



# NGO monitoring of immigration detention:

Tips, examples and  
positive practices

**International  
Detention Coalition**

Human rights for detained refugees,  
asylum seekers and migrants

Outcomes of workshop  
for European NGOs  
Brussels, 26 & 27 March 2015

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Special thanks go to the participants of the workshop on monitoring immigration detention which was held in Brussels in March 2015 for their enthusiastic collaboration and their professional input to this briefing note, to our colleagues and to the European Programme for Integration and Migration (EPIM), without whose support we could not have organised this workshop and produced this briefing note.

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**Published:** December 2015

**Vluchtelingenwerk Vlaanderen (Flemish Refugee Action)** is an independent, non-governmental organisation that defends the rights and interests of refugees and asylum seekers. We work with over 40 member organisations. Flemish Refugee Action also relies on the support of numerous enthusiastic volunteers. Our vision and work is based on four central pillars: widen the social support base and influence public opinion; put pressure on policy-makers; offer support to anyone supporting refugees; stimulate collaboration between organisations and individuals working with and for refugees. Flemish Refugee Action coordinates with the Jesuit Refugee Service Belgium and CIRé, a group of visitors to detention centres. They regularly visit detainees, provide them with legal advice and report on detention practices. This network of visitors facilitates the close monitoring of conditions in the five Belgian detention centres.

**The International Detention Coalition (IDC)** is a unique global network of over 300 nongovernmental organisations, faith-based groups, academics and practitioners in more than 70 countries that advocate for and provide direct services to refugees, asylum-seekers and migrants in administrative detention. We are the only international organisation focused explicitly on immigration detention and alternatives to detention. With an international Secretariat based in Melbourne, Australia, the IDC works globally through Regional Coordinators in Africa, the Americas, Asia-Pacific, Europe, and the Middle East & North Africa (MENA). [www.idcoalition.org](http://www.idcoalition.org).

This project has been supported by the European Programme for Integration and Migration (EPIM), a collaborative initiative of the Network of European Foundations (NEF).



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## 1. About this briefing note

This briefing note captures the outcome of a workshop on monitoring immigration detention for European NGOs which took place in Brussels on 26 and 27 of March 2015, organised by the Flemish Refugee Action and the International Detention Coalition (IDC) with support of EPIM.<sup>1</sup> The aim of the workshop was to strengthen civil society monitoring of immigration detention by sharing experiences, challenges and positive practices.

All the workshop participants work in immigration detention context, and this briefing note brings together tips, examples and positive practices of monitoring, based on the participants' unique experiences and expertise, gathered during the workshop.

The briefing note summarises key information from the workshop sessions, which involved presentations, sharing examples and thematic group discussions. Please see the appendix 2 for the workshop agenda.

The workshop was structured around the content of the guide 'Monitoring Immigration Detention: A Practical Manual' published by the Association for the Prevention of Torture (APT), UNHCR and the IDC. This briefing note is not intended to be a repetition or replacement of this guide, but can be used complementarily.

In the note that follows, the shaded boxes show specific examples and contributions made by the participants. The rest of the text summarises information presented by the facilitators during the workshop as well as the outcomes of group discussions.

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1. 24 organisations from 15 countries took part in the workshop

## 2. What is monitoring of immigration detention?

### Monitoring can be understood as:

The examination over time of immigration detention, through on-site visits, with the aim of ensuring that immigration detention is only used as a measure of last resort and to improve the treatment, conditions and respect for rights in detention.

Monitoring involves:

- Entering places of immigration detention to gather first-hand information
- Identifying gaps, trends and measuring practice against human rights standards/benchmarks
- Developing dialogue with the authorities in order to transmit findings and recommendations to improve detention practices
- It is a continuous process: a cycle that involves repeated visits to follow-up on implementation of previous recommendations and measure change.

The focus of monitoring is on systemic change, rather than providing information or advice to individual detainees, or investigating specific human rights violations. However, these visiting functions may sometimes be combined.

### Different kinds of monitoring and visits

#### Internal monitoring

By the government including the authorities responsible for immigration detention

#### External/independent monitoring

By bodies independent of the government

#### Preventive/holistic monitoring

Looks at all aspects of detention and aims at systemic change to improve respect for rights

#### Case-based monitoring/visits

Focuses on investigating violations and following up on individual cases in detention

#### In-depth monitoring visits

To get an in-depth understanding of the conditions, treatment and functioning of the place of detention

#### “Photographic” monitoring visits

To get a picture of the conditions and treatment in detention

#### Unannounced visits

Monitors can visit the place of detention at any time without providing prior notice to the authorities

#### Announced visits

Monitors must provide the authorities with prior notice of their visit

### Why monitor immigration detention?

There is a particular need for monitoring immigration detention because:

- People in immigration detention often have fewer or no social links, are more isolated and have faced difficult and traumatic experiences in the past, meaning they are more vulnerable.
- Due to language and cultural barriers and discrimination, they often have little information on their rights and how to access these (including access to a lawyer, how to challenge detention etc). Detainees often have to rely on information from officials who are responsible for enforcement (rather than safeguarding the interests of the detainee).
- There is often little information published by the authorities on immigration detention numbers and practices.
- Monitoring is needed to address the fundamental question of whether immigration detention is really being used only as a last resort, as required under international and EU law.
- There is often uncertainty surrounding the length of immigration detention and deportation. This creates additional risks in terms of both the mental health of detainees and human rights abuses.
- Legally, immigration detention should not be punitive, but the facilities and detention regime are often prison-like and experienced as punitive by detainees.
- Ambiguity around the reason for detention is common and creates difficulties for both detainees and staff. It is important for all concerned to understand that migration is not a crime and detention is not a punishment.

The ambiguity surrounding immigration detention is difficult for both detainees and staff. In Switzerland, detention staff sometimes express that they prefer to work in prisons because their role is more clear-cut there.

Marco Mona, former president of the APT and member of the Swiss National Prevention Mechanism

### Benefits of monitoring immigration detention

Over the past decades, there has been increasing recognition globally of the need for strengthened transparency and independent monitoring of places of detention, including in dedicated conventions at the UN and regional levels.<sup>2</sup> Monitoring has a number of benefits for people in immigration detention, authorities and broader society. It is one of the mechanisms needed in order to foster a culture of human rights in immigration detention: a tool to check that other protections and safeguards are in place.

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2. E.g. The Optional Protocol to the UN Convention against Torture (OPCAT) and the European Convention for the Prevention of Torture.

In particular, monitoring can:

- Open up the closed world of immigration detention and bring to light conditions and treatment in detention
- Help correct power imbalance between immigration detainees and authorities
- Act as a deterrent effect on potential abuse
- Provide a source of outside contact for detainees
- Support authorities to understand obligations and how to implement these
- Help identify systemic problems and risks factors - providing solutions to the authorities
- By contributing to better functioning of detention centres and protection of rights, decrease unnecessary costs for authorities (incurred through response to critical incidents, litigation etc)
- Help to understand staff perspectives and provide an important link to bring these concerns up with higher authorities
- Help normalise the environment, decrease tensions and positively change the culture in immigration detention (e.g. through regular NGO contact with operational staff).

In **Hungary**, NGO monitoring combined with psychosocial assistance for detainees and staff competence development has effectively decreased the number of critical incidents including suicide attempts in immigration detention.

In **Belgium**, regular NGO visits to the 'open return houses' (alternative to detention) for families with minor children. Regular contact with staff creates more confidence to open doors for the visitor and at times opens up the dialogue with operational staff. They share their view on the files of the families but also make complaints of a too heavy workload, a lack of support from their superiors at the central office and the absence of additional financial investments for the infrastructure. Their work is solitary, creates insecurity at times and the lack of response from the superiors to their demands to make structural improvements causes a feeling of dissatisfaction. The visitors recognize their complaints, confirm the negative impact on the possibilities of offering a true follow up of the families and aim to visualize the needs they indicate to the superior institution.

The Director of a reception centre where people are deprived of their liberty in Chiaso, Switzerland, was happy to receive a visit from the Swiss National Prevention Mechanism (NPM), because he saw that the NPM could back up and forward his requests to his superiors. The conditions for staff are also tough in the centre, e.g. their offices are in the cellar. That's why most of the directors of detention places are happy to see monitors.

