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**COMMITTEE OF EXPERTS ON
ADMINISTRATIVE DETENTION OF MIGRANTS
(CJ-DAM)**

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**LEGAL INSTRUMENTS REFERRED TO
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PART I. COUNCIL OF EUROPE

A. Treaties

- Convention for the Protection of human Rights and Fundamental Freedoms ([ETS No.5](#));
- Protocol No.4 to the Convention ([ETS No. 46](#));
- Convention on Action against Trafficking in Human Beings ([CETS No.197](#)) and its [Explanatory Report](#);
- Convention on preventing and combating violence against women and domestic violence ([CETS No. 210](#)).

B. Committee of Ministers

- [Resolution \(73\) 5](#) Standard Minimum Rules for the Treatment of Prisoners;
- [Recommendation No. R \(97\) 12](#) on Staff concerned with the implementation of Sanctions and Measures;
- [Recommendation Rec\(2003\)5](#) on measures of detention of asylum seekers
- [Twenty Guidelines on Forced Return \(2005\)](#);
- [Recommendation Rec\(2006\)2](#) on the European Prison Rules;
- [Recommendation Rec\(2006\)13](#) on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse;
- [Council of Europe Recommendation CM/Rec\(2007\)9](#) on life projects for unaccompanied migrant minors;
- [Recommendation CM/Rec \(2009\) 13](#) on the nationality of children;
- [Recommendation CM/Rec\(2010\)5](#) on measures to combat discrimination on grounds of sexual orientation or gender identity;
- [Guidelines on child-friendly justice](#) (2010);
- [Recommendation CM/Rec\(2012\)5](#) on the European Code of Ethics for Prison Staff.

C. Parliamentary Assembly

- [Resolution 1509\(2006\)](#) on Human rights of irregular migrants;
- [Resolution 1521\(2006\)](#) on mass arrival of irregular migrants on Europe's Southern shores;
- [Resolution 1637\(2008\)](#) on Europe's boat people : mixed migration flows by sea into southern Europe;
- [Resolution 1707\(2010\)](#) on Detention of asylum seekers and irregular migrants in Europe;
- [Resolution 1810 \(2011\)](#) on unaccompanied children in Europe: issues of arrival, stay and return;
- [Resolution 2020 \(2014\)](#) on the alternatives to immigration detention of children.

D. Commissioner for Human Rights

- [Recommendation CommDH\(2001\)19](#) concerning the rights of aliens wishing to enter a Council of Europe member State and the enforcement of expulsion orders.

E. European Commission against Racism and Intolerance (ECRI)

- General policy Recommendation No.16 on Safeguarding irregularly present migrants from discrimination, [CRI\(2016\)16](#).

F. European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT)

- 2nd General Report on the CPT's activities, [\[CPT/Inf \(92\)3\]](#);
- 7th General Report on the CPT's activities, [\[CPT/Inf\(97\)10\]](#);
- CPT Standard on Foreign national detained under aliens legislation, [\[CPT/Inf\(97\)10-part\]](#);
- 10th General Report on the CPT's activities, [\[CPT/Inf\(2000\)13\]](#);
- 13th General report of the CPT's activities, [\[CPT/Inf\(2003\)35\]](#);
- 19th General Report on the CPT's activities, [\[CPT/Inf\(2009\)27\]](#);
- 23rd General Report on the CPT's activities, [\[CPT/Inf\(2013\)29\]](#).

PART II. EUROPEAN UNION

- Charter of Fundamental Rights of the European Union [\(2010/C 83/02\)](#);
- [Directive 2008/115/EC](#) on common standards and procedures in Member States for returning illegally staying third-country nationals;
- [Directive 2011/36/EU](#) on preventing and combating trafficking in human beings and protecting its victims;
- [Regulation \(EU\) No 604/2013](#) – establishing the criteria and mechanisms for determining the member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person - Dublin III (recast);
- [Directive 2013/32/EU](#) on common procedures for granting and withdrawing international protection (recast);
- [Directive 2013/33/EU](#) laying down standards for the reception of applicants for international protection (recast);
- EU Fundamental Rights Agency – European Commission, Guardianship for children deprived of parental care – [A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking](#) (2014);
- [Return Handbook](#) (2015);
- [EASO guidance on reception conditions](#) : operational standards and indicators (2016).

PART III. UNITED NATIONS

A. General Assembly

- [Universal Declaration of Human Rights](#) (1948);
- [The United Nations Standard Minimum Rules for the Treatment of Prisoners](#) (the Nelson Mandela Rules) (1955);
- [International Covenant on Civil and Political rights](#) (1966);
- [International Covenant on Economic, Social and Cultural Rights](#) (1976);
- [Body of Principles for the Protection of all persons under any forms of detention or imprisonment](#) (1988);
- [Convention on the Rights of the Child](#) (1989);
- [International Convention on the protection of the Rights of all Migrant Workers and Members of Their Families](#) (1990);
- [The United Nations Rules for the Protection of Juveniles Deprived of their Liberty](#) ("The Havana Rules", 1990);
- Committee on the rights of the child, [General Comment No. 6](#), treatment of unaccompanied and separated children outside their country of origin (2005);
- [Convention on the Rights of Persons with Disabilities](#) (2006);
- [Interim Report](#) of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment (2008);
- [United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders](#) (the Bangkok Rules) (2011);
- UN Human Rights Council, [Resolution on Action on Birth Registration and the Right of Everyone to Recognition Everywhere as a Person Before the Law](#) (2012);
- UN Human Rights Council, [Resolution on Rights of the Child](#) (2012);
- Human Rights Committee, [General comment No.35](#) (2014);
- [Report](#) of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2015).

