meals:** NO
- **Recreational activities offered:** YES
- **Development**
  - **Education for children:** NOT APPLICABLE
  - **Skills development for adults:** NO
  - **Language instruction:** NO



## 6.2 TOULOUSE-CORNEBARRIEU DETENTION CENTRE (FRANCE): FACT SHEET



- I. Facility Details<sup>123</sup>
- II. Key Statistics
- III. Conditions of Detention
- IV. Detention Regime

### I. Facility Details

- **Name:** *Centre de rétention de Toulouse-Cornebarrieu*
- **Type:** Dedicated Immigration Detention Centre
- **Location:** Cornebarrieu (near Toulouse-Blagnac Airport)
- **Operator:** Border Police (*Police aux frontières*, Interior Ministry)
- **Custodial authority:** Interior Ministry

<sup>123</sup> This Fact Sheet was compiled based on information from the following sources: (1) M. Leo Claus (La Cimade Toulouse CRA Detention Team), Phone interview by Mariette Grange (Global Detention Project), 8 May 2018; (2) General controller of places of deprivation of liberty, "*Rapport de la troisième visite du centre de rétention administrative de Toulouse-Cornebarrieu (Haute-Garonne)*," 2015 (3) Assfam, *Forum réfugiés-Cosi, France Terre d'asile, la Cimade, Ordre de Malte, "Centres et locaux de rétention administrative: Rapport 2016,"* <https://bit.ly/2EYB44D>

## II. Key Statistics

- **Capacity:** 126 (2018)
- **Average daily population:** 80 to 90 persons in 2017
- **Yearly population:** 861 (2016); 1,200 (2017)
- **Population on a given day:** 80 to 90 (on any given day in 2017)
- **Demographics of detainees (by %):** 82.5 percent adult male, 17.5 percent adult female, 10 children aged 1-14 (2016)
- **Average length of detention:** 18 days (72 percent <25 days; 28 percent 26-45 days) (2016)<sup>124</sup>
- **Countries of origin (by order of importance):** Algeria (21 percent), Morocco (14 percent), Tunisia (8 percent), Nigeria, Albania
- **Percentage of detainees publicly released in the country:** 46 percent

## III. Conditions of Detention

- **Carceral environment:** YES
- **Access places of highest risk during independent monitoring visits:** YES
- **Personnel**
  - **Predominately uniformed officers:** YES
  - **Interior staff with firearms:** NO
  - **Culturally/ethnically diverse:** N/A
  - **Specially trained:** NO
  - **Ill treatment reports:** RARE
  - **Overall ratio (staff on duty/detainees):** Usually more staff than detainees
  - **Percentage of female staff in women's sections:** More women than men
- **Adequate material conditions:** NO (in poor state of repair, deterioration resulting from location in a no-building zone)
- **Cells**
  - **Detainees per cell:** 2 (except for family units)
  - **At least three square meters per detainee:** YES
  - **Cells adequately equipped (beds, tables, shelves, chairs):** PARTIALLY (furniture in rooms is red metal and fixed to the ground, including beds, a very small table (1m x 0.50m), and two chairs (CGPL corroborates))
  - **Security and/or isolation cells:** YES
- **Segregation by gender and age and family:** YES (male/female)
- **Family accommodation:** YES
- **Non-carceral spaces for children:** PARTIALLY<sup>125</sup>

<sup>124</sup> This facility has one of the longest average lengths of detention in all of France. The average length of detention for all CRAs is approximately 13 days. However, family detention at the facility is typically 24 hours.