Marco Mona, former president of the APT and member of the Swiss NPM

**Challenges for NGOs in monitoring immigration detention**

- Resource constraints impacting ability to monitor and follow-up effectively
- Logistical challenges e.g. visiting detention centres dispersed throughout the country
- Developing constructive dialogue with the authorities
- Gaining and maintaining access: this depends on the authorities but NGOs are also involved in public criticism/litigation so it's a fine balance
- Balancing systemic monitoring with individual advice/case-based work
- Effectively monitoring with volunteers (quality of information gathered, large numbers of volunteers to coordinate).
- Monitoring the differing practices between immigration detention centres and local administrations
- Respecting confidentiality of sources and reporting sensitive information
- Systematically collecting, analysing and presenting data collected through monitoring
- Following up on recommendations; convincing authorities to make change
- Convincing other stakeholders of the importance of independent monitoring



### 3. How can NGOs gain access to immigration detention?

#### What does “access” to immigration detention mean?<sup>3</sup>

Access is a key prerequisite to monitoring immigration detention. Full access for monitoring involves the ability to:

- Observe all facilities/premises of immigration detention
- Talk to any detainee and staff member in private
- Receive information – e.g. to consult documents and registers
- Conduct visits at any time, without announcing this in advance.

#### Access to what places?

Access to immigration detention means any place where persons are deprived of their liberty for migration-related reasons, which can include: police arrest and transport, police holding cells, “reception” centres and accommodation, prisons, dedicated immigration detention centres, airport transit zones and forced return flights. Although there is sometimes ambiguity about what constitutes detention in practice, this does not depend on whether the place is officially recognised as detention by the authorities.

#### NGO access to immigration detention in Europe

NGOs in Europe have relatively high levels of access in comparison with some other regions in the world. However, levels of access also vary among organisations and for the same organisation over time, or for different purposes and programmes. Some NGOs have broad access but are not able to undertake the potential monitoring involved because of resource and capacity constraints. Most NGOs need to announce visits in advance to the authorities.

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<sup>3</sup>. See also box 3.3. on page 41 of the practical manual *Monitoring Immigration Detention*

**Tips for NGOs to gain and maintain access to immigration detention**

Tip for gaining access	Example
<p><b>Focus on common goals and providing solutions for the authorities</b></p>	<p>An NGO in Hungary negotiated access with the border guards based on pre-agreed goals of improving detainee access to information, meaningful free time, assistance and communications between detainees and guards, with the overall objective of preventing ill-treatment.</p> <p>In Poland, the authorities agreed to NGO monitoring because the situation in immigration detention was under severe criticism in the press and they were looking for solutions.</p>
<p><b>Negotiate access for legal aid/service provision – this is a good way to gain initial access and build trust with the authorities</b></p>	<p>In France, the law provides that NGOs have access to immigration detention to provide legal advice (following NGO lobbying on this). The five NGOs providing legal aid coordinate to collate information and issue an annual report on immigration detention.</p>
<p><b>Negotiate with the higher authorities.</b></p>	<p>This was a successful strategy for Polish NGOs, who gained initial access by negotiating directly with the Ministry of Interior and are now starting to build stronger relationships with individual detention centre Directors.</p> <p>In Belgium negotiation with the authorities made it possible to intensify the visits to the return houses (where families with children are held under custody) and got an approval to visit twice a month instead of once.</p>
<p><b>Develop relationships with directors and staff of detention places.</b></p>	<p>In Estonia, personal relationships have proved important for accessing places of detention and receiving better information.</p>
<p><b>Build partnerships and work with UNHCR to negotiate access.</b></p>	<p>In a number of countries, UNHCR has been involved in monitoring pilot programmes and advocating for better access to immigration detention for NGOs, leading to increased NGO access.</p>
<p><b>Publicly campaign for better access.</b></p>	<p>The LasciateCIE Entrare campaign in Italy was key in securing access for NGOs and the media, which was previously denied by the Ministry of Interior.</p>
<p><b>Use EU accession/standards as a negotiating tool.</b></p>	<p>In Hungary, the NGO Hungarian Helsinki Committee gained broad access to immigration detention as part of the EU accession process in 2000 (arguing that NGO monitoring could assist to bring immigration detention in line with EU and human rights standards).</p>
<p><b>Put agreements to monitor in writing to be clear about the mandate given and level of access.</b></p>	<p>Hungarian, Polish and Belgian NGOs received authorisation in writing which proved useful for getting access in practice and maintaining the agreed level of access.</p>
<p><b>Build trust and demonstrate that monitoring can support the authorities:</b></p>	<p>In Poland, NGOs conducted two rounds of monitoring immigration detention in 2012 and in 2014. In the second round, they were given broader access to immigration detention, demonstrating the trust built in the first round.</p>

## 4. Monitoring strategy

### 4.1 The monitoring cycle

Monitoring immigration detention is a circular and on-going process. Ideally the following steps are respected:



Developing a monitoring strategy is the first step in the cycle. It is the organisation's referral instrument/guideline during the whole process of monitoring immigration detention. Once there is a decision in the monitoring strategy the preparation for visits can start. The next step is to conduct visits themselves and follow-up. At the end of the cycle it's useful to evaluate and review the monitoring process. On the basis of the results of that evaluation, the strategy can be adapted in order to improve it. It is a dynamic process, which should be flexible as unexpected things can happen in detention. The overall objective to keep in mind during the whole monitoring cycle : to determine whether the detention environment presents risks of human rights violations and what steps need to be taken by authorities to respond to these risks.

### 4.2 How to develop a monitoring strategy?

#### 4.2.1 Why a monitoring strategy?

Visits alone cannot solve all problems in places of immigration detention. Some of the root causes of problems may lie in the legislation, the public policies and institutional practices. To create sustainable change in immigration detention, it is necessary to broaden up the working field with analyses of the findings, recommendations and advocacy.

Developing a monitoring strategy can help an organisation to be focused in terms of what it wants to achieve and how, and to review and adjust this based on experience and practice. You could compare it with project cycle management and approach your monitoring work as a separate project with specific goals and expected outcomes. A strategy can also be useful for seeking

resources, especially for organisations dealing with financial challenges (it is not easy to find sufficient funding for working on immigration detention).

**TIP** Write the strategy down and where possible formalize it at board level. It helps the sustainability of your monitoring work and it enables you to evaluate it at the end of cycle and to identify the lessons learned. Once a strategy is formal it becomes possible to exchange ideas and experiences with other organisations. It is also possible to use it as a discussion element in looking for partnership.

### 4.2.2 Key elements of a monitoring strategy<sup>4</sup>

In planning a monitoring strategy, different topics should be taken into consideration and included in the planning.

- 1. Context** Before starting monitoring it is important to research and gather as much baseline information as possible about the social, political and legal context in which the concrete immigration detention takes place. Who is and who is not detained? Are alternatives to detention and pre-detention screening procedures being applied effectively? What are the legal frameworks?
- 2. Aspects of immigration detention** Monitoring work can examine the overall system of immigration detention or focus on one or more specific aspects of immigration detention, for instance: access to medical health care, access to legal aid, food, women in detention. This can be indicated in the strategy.
- 3. Goals and objectives** Examples of what you want to achieve at the end of the monitoring cycle are to ensure that immigration detainees:
  - Are not arbitrarily or unlawfully detained
  - Have effective access to protection and other immigration procedures
  - Are held in conditions that meet minimum international human rights standards.

In setting out the goals, it is important to know your organisational position in the field and towards the authorities and the public. To whom do you want to direct the results and with which purpose (e.g. to the general public, only to the politicians or to the administration)? You need to take these elements into account at the beginning of the strategy to ensure that the relevant information is gathered and that your recommendations will be heard. In other words, the main lines of the communications strategy should be included in the monitoring strategy.

- 4. SMART objectives** As monitoring is a process that can be both expensive and labour-intensive, it is crucial that it contains clear and achievable objectives. If not it could collapse under the strain of over-ambition. So the set objectives should be specific and the expected outcomes should be measurable: they should be SMART! There should be a periodic review of the aims and common goals as working on detention topics requires a high level of flexibility as contexts can easily and abruptly change.

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<sup>4</sup>. See also pp. 43-46 of the practical manual *Monitoring Immigration Detention*

5. **Timeframe** A strategy should include a timeframe for the whole monitoring cycle, including visits, follow-up, return visits and evaluation and adjustment of the strategy. It should be long enough in order to monitor change.
6. **Places of detention** It is good to start with a thorough mapping of all the different immigration detention locations, in order to select which will be visited during the monitoring cycle (taking into account resources, expertise, the different nature of these centres). For example a remote detention centre can be excluded because of practicalities. But its remote location can also indicate the specific need for monitoring. It can be useful to explore cooperation between NGOs to increase coverage. For example, in Belgium, NGOs have coordinated to each visit different immigration detention centres.
7. **Nature and duration** A monitoring strategy should indicate the nature and duration of visits to be conducted. Will they be unannounced or announced, or a combination of the two? The duration of the visit will depend on factors such as the size of the centre, the type of visit (first time, follow-up etc.), the number of interviews and the need for an interpreter.
8. **Frequency** The frequency of visits should also be considered. In general the more visits the more impact can be generated: the greater the visibility and presence of monitoring bodies, the more effective they are in preventing torture, ill-treatment or refoulement and in achieving sustained improvement. However, it is not always realistic to achieve a high level of frequency. While some organisations are in places of detention on a daily-basis or weekly basis (often combined with service provision), others conduct dedicated monitoring once every year/two years. Discussions suggested that once a year would be a minimum desirable frequency
9. **Monitoring team** Most civil society organisations are not able to conduct visits in a large team due to resource constraints and other considerations. In practice, NGO monitoring teams often consist of one or two persons. But if possible, it is useful to aim for: a multidisciplinary team, gender balance, relevant ethnic or religious backgrounds, and language skills. These are important to enable better information collection and for ensuring sensitivity and gaining detainees' confidence.

