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Introduction: Immigration Detention in Contemporary Europe

From a sociological point of view, camps or transit zones may present the institutionalisation of temporariness as a form of radical social exclusion and marginalisation in modern society and a conservation of borders as dividing lines.¹

1.1 Immigration Detention and Modern Constitutionalism

All Member States of the European Union have provisions in their immigration legislation on the basis of which they can deprive foreigners of their liberty. The use of detention for reasons of immigration law enforcement by these countries has increased enormously over the past few years.² Concerning asylum seekers this increase seems to be related to the extended use of accelerated procedures and the frequent use of detention when it concerns asylum seekers who await a 'Dublin transfer'.³ Concerning immigration in general, Member States perceive growing problems related to irregular immigration and one of their responses has been an ever increasing exercise of their powers to detain irregular immigrants. These tendencies are reflected in several instruments of EC legislation which have been adopted over the last few years under title IV of the EC Treaty,

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³ On the basis of Council Regulation (EC) No. 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, OJ L 222/03, 5 September 2003 (Dublin II Regulation).
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authorising the use of detention by Member States in asylum procedures and in the context of removal proceedings. As a result of these developments, the institutionalised practice of immigration detention has become an inherent part of a policy package that has as its main aims to deter future migrants and to remove those already on national territory as rapidly and as effectively as possible. If these policies are criticised by NGOs or other social actors, Member States defend their policies with arguments along the lines of the growing numbers of foreigners, the need to maintain the integrity of border controls and security-related issues.

The detention of immigrants is seldom a transparent practice: information concerning detention facilities is often not made public and many of these facilities are located in isolated places, and as such it has been difficult to raise extensive public awareness for the situation of immigration detainees. In addition, journalists are habitually denied access to places where immigrants are held, allegedly in order to respect the privacy of the detainees, but resulting in the absence of public control over the conditions, legality and procedures within immigration detention centres. In 2004, an Italian journalist infiltrated a detention centre in Sicily by acting as a Kurdish refugee and he published an article on humiliating conditions that he had witnessed and experienced during his stay there. Instead of taking legal steps that might have resulted in improving the conditions at the centre, the Italian state commenced a case against the journalist on charges of presenting a false identity. After the Italian section of Médecins Sans Frontiers had published a critical report on the circumstances in various closed centres for migrants, this organisation was accused of disloyalty by the Italian government and denied further access to immigration detention centres.

In spite of the obvious difficulties in obtaining detailed information about what is precisely occurring in detention centres, the public media increasingly

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5 Tóth (2006), 8.