<sup>125</sup> If detention periods for families remain short, in the range of 24 hours (which is standard for this facility), the situation for children may be considered partially non-carceral. During the first 24 hours, children run around in

- **Clean bedding, provision of hygienic products:** YES
- **Adequate temperature:** YES
- **Adequate lighting:** YES
- **Toilets and showers**
  - **Privacy:** YES
  - **Clean:** YES
  - **Accessible around the clock:** YES
- **Indoor communal space**
  - **Adequate communal space available:** YES
  - **Hours per day:** 24 HOURS
  - **Indoor equipment:** NO (television only)
- **Outdoor space**
  - **Adequate outdoor space available:** YES
  - **At least partially covered:** YES
  - **Hours per day:** 24 hours
  - **Outdoor equipment:** LIMITED
- **Health care**
  - **Medical screening upon arrival:** YES
  - **Psychological evaluation upon arrival:** NO
  - **Qualified nurse present on daily basis:** YES
  - **Doctor on duty:** YES (3 half days per week).
  - **Regular visits by psychologist:** NO
- **Food**
  - **Three meals per day, at least one warm:** YES
  - **Culturally sensitive food:** YES
- **Incident logs:** YES

#### IV. Detention Regime

- **Daytime out-of-cell time with few restrictions:** YES 24 HOURS (rooms are never locked)
- **At least two hours of outdoor exercise daily:** YES
- **Daytime access to communal space with few restrictions:** YES
- **Length of time in security cells:** Rarely more than 12 hours (maximum used to be one week)
- **Frequency of use of security section (isolation chambers, exclusion cells, high-security areas):** 87 orders (2014) (24 security related, 63 health)
- **Telecommunications**
  - **Unrestricted access to telephone** YES (if detainees are able to buy a telephone card)
  - **Availability of free calls:** LIMITED (given a telephone card upon arrival if they have less than 7.50 EUR)
  - **Access to internet:** NO

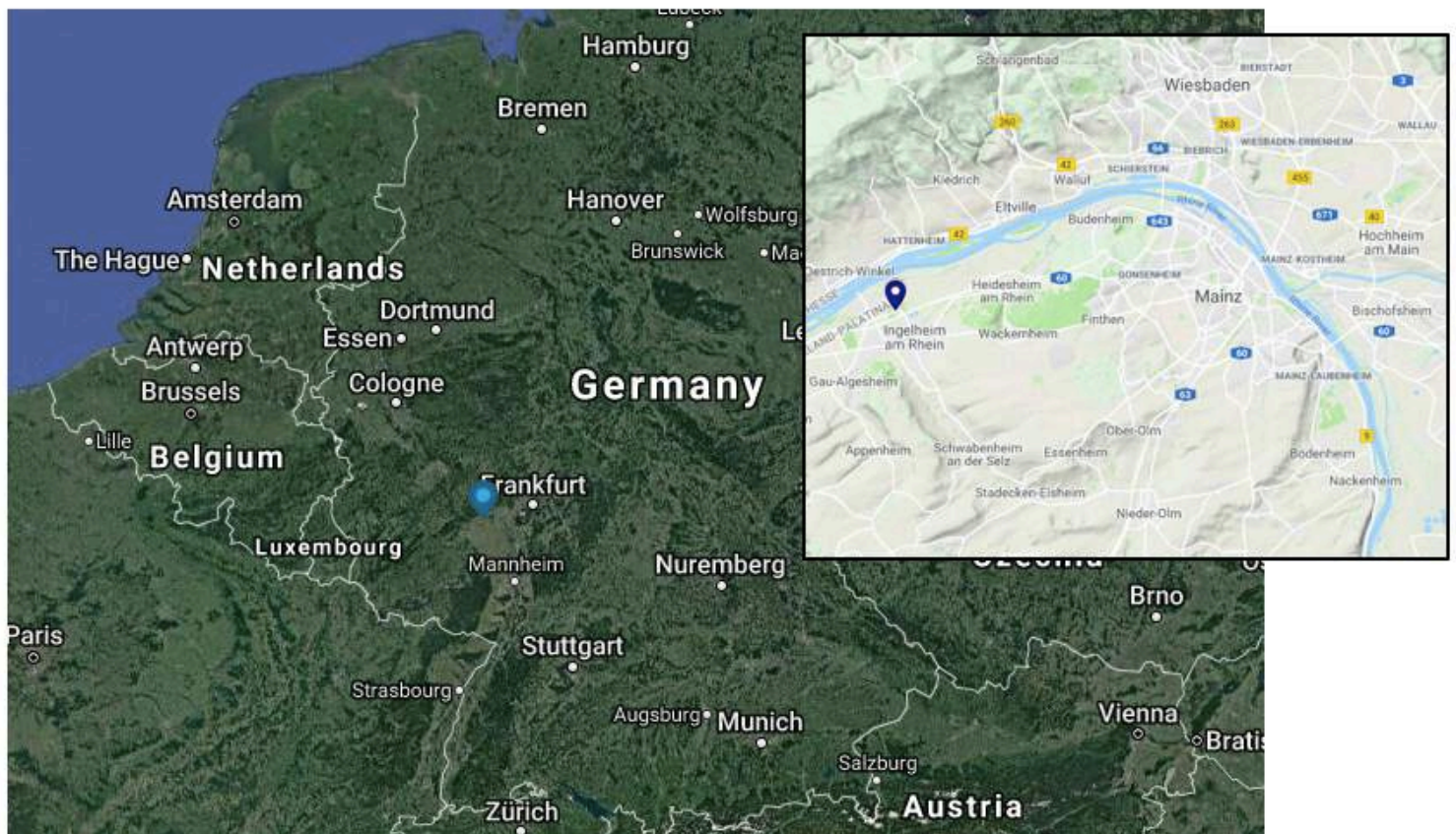
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the corridors, and there is a dedicated mini courtyard with play equipment. However, sources say that the foam carpet has not been cleaned in 12 years. There is also a small room for babies with equipment to change diapers and to warm milk bottles, as well as a playroom—although this lacks toys.