In **Italy** in 2012-2013 a team of four doctors and eight social and legal workers put together by MEDU (Doctors for Human Rights) conducted visits to 11 detention centres (each visit was conducted by two to three persons: a doctor, and one or two legal and social workers). Their findings were published in a monitoring report, which was instrumental in bringing problems in immigration detention to the attention of decision-makers and civil society more broadly. Six detention centres were closed down, in the existing centres half of the capacity is used and the maximum detention period was reduced from 18 months to three months. Although this is probably more a consequence of inefficiency and very high costs of the centres, this campaign was influential in confirming the bad impact of the detention practice.

A solution could be working with volunteers (e.g. students, retired persons) to conduct visits. But for both volunteers and professionals training and ongoing support is necessary as monitoring is a challenging task and

burnout is possible. Moments of debriefing, intervision and psychological supervision should be included in the planning (see below).

Depending on the monitoring topic there might be an opportunity to rely on other specific researchers or monitors like doctors or journalists.

- 10. Tools** Questionnaires are important tools and should be developed with the specific goals of the monitoring strategy in mind. They should be short and user friendly. But they should also be adapted to the practical realities of the context (e.g. in the UK pens and paper are not allowed in the detention centres). Instead of developing a brand new questionnaire, adapting existing questionnaires/guides, such as IDC's monitoring guide, APT's guide Visiting immigration detention centres – Guide for EU parliamentarians etc. would save time.
- 11. Coordination with other visiting bodies** It's very important to try to know, understand and complement each other's work in order to avoid confusion (with authorities) and duplication. It's good to have a formalized network between the different bodies. But informal collaboration is also possible. Ultimately coordination will enhance the efficiency of the monitoring programme and will also make it more efficient in the eyes of the authorities. Working together is a way to reinforce your (political) credibility. Make sure recommendations for change are consistent with one another!

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**Belgium:** In Belgium a group of NGO's work together on monitoring. Three NGO's provide the coordination of this group, the so called Transit group. The mission of this group is triple:

- (1)** Being a watchdog concerning respect of human rights in detention;
- (2)** Observation of the overall situation of the detention centres by an independent but informal (not officially recognized) monitoring;
- (3)** Sensitisation of the public on detention of migrants. Most of the members have regular visitors.

A visitor has also a triple mission:

- (1)** Providing mental support;
- (2)** Informing detainees about their rights and providing legal advice;
- (3)** Observing and controlling the overall situation in the detention centres and the return houses.

Every six weeks this group comes together and visitors share information on the overall situation in the centres and the living conditions of the persons detained there. Group participants discuss the vital issues and the common positions and strategies to adopt in addressing the public authorities and raising media awareness. This network of visitors facilitates the close monitoring of conditions in the five detention centres and five family unit sites.

Of every visit we create a general report on the conditions of the centre and a personal report for every detainee. These reports are discussed in team and give shape to our advocacy strategy.

**Romania:** Monitoring of immigration detention is a yearly organised exercise under Age, Gender and Diversity Management (AGDM) mainstreaming,<sup>5</sup> where the strategic plan is agreed upon. There is a special detention team comprising UNHCR, NGOs (JRS Romania), IOM, etc. Following a visit, a joint report is drafted and shared with the government for comments. The strategy is developed also together with the government.

**UNHCR** developed a global strategy to end the detention of asylum seekers and refugees. The 'Beyond detention' strategy includes monitoring as one of the three priorities.

- 12. Transnational** collaboration of monitoring bodies is also possible, in using a shared monitoring strategy which leads to a positive peer pressure effect.

**Latvia and Lithuania** have a shared monitoring strategy in place. Estonia will hopefully be part of it in 2016. All three NGO's from the Baltic States were given guidelines on how to conduct the Annual Report following the 'Monitoring Immigration Control manual'. Therefore all three countries collect similarly the data which make comparison possible.

- 13. Flexibility** A good strategy should be flexible and changing to evolving realities and taking into account the existing staff and financial resources. Flexibility is needed to ensure monitors can be responsive to any unexpected issue or incident not only during the visit itself but also during the whole cycle. For instance it can happen that the level of access changes and so an adaptation of the strategy is needed.

#### 4.2.3 A strategy is better than no strategy

Many NGOs have informal or unwritten strategies on monitoring. Where resource constraints limit an organisations ability to develop a comprehensive monitoring strategy, it is possible to prioritise certain key elements. It is better to have a short but still clear and realistic strategy than no strategy at all. Working through different steps and posing the rights questions can help in developing a strong monitoring strategy.

<sup>5</sup>. Age, Gender and Diversity Management, a participatory assessment organised by the UNHCR on yearly basis at the regional level

#### 4.2.4 Guiding questions for developing a monitoring strategy

##### 1. Context

- What is the legal context?
- What are the different kinds of categories of detainees?
- Is there a presence of external bodies or partners in immigration detention?
- What is your and their level of access?
- What is your and their relation with the authorities?

##### 2. Goals and objectives

- Why do you want to do monitoring?
- What do you want to achieve at the end?
- What is your position? Is it possible to go public or would it be better to work behind the scenes? Who do you report to?

##### 3. Timeframe

- When do you want to visit?

##### 4. Resources

- What are the resources available?
- Can they support the above plans?
- If not where to search for additional funding?
- What are the human resources available? Who will execute the monitoring visits?

##### 5. Tools

- What kind of tools you are allowed to bring in the detention centres?
- Can you find existing questionnaires as inspiration for you own?

##### 6. Aspects of immigration detention

- What aspects of immigrations detention to monitor?
- What kind of monitoring? How? Permanent monitoring or rather a one-off?
- Which places of immigration detention do you want to monitor and why?
- In which kind of timeframe?

**Once there is an answer to the above questions you can start planning and training people to monitor.**

**Remember, a good strategy is flexible.**



## 5. Preparing for visits to immigration detention

Preparation can make the difference between a well-conducted visit to immigration detention and one that fails to gather useful information or, in the worst case, actually does harm. But how much time, effort and thought do we put into preparing these visits? The answer will depend on organisations and individuals, as well as on the frequency of visits and whether they are specifically aimed at monitoring (e.g. gathering information) or if that has a secondary function to case work/assistance. The following are some steps that can be taken in preparing for a visit:

1. **Research, gather and collate information** (law, standards, context relating to immigration detention and the specific detention centre, including findings of previous visits. Possibly send requests to authorities for information). NGOs often have a good knowledge of the context and standards due to their other work relating to immigration and detention.
2. **Define the objectives of the visit** (e.g. initial scoping, follow-up to previous visits, monitoring a specific issue). For example, in 2014, Polish NGOs set one aim of their immigration detention monitoring visits as follow-up to ascertain whether recommendations made in 2012 had been implemented. The Uppsala University research team in Sweden defined their objective as understanding the daily life and well-being of immigrant detainees in order to identify factors which could mitigate the negative effects of detention on detainees' health and wellbeing.
3. **Prepare the monitors** (ensure they have background info and clear plan for the visit, including who will do what and when, although this needs to be flexible).
4. **Material and logistical preparation** (e.g. how to get to the detention centre, make sure you have ID, proof of authorisation to visit, tools such as watch, torch, tape measure, camera).

**To prepare for their monitoring visits**, Polish NGOs developed a special questionnaire for immigration detention centre Directors asking about the number of detainees, countries of origin, language and age of detainees etc. This was sent one month prior to the visit, with a request to have it completed within two weeks. The NGOs already had a good overview of the legal and policy framework relating to immigration. The answers to these questionnaires helped to further inform the focus of visit, the development questionnaires for visits and other preparation necessary (e.g. identifying the languages and cultural skills needed within the monitoring team).

## 6. Conducting visits to immigration detention

### Centrality of visits in immigration detention monitoring

Visits to immigration detention are the core of the monitoring cycle. They enable monitors to observe first-hand the situation in detention and speak with detainees and staff.

