

Abstract of the thesis

This thesis deals with the institute of administrative detention according to the Czech legal system. The term administrative detention is used to designate deprivations of liberty under administrative law for the reasons that are directly linked to the immigration policies of the state. In the context of migration law the detention may be basically used for two purposes. First purpose is to ensure the realization of administrative deportation of the foreigner. Second purpose is to prevent the foreigner from an unauthorized entry into the country.

Both irregular migrants and asylum seekers fall under the scope of this work. Although different norms are applicable to each of these categories, both of them are subject to detention on the same ground - the lack of state authorization for their presence on national territory. The purpose of this paper is to detail the legal framework with which deprivation of liberty of migrants must comply in particular for what concerns the fundamental principle of international law that no one should be subjected to arbitrary detention. International human rights norms, principles and standards define the content of that principle. Such norms, principles and standards apply both to criminal and administrative proceedings including migrants and asylum seekers.

The thesis is composed of five chapters. Each of them deals with different aspects of detention. The introductory chapter deals mainly with the general principles of law that are relevant for the topic of detention. The proportionality principle is introduced as a solution of a conflict between the right to liberty and territorial sovereignty. Subsequently the chapter deals with the general description of the institute of detention. Chapter Two opens the examination of pre-removal detention of irregular migrants as provided in relevant Czech legislation, namely the Aliens Act. Chapter Three examines the pre-entry detention of Asylum seekers according to the Czech Asylum Act. Chapter Four concentrates on problems of detention of unaccompanied minors and families with children. Last chapter finally deals with topic of independent supervision in detention centres, focused on observation of human rights situation. The Conclusion of my thesis especially emphasizes the fact, that according to the Czech legislation and practice, the huge responsibility connected with the observance of human right principles in the sphere of immigration detention lies on the Czech Police and The Ministry of the Interior, who are in charge for almost all the decisive processes in this field.