- **Possibility to use one's own mobile phone:** LIMITED (only phones without cameras)
  - **Visiting time:** Daily from 9 to 11.30am and 2 to 6.30pm
- **Possibility to prepare one's own meals:** NO
- **Recreational activities offered:** NO (TV only)
- **Development**
  - **Education for children:** NO
  - **Skills development for adults:** NO
  - **Language instruction:** NO



## 6.3 INGELHEIM DETENTION CENTRE (GERMANY): FACT SHEET



- I. Facility Details<sup>126</sup>
- II. Key Statistics
- III. Conditions of Detention
- IV. Detention Regime

### I. Facility Details

- **Name:** Ingelheim Pre-Removal Detention Centre (*Gewahrsamseinrichtung für Ausreisepflichtige*)
- **Type:** Dedicated Immigration Detention Centre
- **Location:** Konrad-Adenauer-Straße 51, 55218 Ingelheim
- **Operator:** Supervision and Services Directorate (*Aufsichts und Dienstleistungsdirektion*)/ Rhineland-Palatinate Ministry of Family, Women,

<sup>126</sup> This Fact Sheet was completed using the following sources: (1) Stefan Mollner (director of the Ingelheim centre), Ms. Kreuzberg-Lauterbach, and Jürgen Siegers (employees of the centre), Presentation of the Ingelheim centre provided to Michael Flynn and Izabella Majcher (Global Detention Project), 12 April 2018; (2) Michael Flynn and Izabella Majcher (Global Detention Project), Visit to the Ingelheim centre, 12 April 2018; (3) Andreas Kreiner-Wolf (*Ökumenische Beratungsstelle in der Gewahrsamseinrichtung für Ausreisepflichtige Ingelheim*) Email communication and interview, March-May 2018; (4) Gabriele Stein (Rhineland-Palatinate Ministry of Family, Women, Youth, Integration, and Consumer Protection), Email correspondence with Michael Flynn, 18 April 2018; (5) Diakonie und Caritas, "Mehr Menschen in Abschiebungshaft," Press Release, 17 April 2018.