#### Tools for an immigration detention visit:

1. **Eyes: what can you see?** How does the facility and people look?
2. **Nose: how does it smell?** Is there enough air? Does it smell bad?
3. **Ears: what can you hear?** what do people say (interviews = most important tool for a visit)

What is the overall atmosphere in the place of detention?

### Steps in conducting a visit to immigration detention<sup>6</sup>

1. **Initial talk with Director** – this is important as a courtesy, to develop constructive dialogue, introduce the team and aims of the visit, share expectations and gain background information including on any developments since the last visit.
2. **Observe premises** – take a tour of the premises (with a map if possible); get an impression of the atmosphere; choose specific areas to re-visit and identify issues that need follow-up. Some NGOs observe the premises on every visit (especially those that conduct visits exclusively for monitoring). Some others that combine monitoring with individual advice request a tour of premises periodically.
3. **Consult registers and documents** – to understand the rules and how things are expected to function and if proper safeguards are in place. Documents to check include detainee registers (to identify detainees to interview and possibly vulnerable persons), internal rules and schedules, (are they available to detainees in different languages?), protocols on coercive measures, staff structure, activities etc.
4. **Observe procedures** – to understand how protocols are implemented in practice. E.g. follow a detainee through the whole process of intake, reception and registration to gain an idea of access to assistance, protection and asylum procedures.
5. **Interview detainees** – interviews are the most significant tool during visits as they allow monitors to hear firsthand about the experiences of detainees. Interviews can be conducted in groups or individually. Both approaches have their own advantages and disadvantages. Also specific issues should

6. See chapter 3.4. of the practical manual on Monitoring Immigration detention for more concrete detail on the conduct of a visit.

be taken into account: where to conduct the interview; how to address language barriers; under what circumstances we can ask fellow detainees to act as interpreters without breaching confidentiality on sensitive topics such as LGTB, diseases, etc. The manual on Monitoring Immigration Detention discusses in detail these concerns.<sup>7</sup>

- 6. Interviewing staff** – it’s crucial to understand the perspective of staff because their attitudes and behavior have a direct influence on detainees’ experience in detention.

**TIP** It is always recommended to get an informed consent from the interviewee.

- 7. Final talk with Director** – this is the chance to provide feedback, raise any urgent issues and inform the Director of the next steps.

In **Sweden** the Uppsala University research team holds a one to two hour meeting with the Director at the beginning of each visit to an immigration detention centre. The team shares the objective of its visit, clarifying that monitors are there not to criticise the facility or staff members, rather to identify avenues to improve the services provided at the facility and detention system as a whole. The team also informs the Director what it would like to do during the visit, and that it would like to meet with both detainees and staff (including the staff union rep). These meetings are important as a courtesy, to introduce the team, share expectation and to gain information on any developments and concerns the Director has. These meetings also convey the message that the monitoring is not an enemy rather they help the detention facilities to achieve one of their goals, to provide the best possible service for detainees.

## Interviews with detainees and staff

### Tips for selecting detainees to interview:

- Try to interview of cross-section of the detention population, including those who might be more vulnerable.
- Request lists of detainees in advance with specific information in order to be able to identify persons to interview (e.g. of different nationalities, age, those without a lawyer).
- Select interviewees at random through lists of detainees or during the visit
- During interviews ask “do you know of anyone else experiencing [a certain problem]?” and be guided by detainees
- Start with larger groups (sometimes groups of a certain nationality will be comfortable in talking to monitors together). Members of the group will sometimes self-select or otherwise indicate their vulnerability (distant, quiet, etc) for further interviews.
- Avoid only interviewing those who volunteer/request an interview
- Observe which detainees look vulnerable – who is sitting in the corner not saying anything?

7. See chapter 3.4.5. pp. 62-72.

### Tips for interviewing staff

- Clarify to staff that monitors are interested in improving the situation in immigration detention – this means for both detainees and staff (i.e. not to take sides). Therefore monitors are interested in the working conditions and challenges faced by staff.
- Request a meeting with leader of the staff union, if there is one. This signals that monitors are interested in speaking with staff, without singling out particular staff members.
- Interview different levels of staff – they often have different perspectives on issues.
- Informal chats with staff are also an important way of gaining information and understanding their attitudes and concerns.

### How many interviews?

The **Swiss** NPM aims to interview 20% of detainees and 20% of staff in each detention place with about 30 minutes for each interview (this can take a significant amount of time depending on the size of the detention centre).

**Polish** NGOs dedicated around 80% of visiting time to detainees and 20% to staff.

### Triangulating information

Visits to immigration detention should aim to gather good quality, corroborated information, by cross-checking: the point of view of detainees, point of view of authorities and the monitoring team's own observation and analysis – a process called triangulation. This is vital for the credibility and reliability of the findings and recommendations.

### Tips for triangulating monitoring information

- Use a set of the same core questions for all interviews/detention visits to allow cross-checking and data comparison e.g. there are often persons in detention who complain about the food, but if 10 people all say the food is bad it is a clear indication of a problem.
- Use technology, e.g. input interview responses in Google forms during the visit so that data is automatically stored (but do ensure that authorisation is needed for device and all precautions are taken to ensure confidentiality of information online).
- Conduct at least two meetings with the monitoring team during the visit to cross check information, identify issues to follow-up on and key points to be raised with the Director in the final meeting. These meetings can be scheduled in the monitoring plan prior to the visit.
- Conduct immediate debriefing with the team after the visit to discuss impressions and initial findings – this is an important moment for cross-checking information.

During its monitoring visits to immigration detention centres, the Hungarian Helsinki Committee conducts a short meeting among monitors before meeting with Director for a final talk, in order to cross-check information and identify the most important issues to raise with the Director.

The Uppsala University research team in Sweden developed one standard questionnaire for their visits which they sent in advance to migration authorities in four EU member states. The fact that all interviewees (detainees, detention staff and health care professionals) were also asked the same questions helped with cross-checking information. During visits, the team entered information directly into Google forms, so it was ready to analyse afterwards. Each team member also completed the questionnaire based on their observations adding to the triangulation process. Immediately following the visit, they held debriefings with the team in which they compared information (part of triangulation) and these were recorded for future reference.

**Basic principles of monitoring:**

- Do no harm
- Confidentiality
- Credibility
- Objectivity
- Sensitivity

### WORKSHOP DISCUSSION: Balancing monitoring with individual casework/assistance

Detention monitoring can be distinguished from individual casework/assistance in that it focuses on systems rather than individuals, looks at all aspects of detention and proactively seeks to identify gaps and solutions to improve conditions and treatment in detention. The working style of these two roles may also differ: whereas monitoring requires a systematic programme of visits, analysis and follow-up, case work and assistance may involve responding to individual needs and situations, which can be less predictable in terms of time demands. For this reason, dedicated detention monitoring bodies (e.g. National Preventive Mechanisms) often focus exclusively on monitoring, or separate their monitoring and individual casework/assistance roles. However, NGOs often combine the two and while there can be advantages to doing this, it also creates challenges for their work.

What **advantages** are there for an NGO to combine monitoring and individual case work/advice?

- The individual casework helps NGOs to gain access to immigration detention and monitor the overall situation. For a lot of NGOs the monitoring is “hidden” under the scope of assistance and without individual casework there would be no monitoring.
- Individual casework provides a treasure of detailed information which is very useful for understanding key issues and problems in detention (as part of monitoring).
- Doing monitoring allows the NGO to identify individual cases and refer these to legal advisers.
- Profiling detainees.
- Through regularly visiting detention to provide assistance to detainees, you build up a relationship of trust with detainees and staff. Staff becomes more open and more information is exchanged.
- Having good illustrative examples which can be used in advocacy to enforce or underline the formulated recommendations.
- NGOs can use individual case work to select a case and start strategic litigation in order to bring about necessary changes identified through monitoring.
- By combining the two different types of methodology (the overall monitoring and the individual case work), a multidisciplinary team is developed within the NGO.

What concrete **challenges** do NGOs face in combining monitoring and individual case work/assistance?

- Highlighting individual cases/conducting strategic litigation can put the authorities on the defensive and lessen the possibility of maintaining a positive relationship with them (which is needed to engage on results of monitoring) and endanger access.
- Conversely, organisations may also publically advocate on the results of monitoring. Openly challenging the system can endanger a NGOs access to provide individual assistance. When you have an unreliable or restricted access you need to find the right balance between both the roles.
- It might create conflicting roles: e.g. a lawyer who is at the same time monitoring and leading strategic litigation.
- Combining the two functions is time-consuming and often there is not the adequate staff capacity to cover both roles. E.g. due to time constraints, it can be a challenge to gather information for monitoring (e.g. filling in questionnaires, tables) after interviewing and providing advice to an individual on their own case.
- The combination of both roles can be confusing for the detainees. In reality when they are interviewed, detainees commonly hope for assistance on their own case – they can be disappointed if they don't receive this.