B. Office of the United Nations High Commissioner for Refugees (UNHCR)

- [Convention relating to the Status of Refugees](#) (1951);
- Executive Committee of the High Commissioner's Programme, Refugee Children, [No. 47 \(XXXVIII\)](#) (1987);
- [Guidelines](#) on Policies and Procedures in dealing with unaccompanied Children Seeking Asylum (1997);
- [Guidelines](#) on Determining the Best Interest of the Child (2008);
- [Guidelines](#) on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention (2012).

PART IV. CASE-LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS

- *Abdullahi Elmi and Aweys Abubakar v. Malta*, nos. [25794/13](#) and [28151/13](#), 22 November 2016
- *A.B. and Others v. France*, no. [11593/12](#), 12 July 2016 (available only in French)
- *A.M. and Others v. France*, no. [24587/12](#), 12 July 2016 (available only in French)
- *Austrianu v. Romania*, no. [16117/02](#), 12 February 2013
- *Asalya v. Turkey*, no. [43875/09](#), 15 April 2014
- *Assenov and Others v. Bulgaria*, 28 October 1998, [Reports of Judgments and Decisions 1998-VIII](#)
- *Čonka v. Belgium*, no. [51564/99](#), ECHR 2002-I
- *Efremidze v. Greece*, no. [33225/08](#), 21 June 2011 (available only in French)
- *Habimi and Others v. Serbia*, no. [19072/08](#), 3 June 2014
- *Herczegfalvy v. Austria*, 24 September 1992, [Series A no. 244](#)
- *Hirsi Jamaa and Others v. Italy* {GC}, no. [27765/09](#), ECHR 2012
- *Horshill v. Greece*, no. [70427/11](#), 1 August 2013 (available only in French)
- *Ilias and Ahmed v. Hungary*, no. [47287/15](#), 14 March 2017
- *Jankovskis v. Lithuania*, no. [21575/08](#), 17 January 2017
- *Kalda v. Estonia*, no. [17429/10](#), 19 January 2016
- *Kanagaratnam and Others v. Belgium*, no. [15297/09](#), 13 December 2011 (available only in French)
- *Khlaifia and Others v. Italy* [GC], no. [16483/12](#), 1 September 2015
- *Kurkowski v. Poland*, no. [36228/06](#), 9 April 2013
- *Labita v. Italy* [GC], no. [26772/95](#), ECHR 2000-IV
- *Lokpo and Touré v. Hungary*, no. [10816/10](#), 20 September 2011
- *Magalhaes Pereira v. Portugal*, no. [44872/98](#), ECHR 2002-I
- *Mahdid and Haddar v. Austria* (dec), no. [74762/01](#), ECHR 2005-XIII (extracts)
- *Mahmundi and Others v. Greece*, no. [14902/10](#), 31 July 2012 (available only in French)
- *Melnitis v. Latvia*, no. [30779/05](#), 28 February 2012
- *Mogoş v. Romania*, no. [20420/02](#), 13 October 2005 (available only in French)
- *Mohamad v. Greece*, no. [70586/11](#), 11 December 2014 (available only in French)
- *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, no. [13178/03](#), ECHR 2006-XI
- *Muskhadzhiyeva and Others v. Belgium*, no. [41442/07](#), 19 January 2010 (available only in French)
- *M.S.S. v. Belgium and Greece* {GC}, no. [30696/09](#), ECHR 2011
- *O.M. v. Hungary*, no. [9912/15](#), 5 July 2016
- *Popov v. France*, nos. [39472/07](#) and [39474/07](#), 19 January 2012
- *Rahimi v. Greece*, no. [8687/08](#), 5 April 2011 (available only in French)
- *R.C. and V.C v. France*, no. [76491/14](#), 12 July 2016 (available only in French)
- *R.K. and Others v. France*, no. [68264/14](#), 12 July 2016 (available only in French)
- *R.M. and Others v. France*, no. [33201/11](#), 12 July 2016 (available only in French)
- *Rantsev v. Cyprus and Russia*, no. [25965/04](#), ECHR 2010 (extracts)
- *Riad and Idiab v. Belgium*, nos. [29787/03](#) and [29810/03](#), 24 January 2008

- *Suso Musa v. Malta*, no. [42337/12](#), 23 July 2013
- *Shamsa v. Poland*, nos. [45355/99](#) and [45357/99](#), 27 November 2007 (available only in French)
- *Sharifi and Others v. Italy and Greece*, no. [16643/09](#), 21 October 2014 (available only in French)
- *Tekin v. Turkey*, 9 June 1998, [Reports of Judgments and Decisions 1998-IV](#)
- *Tekin Yildiz v Turkey*, no. [22913/04](#), 10 November 2005 (available only in French)
- *Tymoshenko v. Ukraine*, no. [49872/11](#), 30 April 2013
- *Yoh-Ekale Mwanje v. Belgium*, no. [10486/10](#), 20 September 2011 (available only in French)
- *Zarzycki v. Poland* no. [15351/03](#), 12 March 2013
- *Z. and Others v. the United Kingdom* [GC], no. [29392/95](#), 10 May 2001