Youth, Integration, and Consumer Protection (*Ministerium für Familie, Frauen, Jugend, Integration und Verbraucherschutz*)

- **Custodial authority:** Rhineland-Palatinate Ministry of Family, Women, Youth, Integration, and Consumer Protection

## II. Key Statistics

- **Capacity:** 40 (2018), prior to the ongoing renovations, which started in January 2018, the capacity was 60
- **Average daily population:** 40 (2017), 16 (2016), 8 (2015), 10 (2014)
- **Yearly population:** 586 (2017), 359 (2016), 232 (2015), 155 (2014)
- **Population on a given day:** 37 (12 April 2018)
- **Demographics of detainees (by %):** Adult males (approx. 85 percent), Adult females
- **Average length of detention:** 25 days (2017)<sup>127</sup> (contested),<sup>128</sup> 15 days (2015)
- **Countries of origin (by order of importance):** Morocco, Eritrea, Algeria and Afghanistan
- **Percentage of detainees publicly released in the country:** 20 percent (2017)

## III. Conditions of Detention

- **Carceral environment:** PARTIALLY (layout: yes; staff: no)
- **Access places of highest risk during independent monitoring visits:** YES
- **Personnel**
  - **Predominately uniformed officers:** NO
  - **Interior staff with firearms:** NO (batons, peppers sprays and helmets are stored)
  - **Culturally/ethnically diverse:** LIMITED
  - **Specially trained:** YES (state employees), LIMITED (private guards)
  - **Ill treatment reports:** No reports
  - **Overall ratio (staff on duty/detainees):** About 8-10 guards for 30-40 detainees
  - **Percentage of female staff in women's sections:** NOT AVAILABLE (to enter the female section, male guard must be accompanied by a female guard)
- **Adequate material conditions:** YES (clean, adequate state of repair)
- **Cells**

<sup>127</sup> Stefan Mollner (director of the Ingelheim centre), Ms. Kreuzberg-Lauterbach and Jürgen Siegers (employees of the centre), Presentation of the Ingelheim centre and interview the Global Detention Project, 12 April 2018.

<sup>128</sup> According to *Ökumenische Beratungsstelle in der Gewahrsamseinrichtung für Ausreisepflichtige Ingelheim*, which visits the Ingelheim centre on the regular basis, these figures seem to be higher. In the course of their visits, they spoke with around 40 percent of detainees who were detained for 38 days in average, Andreas Kreiner-Wolf (*Ökumenische Beratungsstelle in der Gewahrsamseinrichtung für Ausreisepflichtige Ingelheim*), Email communication and interview, March-May 2018.

- **Detainees per cell:** 1 (rarely 2)
  - **At least three square meters per detainee:** YES
  - **Cells adequately equipped (beds, tables, shelves, chairs):** YES
  - **Security and/or isolation cells:** YES
- **Segregation by gender and age and family:** YES (also conjugal cells)
- **Family accommodation:** NOT APPLICABLE
- **Non-carceral spaces for children:** NOT APPLICABLE
- **Clean bedding, provision of hygienic products:** YES
- **Adequate temperature:** YES
- **Adequate lighting:**
- **Toilets and showers**
  - **Privacy:** YES
  - **Clean:** YES
  - **Accessible around the clock:** YES (toilets are in the cells)
- **Indoor communal space**
  - **Adequate communal space available:** LIMITED (kitchen with a table and sofa, quite small for the number of people, cramped space between bars)
  - **Hours per day:** 7am - 10pm (for detainees in open regime)
  - **Indoor equipment:** YES (stove, water cooker, table, sofa, cupboards, board games)
- **Outdoor space**
  - **Adequate outdoor space available:** YES
  - **At least partially covered:** NO
  - **Hours per day:** 1 – 1.5 hours for detainees in closed regime, many hours per day for detainees in open regime
  - **Outdoor equipment:** LIMITED (no benches, run down basketball and football goals)
- **Health care**
  - **Medical screening upon arrival:** YES
  - **Psychological evaluation upon arrival:** NO
  - **Qualified nurse present on daily basis:** YES
  - **Doctor on duty:** YES
  - **Regular visits by psychologist:** YES
- **Food**
  - **Three meals per day, at least one warm:** YES
  - **Culturally sensitive food:** LIMITED (vegetarian option available, no pork served)
- **Incident logs:** NO