What **solutions/ways forward** are there for balancing monitoring and individual casework/assistance?

- Dedicating specific staff to each type of work. Outsourcing lawyers for strategic litigation (so the NGO is not implicated).
- Collaboration with other supporting NGOs to do the active and visible advocacy so your access to detention and your future monitoring work is secure.
- Create an umbrella network for monitoring with a joint report.
- Create two different visits: separating monitoring visits from case work/advice visits.
- Provide specific training in monitoring/ individual assistance for NGO staff and do the work/the visits in pairs where one focuses on the monitoring aspects and the other on the more individual assistance (work division).
- Be clear from the beginning with a detainee on your role and mission within the detention centre and let the detainee choose the focus. Explain what the detainee can expect you to do and what you can't do, so you have a clear 'contract' in between.
- Create more focused questions within questionnaires.

NGOs in Poland and Hungary are regularly present in immigration detention centres to provide legal advice to detainees. They conduct **separate visits for monitoring**, which focus on the treatment and conditions in detention and systemic changes needed to improve respect for human rights. By separating these two visiting roles, they can more effectively conduct each one and avoid confusion among detainees and detention staff as to their role.

### WORKSHOP DISCUSSION: How to effectively monitor with volunteers?

As many NGOs operate with limited budgets, some work with volunteers to strengthen the scope and reach of immigration detention monitoring visits. However, there are also challenges in developing and implementing effective monitoring programmes involving volunteers.

#### What are the challenges involved in working with volunteers for monitoring visits?

- Volunteers have their own objectives and expectations. Volunteers might be motivated to do the job more with a 'befriending' objective rather than a monitoring objective.
- They can complete the work of the professional monitor, but there is also a risk that volunteers can be counter-productive/obstructive.
- Volunteer visitors will always have a different status and role not only within the NGO but also as in the eyes of the authorities and management of detention centres (even if they can complete tasks in the same way as professional visitors).
- It is not easy to find volunteers with adequate background and knowledge for monitoring, so you need to provide training and support (not only on policy and law systems but also on deontology and psychological skills).
- Working with volunteers requires time investment of the NGO, especially in the beginning.
- Volunteers are not bound to the NGO like a professional, so how to keep them engaged?

Volunteers are the centre of AVID's work visiting immigration detention centres in the UK. Its membership network comprises 20 visitors groups, with around 700 volunteer visitors who visit in each detention centre. Volunteers befriend and support people in immigration detention and their work is important because they can gather first-hand information on the situation in detention. But it is a challenge to skill-up these groups in order to do effective monitoring. AVID has developed a handbook for visitors that covers key issues that visitors may come across, such as legal or medical issues, and outlines how to be a good support to a detainee. It has also developed training modules for volunteer visitors on topics such as how to support vulnerable detainees, or legal issues in detention.



### Tips and tools for engaging volunteers:

- Take your time to develop a strategy to work with volunteers taking into account the following elements.
- Develop a recruitment profile in order to know exactly what skills/experience/character you are looking for.
- Be aware that the organization is always responsible and so it is important to know who you involve in volunteering. It can be advisable to avoid working with “activist-type” volunteers.
- Provide a clear return for the volunteers: what do they gain by volunteering for your NGO?
- Use a vacancy with a clear job description and make clear what you can offer the volunteer (e.g. specific training, a network, upcoming job opportunities etc.). Conduct a thorough interview with candidates before officially engaging them, the same way you would do when recruiting new staff.
- Provide decent training and make them aware of the ‘bigger picture of immigration detention’, and why monitoring is important. Explain well how they can help and why their input is valuable. Training is also important for ensuring quality and consistency of monitoring work.
- Select volunteers who are willing and able to engage for the longer term in order to make the NGO’s work and investment to work with volunteers sustainable. Decide formally in the strategy what for your organizations would be an adequate term of engagement.
- Include a testing period especially for volunteers who have had no previous experience with immigration detention topics. Working in detention centres can be emotionally demanding and not everyone will be suited to this type of work.
- Include the volunteers in the whole organization for instance by letting them participate in regular team meetings and teambuilding moments so they can feel part of a bigger picture.

The Belgian Visitors Group is an umbrella coalition of different NGOs visiting immigration detention centres. The coordination of the group developed a strategy for working with volunteer visitors which is supported by all member organisations. The strategy contains element on the required profile, competences and time of engagement of the volunteers. It helps to direct member NGOs in recruiting volunteers in a similar way and minimalizes the risk of differences between visitors.

- Engaging volunteers to carry out support tasks related to monitoring (which do not involve visiting) can also enforce an NGO’s monitoring work. For example, volunteers can be asked to do translations, help with administration tasks relating to visits, managing and analysing data etc.

France Terre d’Asile uses volunteers for interpretation during interviews with immigration detainees, because the payment it receives from the government for the legal aid service does not cover interpretation. Some 128 volunteers provide interpretation over the telephone.

JRS Portugal engages volunteers to provide leisure activities in detention. The volunteers prepare questionnaires to get them involved in the legal observations.

### **WORKSHOP DISCUSSION: Ensuring “do no harm” and confidentiality in monitoring**

Detainees are particularly vulnerable and their safety should always be kept in mind by visitors. “Do no harm” means that visitors should not take any action or measure which could endanger an individual or a group in detention. Part of this means respecting the confidentiality of the information provided in private interviews so as not to put sources at risk (staff and detainees). It can however be a challenge to ensure these principles are applied in practice.

#### Challenges in ensuring “do no harm”

- Not raising false expectations on the part of detainees.
- Not doing harm during the interview e.g. through re-traumatising.
- Reporting monitoring findings without exposing individuals to the risk of sanctions.
- The potential harm to monitors (e.g. through burn-out).
- Sometimes the individual interest is different from collective interest (e.g. raising an issue might improve the situation for many, but not for a particular person).
- Some NGOs are “escorted” in their visits by detention staff, making it difficult to interview out of earshot of the staff.
- Monitors should be able to choose who to interview freely, without this being dictated by detention staff. But in practice, some NGOs experience restrictions (for example only being allowed to interview persons whose name they can indicate, or persons selected by the authorities).

### Tips for ensuring “do no harm” in monitoring immigration detention

- Always interview out of earshot of detention staff.
- Interview enough detainees so that the source is not identifiable.
- Also interview former detainees (those released from detention), so as not to single-out persons still in detention.
- Only collect and record the necessary information.
- Take data-protection measures (e.g. use initials/numbers for interviewees with only one member of the monitoring team with access to the index with full names).
- Use informed consent forms to guide an explanation of how the information interviewees provide will be used and seek their formal agreement.
- Ensure proper training and debriefings for monitoring staff.
- Raise known concerns before the visit or in the meeting with the Director so as to avoid pointing to current detainees as the exclusive source when reiterating these after the visit.
- Use empathy and cultural sensitivity while being careful not to raise expectations about what you can do for the detainee (by clearly explaining the mandate - consider splitting the teams who conduct individual case work and those who do systemic monitoring so the roles are clearer to interviewees).

Depending on the type of visit, confidentiality could be ensured in several ways. For a monitoring visit, where the focus is on the system and not on an individual or group of detainees, no identification details such as name of the detainees need to be collected and thus avoiding any chances of confidentiality breach. This also ensures data protection. The Uppsala University research team in Sweden followed this approach while collecting data. If the visit is targeted to collect information about particular individual or group of individuals, identifying information about the detainees could be collected and that information could be coded using numbers or alphanumeric codes. Only one or two members of the monitoring team has access to the index with the full names of detainees and the corresponding codes. Hence, no one would be able to identify a detainee from a dataset without having access to the index. This minimises the chance of confidentiality breach.

JRS Europe has held trainings to build the intercultural competences of its immigration detention centre visitors. A Manual for Detention Visitors published by JRS Europe aims to assist visitors to “develop appropriate responses and skills to communicate more effectively in detention visiting situations, where they constantly have to deal with intercultural encounters alongside with already complex and emotional circumstances”.

## 7. What to monitor in immigration detention?

### Key principles to monitor

In monitoring immigration detention, the following fundamental principles should be kept in mind and assessed by monitors:

- Immigration detention should only be used exceptionally and as a last resort, after alternative measures have been pursued
- Immigration detention should not be punitive (non-punitive environment)
- Some groups, including children, should never be detained for migration-related reasons

Monitoring of conditions and treatment in immigration detention should not detract from these core standards.

