

# DID YOU KNOW?

1

Act on stay of foreigners (No. 404/2011 Coll.) prohibits detention of children, who were found on the territory of the Slovak Republic unaccompanied by their parents or other legal representatives.

2

The very same act allows for detention of children with their family members, although only in necessary cases and for the shortest time because children are considered vulnerable. The act authorizes police officers to decide whether a family with children will be detained on a case-by-case basis, but under much stricter conditions than in cases of another detainees.

3

Since June 2016 the Supreme Court of the Slovak republic and Regional court in Košice have been cancelling detention orders involving children with their families as unlawful and have ordered their immediate release from detention.<sup>1</sup>

Courts ruled that children should not suffer long periods of detention and should not be punished for migratory status of their parents (e.g. that their parents have been travelling without necessary documents, or with false or forfeited documents), neither for their past behavior which indicated risk of absconding.

4

If court declares detention order as unlawful and orders release from detention of a family with children, they have the **right to claim indemnities for unlawful detention**. Slovak republic would be liable to pay indemnities for these families.

# 5

European Court of Human Rights decided in several cases that **detention may have resulted in such suffering of children which equals torture.**

# 6

Stay of children in detention was found to be contrary to the article 3 of the European Convention on Human Rights and Convention of the Right of the Child's rights, in cases such as Muskhadzhiveva and others v. Belgium, Popov v. France etc.

# 7

Court declared that the stay of children together with their parents in detention was in breach of article 3 of European Convention. Even if families were accommodated separately from other detainees, **material conditions in detention were not adapted to the needs of children.**

# 8

United Nations Committee on the Rights of the Child repeatedly pointed out that **child detention is contradicting the principle of the best interest of a child.** In all measures concerning children, the best interest of the child should always be taken into account, according to which a further fate of the whole family should be decided.

# 9

In June 2016, the **UN Committee on the Rights of the Child** published its **recommendations** also for the Slovak Republic, in which it recommended to Slovak Republic to **expeditiously and completely discontinue the detention of children with families**.

# 10

**Children should not be sanctioned for actions of their parents**, since they are not responsible for it and they have not chosen this way of travelling.

# 11

The UN Committee recommends putting into practice **alternatives for detention (less restrictive measures)**, that allow children to remain with **their family members** or legal representatives **without deprivation of liberty, in the natural community environment**, without requiring proof of the availability of unreasonably high daily subsistence funds

# 12

At the last **UN summit in September 2016** in New York, UN states undertook commitment of **total abandonment of practice of children detention** within the next two years.