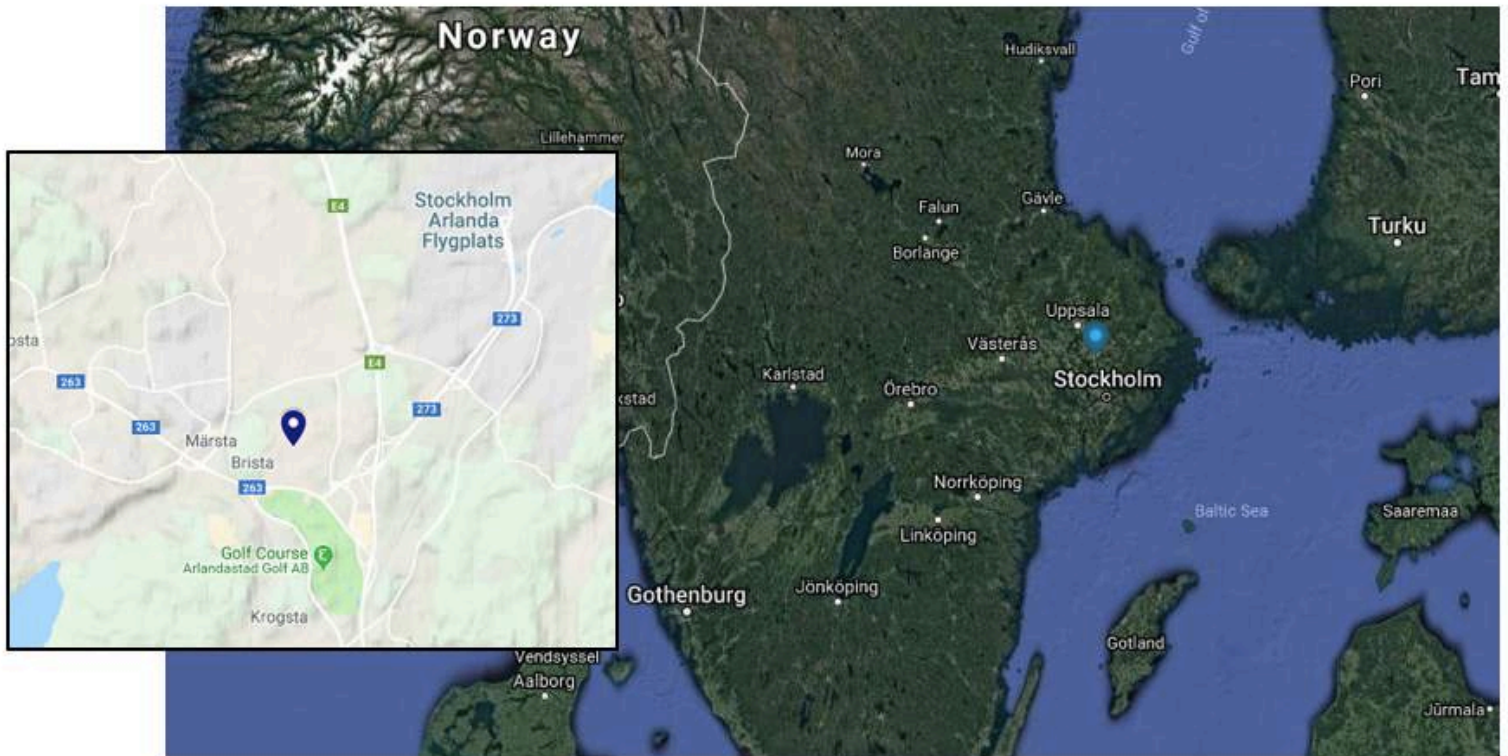
#### IV. Detention Regime

- **Daytime out-of-cell time with few restrictions:** YES for detainees placed in open regime (closed for night 10pm-7am); NO for detainees placed in closed regime (locked up in their rooms besides 1-1.5 hours of outdoor exercise, voluntary work, or visiting other detainees in their room; this situation will last

until the end of renovations in September, afterwards, there will be 2 open regime hallways)