### Aspects of immigration detention to monitor<sup>8</sup>

Monitors can look at a variety of aspects of immigration detention through the human rights lens:

- Basis for detention – is it used as a last resort?
- Access to asylum and assistance
- Regime and activities (is it punitive?)
- Treatment (ill-treatment, restraints, isolation)
- Protection measures (info for detainees, complaints procedures, registers)
- Access to healthcare
- Detention centre staff (staffing levels, conditions and attitudes)
- Violence between detainees
- Persons in vulnerable situations

Some monitoring strategies focus on one specific topic. Break-out groups at the workshop went further in-depth on the following specific thematic issues to monitor:

### Monitoring access to asylum, advice and assistance

#### Principles/standards to monitor

- Access to asylum procedure and legal aid - there should be the possibility to apply for asylum from immigration detention
- Non-refoulement principle
- EU and international law and policy
- Legality of detention
- Ability to challenge the detention

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8. See also box 3.2 on page 38 of the manual on Monitoring Immigration Detention

**What to look for? Which questions you can pose in during the monitoring cycle?**

- Do detainees have access to asylum procedure? Is it possible to lodge a claim?
- Do they have access to legal aid advice?
- Are detainees well informed of their rights and access to asylum and assistance? When do they receive the necessary information? Is it in a language the detainees understand? In which conditions are they informed?
- During the asylum procedure is the confidentiality guaranteed? Can the claim be made in a closed envelope so no immigration official can know it?
- What is the quality of the legal aid provided? What is the quality of interpretation (e.g. during hearings)? Does the lawyer know about the country of origin information? How is the relationship between the client and his/her lawyer? How does the client feel about the work and approach of his lawyer (it is also interesting to know if and why a client is positive about their lawyer and also if this feeling changes over time).
- What is the quality of the decision (regarding asylum)? Is it a real individual decision or is it a result of “copy and paste” practices?
- Is there a possibility of human trafficking?

**Where to find information?**

- Speak to asylum seekers, authorities, detention staff members, interpreters, lawyers
- Questionnaires
- Client files, court decisions
- Analyse work of lawyers/judges. How to monitor the qualitative work of different lawyers? Can look at the success rate in asylum cases of each lawyer
- Meetings with policy makers
- Media

**What to keep in mind?**

- The funding/capacity issues: is it realistic to investigate all the aspects?
- The independence: if you do legal aid you cannot assess the quality of legal aid. You need an independent body.

**Challenges in monitoring access to asylum and assistance**

- The need for monitors to understand legal procedures (monitors do not need to be lawyers, but some training on the law/legal process will be necessary, the question is how much).
- Finding the balance between providing legal aid and monitoring. If you provide the legal aid it is not possible to assess the quality of the legal aid at the same time.

In Lithuania they started to record the hearings in court. Before, when hearings were not recorded, the judges expressed themselves sometimes in an unprofessional and biased way (i.e. "there is no need to translate that, he is so stupid he wouldn't understand anyway"). Now with the recording this has not happened and at least asylum seekers are not traumatised within the court procedure so much. It leads to a better quality of the state legal aid and of the reasoning of the courts decisions.

### **Monitoring access to healthcare in immigration detention**

- Detainees should have access to the same standard of healthcare as "outside" detention
- Monitors should pay equal attention to mental and physical healthcare
- Check accessibility, availability and appropriateness of healthcare

### **Key principles in monitoring healthcare in immigration detention**

- Detainees should have access to the same standard of healthcare as "outside" detention
- Monitors should pay equal attention to mental and physical healthcare
- Check accessibility, availability and appropriateness of healthcare

### **What to look for?**

- The system for emergency healthcare and how it works in practice
- Medical screening of detainees (physical and mental health) upon admission
- Independence of medical staff (is it possible for detainees to get a second opinion?)
- Criteria for release mechanisms and "fit to fly" decisions: is health taken into account, are deciding medical staff independent and is it possible to appeal?
- Cost of healthcare - what is provided for free and for what must the detainee pay?
- Communication between medical staff and detainees (is there interpretation?)
- Issue of overuse of medication in immigration detention
- Where to look? Ask detainees and staff, check medical records

### **Challenges in monitoring healthcare in immigration detention**

- Need for monitors with medical expertise
- Access to medical records (sometimes confidential) (e.g. medical staff in immigration detention refused to transfer medical files to officials handling forced repatriation)
- Ensuring confidentiality of information regarding detainees' health
- Knowing and applying the relevant legal standards

## Monitoring child immigration detention

### Key principles and standards

- According to international human rights standards:<sup>9</sup>
  - Children should never be detained because of their or their parent's migration status
  - Child-sensitive community-based alternatives to detention (ATD) should be implemented for children and their families
  - Children should not be separated from their families by immigration detention
  - Most recently, the UN Special Rapporteur on Torture has said that child immigration detention amounts to ill-treatment<sup>10</sup>
- ECtHR cases on child immigration detention (e.g. Popov)

The detention of a child because of their or their parent's migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child. In this light, States should expeditiously and completely cease the detention of children on the basis of their immigration status.

UN Committee on the Rights of the Child, Report of the Day of General Discussion, The rights of all children in international migration (2012).

### What to look for?

- The number of children in detention.
- Impact of immigration detention on children and their families.
- Conditions of detention (space, toys, friendly environment, outdoor activities)? But can detention conditions ever be "child-friendly"?
- Age assessment procedure (ask for documentation): the burden of proof is on the state so unless otherwise proven a person claiming to be a child should be treated as a child.
- Best interest determination (see UNICEF/UNHCR 'Safe and Sound' report on how states should conduct best interest determination).
- How is parental authority and role impacted by detention (e.g. decisions about routine, food, education)?
- Return of migrant children and families.

9. See IDC, 'Factsheet on children in immigration detention': <http://idcoalition.org/child-detention-fact-sheet/>

10. Report of the UN Special Rapporteur on Torture on children deprived of their liberty (5 March 2015), UN Document: A/HRC/28/68.

Defence for Children - the **Netherlands** interviewed children and families in immigration detention to understand the impact of immigration detention on children. The report of their research, published in 2014, included drawings by children, reflecting the punitive, prison-like way in which they experienced detention.<sup>11</sup> This built on a previous report outlining legal and policy arguments against child immigration detention but appeared to have greater impact as it graphically highlighted the impact of detention on children through individual stories. In 2014 the Dutch government abolished the immigration detention of children at international borders in the Netherlands, one of the main recommendations of the report.

### **Tips for monitoring child immigration detention**

- Ensure “do no harm” by accessing children through their parents and being guided by them
- Involve monitors with expertise in working with children (e.g. social workers, child psychologists)
- Highlight stories of children and their families to show impact of immigration detention
- Inform schools and other migrants of NGO work on child immigration detention
- Keep in mind the risk that making recommendations on conditions of detention for children can detract from advocacy to end child immigration detention altogether

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<sup>11</sup>. No Child in Detention Coalition, “Dad, have we done something wrong”: children and parents in immigration detention (2014).



## 8. Follow up to monitoring visits

Follow-up to visits is key to ensuring that monitoring leads to improvements in immigration detention practices. This includes the internal follow-up immediately following visits and the broader external follow-up and advocacy on monitoring findings (of course they relate to each other and only with good internal follow-up, can we conduct strong advocacy).

### Key steps in follow-up

- Team debriefings – compare info and discuss findings
- Review and analyse info and findings
- Prepare internal reports/documents
- Individual follow-up and referral
- Draft external reports and recommendations
- (Further) develop and implement an advocacy strategy
- Evaluate monitoring visit/process<sup>12</sup>

(The next two ‘workshop discussion’ sections are based on the thematic discussions the participants had.)

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12. See also box 3.20 page 85 of the manual, Monitoring Immigration Detention

## WORKSHOP DISCUSSION: How to analyse data gathered through monitoring?

After a visit the team needs to collate and analyse all the information gathered (referred to here as “data”). It may prepare an internal report to record information regarding the visit, document findings and store confidential information. Monitoring bodies can also prepare/publish external reports (e.g. periodic reports, thematic reports, emergency reports) to transmit findings and recommendations.

