DETENTION

MEETING OBJECTIVES

Detention and alternatives to detention are administrative measures applied by a State in order to make it possible for another process – commonly the asylum or return process – to be carried out efficiently. The deprivation of liberty caused by detention can be justified in a number of situations, for instance as a measure of last resort to prevent a person from absconding in the return process or as a measure in order to prevent unauthorised entry into a state. The objective of the use of detention, or the alternatives to detention, is in other words preventative and not punitive.

The starting point regarding the question of when and how to use deprivation of liberty (or more lenient measures) in the asylum/return process should be the recognition that the rights to liberty and to be free from arbitrary detention, as well as the right to be free from punitive measures for seeking international protection are well-established rights under international human and refugee rights law. To be able to determine how detention should be used in conformity with these international standards, it is of great importance to have a holistic approach and to acknowledge the complexity of the asylum/return process. A lot of factors and interests have to be taken into account, involving both State interests and interests of the individual and this requires a broad approach to the issue.

This fundament implies that detention and its alternatives have to be applied with care and in full recognition of the proportionality principle. It is crucial to strive for solutions regarding the safeguarding of the asylum and/or return process that are in line with this starting point.

The above mentioned international standards as well as practical considerations (eg.: the high costs of detention) indicate the importance to develop alternatives to detention as meaningful options for successful outcomes that are at once humanitarian, cost-effective, and consistent with international human and refugee rights commitments. In this context, questions on best
practices regarding the conditions at the detention centres, as well as questions regarding the possible ways of monitoring detention centres and how to develop the important cooperation between governments and the civil society must also be considered.

Bearing these considerations in mind, the Expert Meeting will offer an opportunity for the participants to discuss their experiences and possibilities to further limit the use of detention and develop alternatives to detention in a way that is beneficial not only to the governments, but also – and perhaps most important – to the migrant who can be subject to those measures. The meeting will consist of three sessions:

- session I will focus on the international framework,
- session II on cooperation with civil society with an emphasis on legal aid and observatory mechanisms and
- session III will deal with alternatives to detention.

The expert meeting will also provide a platform for in-depth discussions on the different topics allowing for sharing of information and experiences between EU Member States and the Eastern Partnership countries.