- **At least two hours of outdoor exercise daily:** YES for detainees in open regime; LIMITED for detainees in closed regime (1 – 1.5 hours)
- **Daytime access to communal space with few restrictions:** YES (for detainees in open regime)
- **Length of time in security cells:** NOT AVAILABLE
- **Frequency of use of security cells:** NOT AVAILABLE
- **Telecommunications**
  - **Unrestricted access to telephone:** LIMITED (telephones are located outside the detention area, guard must accompany detainee upon request)
  - **Availability of free calls:** LIMITED (one upon arrival, one before removal)
  - **Access to internet:** NO
  - **Possibility to use one's own mobile phone:** NO
- **Visiting time:** YES (but in practice there is just one visiting room for whole the centre)
- **Possibility to prepare one's own meals:** YES (for detainees in open regime)
- **Recreational activities offered:** YES (gardening and cooking classes; possibility to borrow board games, DVDs, and books; possibility to play ping pong, basketball, and football)
- **Development**
  - **Education for children:** NOT APPLICABLE
  - **Skills development for adults:** NO
  - **Language instruction:** NO

## 6.4 MÄRSTA DETENTION CENTRE (SWEDEN): FACT SHEET



- I. Facility Details<sup>129</sup>
- II. Key Statistics
- III. Conditions of Detention
- IV. Detention Regime

### I. Facility Details

- **Name:** Mårsta Detention Centre
- **Type:** Dedicated Immigration Detention Centre
- **Location:** Maskingatan 4 E, Mårsta (near Stockholm Arlanda Airport)
- **Operator:** Swedish Migration Agency (Ministry of Justice)
- **Custodial Authority:** Ministry of Justice

<sup>129</sup> This Fact Sheet was completed using the following sources: **(1)** European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Swedish Government on the Visit to Sweden Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 to 28 May 2015, CPT/Inf (2016) 1," February 2016, <http://www.cpt.coe.int/documents/swe/2016-01-inf-eng.pdf>; **(2)** European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Swedish Government on the Visit to Sweden Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 18 June 2009, CPT/Inf (2009) 34," December 2009, <https://rm.coe.int/1680697f4d>; **(3)** Swedish Network of Refugee Support Groups (FARR)'s visiting group to detention centres (based on interviews with detainees and former detainees), May 2018; **(4)** Swedish Church in Mårsta, interview, May 2018.

## II. Key Statistics

- **Capacity:** 126 (2018), will expand to 150 during 2018
- **Average daily population:** NOT AVAILABLE
- **Yearly population:** NOT AVAILABLE
- **Population on a given day:** almost full (2018)
- **Demographics of detainees (by %):** NOT AVAILABLE
- **Average length of detention:** NOT AVAILABLE
- **Countries of origin (by order of importance):** NOT AVAILABLE
- **Percentage of detainees publicly released in the country:** NOT AVAILABLE

## III. Conditions of Detention

- **Carceral environment:** PARTIALLY (layout partially; staff partially)
- **Access places of highest risk during independent monitoring visits:** YES
- **Personnel**
  - **Predominately uniformed officers:** NO
  - **Interior staff with firearms:** NO
  - **Culturally/ethnically diverse:** YES (2009)
  - **Specially trained:** YES
  - **Ill treatment reports:** NOT AVAILABLE
  - **Overall ratio (staff on duty/detainees):** NOT AVAILABLE
  - **Percentage of female staff in women's sections:** NOT AVAILABLE
- **Adequate material conditions:** YES (2015), but conditions in cells are deteriorating (2018)
- **Cells**
  - **Detainees per cell:** 3 (generally 2-4 persons)
  - **At least three square meters per detainee:** YES (2018) but can depend on the number of detainees per room
  - **Cells adequately equipped (beds, tables, shelves, chairs):** PARTIALLY (beds, one bedside table, one shelf, TV in some sections of the centre)
  - **Security and/or isolation cells:** YES (only in section 2)
- **Segregation by gender and age and family:** YES (children and families accommodated in women's section)
- **Family accommodation:** YES (children and families accommodated in women's section)
- **Non-carceral spaces for children:** YES
- **Clean bedding, provision of hygienic products:** YES (detainees receive very basic hygiene products and there are soaps in the showers)
- **Adequate temperature:** PARTIALLY (during summer, it gets hot inside due to problems with ventilation) (2018)
- **Adequate lighting:** YES
- **Toilets and showers**
  - **Privacy:** YES