### Elements to keep in mind when analysing data from monitoring

- Your monitoring strategy should outline the information you plan to collect and how you plan to organize, analyse and use your data – this will make analysis afterwards easier
- Use a concrete framework to structure data, for example:
  - Focus on specific thematic areas
  - Use the structure of the EU Returns Directive
  - Use the structure of your questionnaire/database
- In reporting findings:
  - Include both qualitative and quantitative data analysis to add impact
  - Make sure to triangulate information. Indicate in the analysis if a finding is corroborated with different sources or if it comes from one source
  - Be clear about limitations of data collection so as not to overstate the findings (e.g. “we were only able to interview a limited number of detainees due to resource constraints”)
- Who writes the reports after analyzing the data?
  - It can be an advantage if one person has the overall responsibility for drafting/coordinating a report (especially external reports), as this contributes to the consistency of style, analysis and recommendations
- If a team is involved in drafting, make the aim and style of the report clear before starting, so contributors can approach it from the same perspective
- Respect anonymity and confidentiality
  - Always double-check whether the authorities might be able to identify the source of information (detainee or staff) in your external reports
  - Do not use the full name of interviewees on files and questionnaires but work with a coding system whereby each file or questionnaire had its specific code linked with that one specific individual
  - Keep the collected data within the monitoring team – do not share with others (even within the same organisation) as this would breach privacy
  - Keep in mind that a detainee may want to access his/her information in the future and how you will respond to such a request
- Checking with the authorities by transmitting monitoring reports to the authorities before publication to seek their input - responses can be included in the external report

In **France**, five NGOs have access to immigration detention centres to provide legal aid. These NGOs share a database to ensure that comparable information is gathered. A steering committee meets regularly to share information on key issues identified during their visits. It also coordinates the exchange of positive practices and organizes meetings with the government. The NGOs regularly produce statistics and common press releases, as well as annual reports on immigration detention.<sup>13</sup>

13. E.g., La Cimade, Forum Réfugiés-Cosi, France terre d’asile, Ordre de Malte France, ASSFAM, Centre et locaux de rétention administrative (2014)(2014).

**WORKSHOP DISCUSSION: Making effective recommendations**

Recommendations are a key way to transmit monitoring findings to the authorities and communicate the changes necessary to improve the situation in immigration detention. Taking sufficient time to formulate them is therefore essential. But it’s not always easy and recommendations are also often not implemented. The Double-SMART criteria developed by the APT are a good guide to making effective recommendations (see APT detention monitoring briefing on ‘Making Effective Recommendations’).

<b>S</b>	Specific	Solution-suggestive
<b>M</b>	Measurable	Mindful of prioritisation, sequencing
<b>A</b>	Achievable	Argued
<b>R</b>	Results-oriented	Root-cause responsive
<b>T</b>	Time-bound	Targeted

**Tips for making effective recommendations based on monitoring:**

- Understanding the political will and what changes are realistic
- Prioritising recommendations – providing timeframes for implementation
- Ensuring recommendations are timely and relevant (don’t wait too long)
- Justifying recommendations with monitoring findings and international standards
- Backing up recommendations with that of regional/international bodies
- Giving a “face” to recommendations e.g. through individual stories
- Criticising at the “right” level
- Understanding the government’s funding constraints, opportunities and timing (e.g. making recommendations to parliament on budget allocation)
- Share monitoring reports and findings before publishing with authorities and seek feedback (including on timeframe for implementation of recommendations)

- Following-up to recommendations – follow-up visits, engage with the authorities e.g. through roundtables
- Ensuring that persons engaging with authorities on recommendations understand the findings and reasoning (it is an advantage if they have taken part in monitoring). The broader credibility of NGO management and staff can increase receptiveness
- Joining forces with other organisations to make recommendations – France
- Forwarding recommendations to other bodies and coordinating (e.g. networks, monitoring bodies)
- Evaluating and analysing which recommendations have been implemented and if they have not, why not

The **Hungarian Helsinki Committee** has developed a matrix tracking all the recommendations they have made in relation to immigration detention (including based on monitoring findings) and which have been implemented. This helps to analyse the reasons behind (non-) implementation and plan follow-up to the recommendations.

## Advocacy on the findings of monitoring

### What is advocacy?

Advocacy covers activities undertaken to change law, policies and practice on immigration detention. Advocacy strategies can be multifaceted and incorporate a number of approaches including:

- Direct lobbying of the government
- Constructive dialogue with authorities
- Issuing monitoring reports with recommendations
- Strategic litigation
- Developing policy papers
- Individual casework
- Research
- Campaigning
- Contact the media

### Setting advocacy goals

The following were current advocacy priorities identified by NGO participants, based on their monitoring and broader work on immigration detention:

#### NGO Advocacy goals on the findings of immigration detention monitoring

##### Ending arbitrary immigration detention

- End the systematic/arbitrary/discriminatory detention of refugees, asylum seekers and/or migrants
- End detention of vulnerable people including children & separation of families
- Ensure mechanisms for identification and release (e.g. of non-returnable migrants, victims of violence)
- End indefinite immigration detention

##### Improve conditions and treatment in immigration detention

- End use of police stations for immigration detention
- Improve detainee well-being and detention conditions
- Stop and prevent ill-treatment in immigration detention
- Improve detainee's access to healthcare

##### Alternatives to immigration detention

- Promote and improve community-based alternatives to immigration detention
- Raise awareness of courts and judges on alternatives to immigration detention

##### Strengthen safeguards and assistance

- Improve legal-aid and interpretation for immigration detainees
- Ensure effective judicial review of detention
- Ensure diligence in decisions and execution of forceful return of families

##### Other goals

- Improve training of staff in immigration detention centres
- Bring definition of immigration detention in line with international standards
- Strengthen NPM monitoring of immigration detention

**Tips for advocacy on the findings of monitoring:**

- It is vital to consider the position and strengths of your organization when setting your advocacy strategy
- Conduct a “power mapping” to identify persons with influence who are on board with your advocacy goals or who have not yet taken a stance and can be persuaded, to identify individuals to engage with
- Set up working groups/regular discussion fora with government and NGO participation as a forum for constructive dialogue on change in immigration detention
- Coordinate with other actors to take on different advocacy roles (as vocal advocacy/strategic litigation can make constructive dialogue difficult to achieve)
- Bear in mind that advocacy proposals must contain solutions! (E.g. if you advocate that the government should stop detaining families, how should it do this in practice, what alternatives can it implement?)
- Provide trainings to detention staff and related officials – it’s a way to start changing attitudes (for example on inter-cultural communication – how to communicate better with certain nationalities in detention)
- Open-up detention places to show the reality (for example through documentaries, photos, voices from detention), e.g. the Global Campaign to End Child Detention ([endchilddetention.org](http://endchilddetention.org)) has produced an animated documentary called The Invisible Picture Show, featuring the voices of children in immigration detention around the world
- Involve and empower former detainees to advocate
- Try to get broader civil society/public interested in the issue (to make policy-makers and politicians sit up and listen)

JRS Romania has a **multi-faceted advocacy strategy** on immigration detention, comprising lobbying (public debates, working groups, training, questions in parliament, study visits), strategic litigation, networking and individual assistance. Its achievements include better implementation of EU standards on immigration detention (including through joint NGO comments on draft regulations and meetings with the government) and better assistance for separated children in alternatives to detention.

In 2012, Polish NGOs conducted monitoring of all immigration detention centres in Poland following protests in four out of six guarded centres for foreigners in Poland. They issued a **report of their monitoring**, with concrete recommendations to the authorities including to abolish the oppressive regime in immigration detention and range of legal changes. As a result of the public debate surrounding the protests and the NGO’s recommendations, the authorities made a public commitment to both change the regime in guarded centres and institute legal reform. A second round of monitoring in 2014 found that a significant number of the recommendations, in particular those on the regime in detention, had been implemented.

Detention Action in the UK **involves and supports former detainees to advocate on immigration detention** through its Freed Voices group (including providing training on public speaking). Members are “experts-by-experience” committed to speaking out about the realities of detention and campaigning to end the government’s policy of indefinite detention. They conduct public outreach, local and national campaigning, and regularly write blogs and speak to the media. Freed voices members gave oral evidence to the UK parliamentary inquiry on immigration detention which, at the beginning of 2015, made strong recommendations for reform of the immigration detention system in the UK.

### Evaluating the monitoring strategy

The monitoring cycle should include regular evaluation in order to adjust the strategy and ensure that it is improved according to lessons learnt. This can include ongoing review as well as an overall evaluation of the strategy (this will depend on the duration of the monitoring cycle but discussions suggested that the latter should be conducted every one to two years).

#### Guiding questions for an assessment:

- What have you done?
- What have you achieved?
- How well have you done it?
- What difference have you made?
- How do you know?

#### The evaluation should provide answers to:

- What do you know now that you did not know before?
- Are there any gaps or deficiencies in our monitoring process?
- Were there any missed opportunities?
- What could you do better?
- How would it made a difference?

NGOs in Poland have conducted two rounds of monitoring of all immigration detention centres in the country (in 2012 and 2014). In **reviewing the first round of monitoring**, the teams identified that not enough time was taken for preparations and that the limited access hindered effective monitoring. For the second round, they therefore started preparations earlier, including in negotiating authorization and arrangements with the Ministry of Interior and Border Guards. As a result, they received prior authorization for greater access (including to all documentation, foreigners’ rooms and common rooms and permission for taking pictures in common rooms). They methodology for the visits was maintained, but questionnaires were adjusted based on learnings from the first round of monitoring.

