

Administrative detention of migrants

Resumé

The aim of this thesis was to critically evaluate the institute of administrative detention of migrants and decide whether it is and appropriate, proportionate and necessary measure or if it has become obsolete considering the development of recent years and whether it would be appropriate to replace it with more effective alternatives.

In the first part of the thesis I have critically evaluated the legal framework regarding administrative detention of migrants. I analysed the impact of international law with the emphasis of human rights, laid out the rules as stated by fragmented European law directives and regulations. The most detailed analysis is of Czech legal framework, including mentions of its most problematic points both from past and present.

Next I considered the nature of the institute as an administrative law instrument used to restrict someone on his personal liberty. Considering the insufficiency of mere legality as a criterion of legality and legitimacy of administrative detention, I evaluated the aims and purposes of the administrative detention of migrants.

In the last part of the thesis I have raised some critical points against current legal framework and practice. I point out the abuse of administrative detention for other than legally stated purposes, limited possibility to detain specific groups of migrants and suggest alternatives to detention.

I also compare the institute of administrative detention and institute of state sovereignty, which have been criticised for similar reasons in the past. I use the comparison to conclude that administrative detention is an appropriate measure of boarder control and migration policy enforcement. However, states must always consider how necessary and proportionate it is in the light of individual circumstances of each case. Therefore it will not become obsolete in any foreseeable future, but will be ruled out for specific groups of migrants, such as minors and families with children.

Key words: migrant detention, administrative detention, restriction of personal liberty