- **Clean:** YES
- **Accessible around the clock:** YES
- **Indoor communal space**
  - **Adequate communal space available:** YES (plus gym and small library)
  - **Hours per day:** during the day (2015)
  - **Indoor equipment:** YES (sofas, TV sets, board and computer games) (2015)
- **Outdoor space**
  - **Adequate outdoor space available:** YES
  - **At least partially covered:** NO
  - **Hours per day:** 1-2 hours (depending on the staff), 3 hours (2015)
  - **Outdoor equipment:** YES (volleyball net, possibility to play football and basketball, chairs and benches)
- **Health care**
  - **Medical screening upon arrival:** NO
  - **Psychological evaluation upon arrival:** NOT AVAILABLE
  - **Qualified nurse present on daily basis:** NO (3 days per week)
  - **Doctor on duty:** general practitioner visits the centre once per week (2015), detainees have to apply or the staff contacts the doctor if necessary
  - **Regular visits by psychologist:** YES
- **Food**
  - **Three meals per day, at least one warm:** YES
  - **Culturally sensitive food:** YES
- **Incident logs:** NOT AVAILABLE

#### IV. Detention Regime

- **Daytime out-of-cell time with few restrictions:** YES (detainees have access codes to their rooms)
- **At least two hours of outdoor exercise daily:** 1-2 hours
- **Daytime access to communal space with few restrictions:** YES (2015)
- **Length of time in security cells:** NOT AVAILABLE
- **Frequency of use of security cells:** NOT AVAILABLE
- **Telecommunications**
  - **Unrestricted access to telephone:** YES (centre's mobile phones)
  - **Availability of free calls:** LIMITED (only to lawyers and the Migration Agency)
  - **Access to internet:** YES (but few computers)
  - **Possibility to use one's own mobile phone:** NO (detainees receive phones that can be used while they are in the centre)
- **Visiting time:** Daily, 7am-7pm (but detainees has to book the visitor room in advance)
- **Possibility to prepare one's own meals:** NO

- **Recreational activities offered:** NO (2018), YES (2015) (handicraft and art classes)
- **Development**
  - **Education for children:** NO
  - **Skills development for adults:** NO
  - **Language instruction:** NO

## 6.5 FRAMBOIS DETENTION CENTRE (SWITZERLAND): FACT SHEET



- I. Facility Details<sup>130</sup>
- II. Key Statistics
- III. Conditions of Detention
- IV. Detention Regime

### I. Facility Details

- **Name:** Frambois detention centre (*Etablissement concordataire romand de detention administrative*)
- **Type:** Dedicated Immigration Detention Centre
- **Location:** Route de Satigny 27, 1214 Vernier (near Geneva's Cointrin Airport)
- **Operator:** *Le conseil de la Fondation romande de detention administrative* (Cantonal Office of Detention/Department of Security and Economy)
- **Custodial Authorities:**
  - *Geneva Office Cantonal de la Population et Migration/Department of Security and Economy*

<sup>130</sup> This Fact Sheet was completed using the following sources: (1) *Commission nationale de prévention de la torture (CNPT)*, "Visite de suivi de la CNPT dans l'établissement concordataire de Frambois," 18 January 2018; (2) Interview with Agora, 15 May 2018; (3) Interview with Laura Rezzonico, 15 May 2018; (4) *Conseil de la Fondation Romande de detention administrative*, "Rapport d'activité de la Fondation romande de detention LMC," 2016.