## 9. Resources and tools for monitoring detention

### **APT/UNHCR/IDC Practical manual on monitoring immigration detention**

[www.reliefweb.int/sites/reliefweb.int/files/resources/monitoring\\_immigration\\_detention.pdf](http://www.reliefweb.int/sites/reliefweb.int/files/resources/monitoring_immigration_detention.pdf)

A step-by-step guide for anyone or any institution carrying out immigration detention visits. It can also be used as a checklist for authorities, detention centre staff and journalists on the standards that need to be applied when asylum-seekers and migrants are detained.

### **APT/PACE: Visiting immigration detention: a guide for parliamentarians**

[www.apr.ch/en/resources/visiting-immigration-detention-centers-a-guide-for-parliamentarians-1/](http://www.apr.ch/en/resources/visiting-immigration-detention-centers-a-guide-for-parliamentarians-1/)

Provides a more succinct overview of monitoring immigration detention and is useful for encouraging and supporting MPs to visit immigration detention. FYI the APT and PACE have been training MPs from different European countries for visiting.

### **European Committee on Prevention of Torture (CPT)'s updated database**

[hudoc.cpt.coe.int/eng](http://hudoc.cpt.coe.int/eng)

The database enables you to search through all the CPT's reports, public statements and their "standards" for what they have said on specific issues relating to immigration detention. In the advanced search section (click top right), you can put a key word in the "text" field and then in the "places" field, choose "immigration holding facilities" or a specific one of interest (transit zone, detention facility for foreigners etc).

### **UK HMIP Expectations for monitoring immigration detention**

[www.justice.gov.uk/downloads/about/hmipris/immigration-expectations.pdf](http://www.justice.gov.uk/downloads/about/hmipris/immigration-expectations.pdf)

Benchmarks that Her Majesty's Inspectorate of Prisons in the UK uses to assess immigration detention (HMIP is part of the UK's National Preventive Mechanism under the OPCAT).

### **APT Detention Monitoring Briefings**

[www.apr.ch/en/categories\\_res/detention-monitoring-briefing/](http://www.apr.ch/en/categories_res/detention-monitoring-briefing/)

1. Making Effective Recommendations: Briefing paper (2008)
2. Mitigating the risks of sanctions related to detention monitoring (2012)
3. Selection of Persons to Interview in the Context of Preventive Detention Monitoring: Briefing paper (2009)
4. Using Interpreters in Detention Monitoring: Briefing paper (2009)

### **APT/PRI Detention Monitoring Tool**

[www.apr.ch/en/resources/detention-monitoring-tool-addressing-risk-factors-to-prevent-torture-and-ill-treatment/](http://www.apr.ch/en/resources/detention-monitoring-tool-addressing-risk-factors-to-prevent-torture-and-ill-treatment/)

A series of thematic papers and factsheets designed to provide analysis and practical guidance to support monitoring bodies (looking at issues such as institutional culture in places of detention and how to monitor the rights of LGBTI persons and women in detention). It covers places of detention broadly (some papers focus on prisons or police detention).

**APT Detention Focus Database**

[www.appt.ch/detention-focus/](http://www.appt.ch/detention-focus/)

DETENTION FOCUS is a database grouping the most relevant issues related to prisons worldwide. Conceived from a detention monitoring and a human rights perspective, it offers users an in-depth analysis on key issues such as solitary confinement, body searches, family visits, staff working conditions or access to a lawyer. (NB the database is focused on prisons so the standards may not apply to immigration detention, however some of the practical guidance on how to monitor specific issues could be useful).

**JRS Europe, Manual for Detention Visitors**

[www.jrseurope.org/assets/Publications/File/JRS-Europe-manual-for-detention-visitors.pdf](http://www.jrseurope.org/assets/Publications/File/JRS-Europe-manual-for-detention-visitors.pdf)

After years of experience in detention visiting, the JRS Europe network decided that it was time to gather the observations and expertise acquired in one book. And the best way to pass on that knowledge to new team members starting out as detention visitors is to present it in the form of a manual, including exercises and encouragement to real learning.



## Appendix 1 List of organisations who participated in the workshop

The organisations extend a warm thank you to all the organisations who participated in the workshop, and contributed to developing this valuable resource.

Anni Säär	Estonian Human Rights Centre
Julia Ivan	Hungarian Helsinki Committee
Nadia Sebtaoui	France terre d'asile
Claire Delom	Aditus Foundation
Tamsin Alger	Detention Action
Daniel Witko	Helsinki Foundation for Human Rights
Stefan Leonescu	JRS Romania
Iryna Petsko	ACF "Right to Protection" (R2P) and HIAS
Ildikó Szász	Menedék Hungarian Association for Migrants
Soorej Jose	Puthoopparambil Uppsala University
Tea Vidovic	Centre for Peace Studies
Benedetta Mangialardo	ASGI
Adam Chmura	Association for Legal Intervention
joão Lima	JRS Portugal
Ali McGinley	AVID (Association of Visitors To Immigration Detainees)
Delphine Drapeau	UNHCR
Jantine Walst	Defence for Children - ECPAT the Netherlands
Elvire Delwiche	Caritas International
Helga Corvers	JRS Belgium
Severine Zeegers	UNHCR Belgium
Marco Mona	APT
Benoit De Boeck	Ciré
Elisabeth Razesberger	JRS Belgium
Melissa De Medts	Caritas International.

### Organisers

Maike Vanderbruggen	Flemish Refugee Action
Jem Stevens	International Detention Coalition
Iulia Ilca	International Detention Coalition

## Appendix 2 Workshop agenda

### Day 1

8.45–9.15am	<b>Arrivals with coffee</b>
9.15–10am (45')	<b>Welcome and introductions</b> Kathelijne Houben and Maaïke Vanderbruggen, Flemish refugee Action (FRA) Jem Stevens, International Detention Coalition (IDC)
10–11am (1h)	<b>What is monitoring? How to gain access?</b> Facilitator: Jem Stevens, IDC
11–11.15am (15')	Tea break
11.15–12.15pm (1h)	<b>Preventive monitoring of immigration detention - the experience of the Swiss NPM</b> Marco Mona, former member of Swiss National Commission for the prevention of Torture and President of the Association for the Prevention of Torture (APT).
12.15–1pm (45')	Lunch
1.15–2pm (45')	<b>Introduction: developing a monitoring strategy</b> Facilitator: Maaïke Vanderbruggen, FRA
2–3pm (1h)	<b>Conducting monitoring visits</b> Facilitator: Jem Stevens, IDC
3–3.15pm	Tea break
3.15–4.30pm (1h15')	<b>Conducting monitoring visits - break out groups</b> <i>Group 1:</i> How to balance monitoring with individual advice/case work? <i>Group 2:</i> Effectively monitoring with volunteers <i>Group 3:</i> Confidentiality and do no harm
4.30–5.15pm (45')	<b>Sharing monitoring programmes and tools</b> Demonstration of concrete examples of monitoring programmes and tools used (eg. questionnaires, databases etc. ) by four participants
5.15–5.30pm (15')	<b>Reflections and positive practices on monitoring methodology</b>

## Day 2

9.15 – 9.20am (5')	<b>Recap</b>
9.20 – 10.30am (1h)	<p><b>Thematic Monitoring detention – break out groups</b></p> <p><i>Group 1:</i> Detention and immigration procedures and access to protection (asylum), advice and assistance</p> <p><i>Group 2:</i> Access to healthcare</p> <p><i>Group 3:</i> Monitoring child detention</p>
10.30-10.45am (15')	Tea break
10.45 – 11am (15')	<p><b>Follow-up to a monitoring visit</b></p> <p>Facilitator: Jem Stevens, IDC</p>
12 – 1pm	Lunch
1 – 1.15pm (15')	<p><b>Advocacy strategies – intro</b></p> <p>Facilitator: Ben Lewis, IDC</p> <p><i>Theoretical overview (external follow-up)</i></p>
1.15 – 2pm (45')	<p><b>Monitoring programmes &amp; advocacy strategies – market place</b></p> <p>Demonstration of concrete examples of monitoring programmes and strategies used for follow up advocacy by four participants</p>
2 – 2.30pm (1h)	<b>Reflections on follow-up and advocacy</b>
2.30 – 2.45pm	Tea break
2.45 – 3.15pm (1h15')	<b>Wrap up &amp; next steps</b>
3.15 – 3.40pm (45')	<b>Evaluation</b>
3.40 – 4pm (15')	<b>Closing</b>

[www.idcoalition.org](http://www.idcoalition.org)

**International  
Detention Coalition**

Human rights for detained refugees,  
asylum seekers and migrants