



Brussels, 13 June 2018

To: Dunja Mijatovic
Commissioner for Human Rights-Council of Europe

Subject: Construction of the new detention units for migrant families.

Dear Commissioner,

In reference to your writing of 5 June 2018, I can provide the following information. It is indeed correct that the detention units for migrant families will open in the summer of 2018. These units are intended to accommodate families who are staying irregularly on the Belgian territory and manifestly refused to return to their country of origin, and only when all domestic procedures have been exhausted. The detention of these families including minor children, has a clear, specific and plausible purpose, namely to detain only those families who didn't return after having gone through an extensive cascade system of less coercive measures. Hence Belgium has already elaborated a whole series of alternatives to detention of families.

In a first phase the family, who is staying irregularly in Belgium, receives an order to leave the country within 30 days, with all the necessary information to organize a voluntary departure. If that doesn't succeed, the Immigration Office will appoint a coach and try, to the extent possible, to convince the family to return on a voluntary basis, which can be organized from their own home. Up until this point in the procedure, a return can be organized with the necessary financial support. If the family keeps refusing to cooperate, they can be transferred to an open return unit equipped with family-friendly accommodation, where staff is available to support them. If they manage to escape from such a return unit, the family can be detained in a separate unit, adapted to the needs of a family, within the detention centre 127bis in Steenokkerzeel. The political decision that has been taken to construct these closed family units therefore forms the tailpiece of the return policy for families in an irregular situation. The aim is to achieve that families will decide more often to return on a voluntary basis, in which case there is no need for detention.

Belgian legislation provides the possibility to detain migrant families with children if they're staying irregularly in Belgium. However, this can only be done as a measure of last resort within the return process, for a short period of time and in an environment that is adapted to their needs. When taking such decision, the best interests of the child are always taken into account. This legislation is consistent with the legislation on migration of the European Union which also allows detention of families under the aforementioned conditions (*see also Commission recommendation (EU) 2017/432 of 7 March 2017 on making returns more effective when implementing the Directive 2008/115/EC of the European Parliament and of the Council*).



State Secretary for Asylum and Migration and Administrative Simplification

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The European Court for Human Rights is not opposed to the detention of children, when such measure is taken in compliance with the European Convention on Human Rights, particularly article 3, 5 and 8, as well as article 37 of the Convention on the Rights of the Child. In doing so, the best interests of the child always need to be considered.

In addition, other EU member states deprive irregularly staying migrant families with children of their liberty as well. You can find more information on this matter in the publication *European legal and policy framework on immigration detention of children, June 2017*.

Yours sincerely

Theo Francken
Belgian State Secretary for Asylum and Migration and Administrative Simplification