- *Vaud Cantonal Service de la Population*/Department of Economy, Innovation, and Sport
- *Neuchatel Cantonal Service des Migrations*/Department of Economy and Social Action

## II. Key Statistics

- **Capacity:** 20 (2017)
- **Average daily population:** NOT AVAILABLE
- **Yearly population:** 339 (2016)
- **Population on a given day:** 20 (2017)
- **Demographics of detainees (by %):** Adult males
- **Average length of detention:** approximately 25 days (2016)
- **Countries of origin (by order of importance):** Albania, Algeria
- **Percentage of detainees publicly released in the country:** NOT AVAILABLE

## III. Conditions of Detention

- **Carceral environment:** NO (but due to escape incidents, security and surveillance measures have been tightened)
- **Access places of highest risk during independent monitoring visits:** YES
- **Personnel**
  - **Predominately uniformed officers:** NO
  - **Interior staff with firearms:** NO (nor handcuffs or batons)
  - **Culturally/ethnically diverse:** YES (multicultural staff)
  - **Specially trained:** YES (intercultural and linguistic skills), also social assistant
  - **Mistreatment reports:** NOT AVAILABLE
  - **Overall ratio (staff on duty/detainees):** NOT AVAILABLE
  - **Percentage of female staff in women's sections:** NOT APPLICABLE
- **Adequate material conditions:** Clean, adequate state of repair though facilities appear worn out and aging
- **Cells**
  - **Detainees per cell:** 1
  - **At least three square meters per detainee:** YES
  - **Cells adequately equipped (beds, tables, shelves, chairs):** YES, in addition to a TV and fridge
  - **Security and/or isolation cells:** YES (mattress placed on a concrete bed and Turkish toilet)
- **Segregation by gender and age and family:** NOT APPLICABLE
- **Family accommodation:** NOT APPLICABLE
- **Non-carceral spaces for children:** NOT APPLICABLE
- **Clean bedding, provision of hygienic products:** YES (no complaints)
- **Adequate temperature:** No complaints

- **Adequate lighting:** No complaints
- **Toilets and showers**
  - **Privacy:** YES
  - **Clean:** YES
  - **Accessible around the clock:** YES (toilets)
- **Indoor communal space**
  - **Adequate communal space available:** YES (kitchen with terrace)
  - **Hours per day:** 8.15am - 9pm
  - **Indoor equipment:** YES (tables, chairs, table football, board games, ping pong), also gym
- **Outdoor space**
  - **Adequate outdoor space available:** YES
  - **At least partially covered:** NO
  - **Hours per day:** 1 hour, but securitised terrace available during the day
  - **Outdoor equipment:** LIMITED
- **Health care**
  - **Medical screening upon arrival:** YES (within 48h)
  - **Psychological evaluation upon arrival:** NOT AVAILABLE
  - **Qualified nurse present on daily basis:** YES
  - **Doctor on duty:** YES (once per week)
  - **Regular visits by psychologist:** YES (once per week)
- **Food**
  - **Three meals per day, at least one warm:** Detainees prepare their own food
  - **Culturally sensitive food:** YES
- **Incident logs:** YES (adequate register of disciplinary sanctions but the reasons for and the duration of disciplinary sanction were not systematically indicated)

#### IV. Detention Regime

- **Daytime out-of-cell time with few restrictions:** YES (8.15 am – 9pm, detainees have keys to their rooms)
- **At least two hours of outdoor exercise daily:** YES (1 hour in outside yard and access to the securitised terrace during the day)
- **Daytime access to communal space with few restrictions:** YES
- **Length of time in security cells:** NOT AVAILABLE
- **Frequency of use of security cells:** NOT AVAILABLE
- **Telecommunications**
  - **Unrestricted access to telephone:** 2 telephone cabins accessible during the day
  - **Availability of free calls:** NO but possibility to receive calls
  - **Access to internet:** NO
  - **Possibility to use one's own mobile phone:** NO
- **Visiting time:** One 2 hour visit five times per week
- **Possibility to prepare one's own meals:** YES



- **Recreational activities offered:** YES (assembly of firelighters, washroom, cleaning, ironing, maintaining the kitchen, garden (3sfr per hour))
- **Development**
  - **Education for children:** NOT APPLICABLE
  - **Skills development for adults:** NO
  - **Language instruction:** NO



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