

UNHCR position on the new facility for reception at the Geneva airport and the rights of asylum-seekers

1. The United Nations High Commissioner for Refugees (UNHCR) has been entrusted by the General Assembly of the United Nations with responsibility for providing international protection to refugees, and for supporting the Governments in seeking permanent solutions for the problems of refugees.¹ According to its Statute, UNHCR fulfils its mandate *inter alia* by “[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto[.]”² UNHCR’s supervisory responsibility under its Statute is reiterated in Article 35 of the 1951 Convention relating to the Status of Refugees (“1951 Convention”)³ and Article II of the 1967 Protocol relating to the Status of Refugees⁴. Generally, UNHCR’s interpretation of the provisions of the 1951 Convention and the 1967 Protocol is based on more than 60 years of experience in supervising and using international instruments for the protection of refugees and in guiding the States in their decisions and in their legislation in relation to refugee law. UNHCR also has a mandate to prevent and reduce statelessness around the world, as well as to protect the rights of stateless people.⁵

Background: New airport facility in Geneva

2. Persons who apply for asylum at the airport because they are not in possession of valid documents for entry into Switzerland are currently accommodated in the “international” non-Schengen zone of the airport. In the context of the ongoing extension of Geneva airport, the canton of Geneva plans to move such persons from the “international zone” in the airport to a separate building on the airport grounds, on the other side of the runway.

¹ See *Statute of the Office of the United Nations High Commissioner for Refugees*, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b3628>, G.A. Res. 428(V), Annex, UN Doc. A/1775, paragraph 1 (1950).

² *Ibid.*, paragraph 8(a).

³ RS 0.142.30.

⁴ RS 0.142.301.

⁵ UN General Assembly resolutions 3274 (XXIV) and 31/36 designate UNHCR as the body to examine the cases of persons who claim the benefit of the 1961 Convention on the Reduction of Statelessness and to assist such persons in presenting their claims to the appropriate national authorities. In 1994, the UN General Assembly further entrusted UNHCR with a global mandate for the identification, prevention and reduction of statelessness and for the international protection of stateless persons, through UNGA resolutions A/RES/49/169 of 23 December 1994 and A/RES/50/152 of 21 December 1995. The latter endorses UNHCR’s Executive Committee Conclusion No. 78 (XLVI) – 1995, *Prevention and Reduction of Statelessness and the Protection of Stateless Persons*, available at: <http://www.unhcr.org/refworld/docid/3ae68c443f.html>. ExCom, *Conclusion on International Protection*, 5 October 2001, No. 90 (LII) - 2001, para. (q), available at: <http://www.unhcr.org/refworld/docid/3bd3e3024.html>; *General Conclusion on International Protection*, 10 October 2003, No. 95 (LIV) - 2003, para. (y), available at: <http://www.unhcr.org/refworld/docid/3f93aede7.html>; *General Conclusion on International Protection*, 8 October 2004, No. 99 (LV) - 2004, para. (aa), available at: <http://www.unhcr.org/refworld/docid/41750ef74.html>; *General Conclusion on International Protection*, 7 October 2005, No. 102 (LVI) - 2005, para. (y), available at: <http://www.unhcr.org/refworld/docid/43575ce3e.html>; *Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons*, 6 October 2006, No. 106 (LVII) - 2006, paras. (f), (h), (i), (j) and (t), available at: <http://www.unhcr.org/refworld/docid/453497302.html>.

3. Asylum seekers who file their asylum application in the “international zone” of the airport prior to having passed the Swiss border are initially channeled into the airport procedure according to Articles 22 and 23 of the Asylum Act.⁶

4. In accordance with these provisions, entry into Switzerland is granted by the Federal Office for Migration if Switzerland is responsible for the application under the so-called Dublin Regulation⁷ and the asylum-seeker appears to have a well-founded fear of being persecuted in the country of origin or if he or she is at risk of being *refouled* by the country from which he or she has directly arrived. If those requirements do not appear to be met (based on a brief interview), entry into Switzerland is provisionally denied. If the Federal Office for Migration does not issue a decision of *non-entrée en matière* or negative decision within 20 days after the arrival of the applicant, entry to Switzerland is subsequently granted. If the asylum application is rejected, the respective person has five days to appeal this decision (i.e. less than in the regular procedure). The Federal Administrative Tribunal must then decide within five days. Altogether, Swiss law permits for a person to be held at the airport for a maximum of 60 days. If the requirements for granting entry into Switzerland elaborated above are met, the person is either transferred to a Federal reception center or assigned to a Canton. His/her asylum application is processed in the regular asylum procedure.

5. The conditions of stay at the airport are set out in Articles 14 to 16 of the *Ordonnance du DFJP relative à l'exploitation des logements de la Confédération dans le domaine de l'asile du 24 novembre 2007*.⁸ They provide that that the facilities are to be open twenty-four hours per day and that social assistance be available between 7.30 and 19.30 (Article 14). Persons may move freely within the transit zone and are entitled to a daily outdoor walk (Article 15).⁹ The access of third persons is regulated by Article 16. Pastors have access to the facilities after accreditation and need to inform the social service of their visits. Personal contact with legal representatives is to be facilitated. The legal representative needs to inform the social service about the appointment with the asylum-seeker. No other persons are foreseen to have access under this provision.

6. Asylum-seekers are currently accommodated within the “international zone” and have free access to the non-Schengen zone inside the airport. The small size of the “international zone” has been raised as a concern; the National Commission on the Prevention of Torture’s in its report of July 2012¹⁰ found that the present facilities are not suitable for children. Accommodation of asylum seekers at the airport comes with a

⁶ Loi sur l’asile, LAsi (RS 142.31), <http://www.admin.ch/opc/fr/classified-compilation/19995092/index.html>

⁷ See *l'accord du 26 octobre 2004 entre la Confédération suisse et la Communauté européenne relatif aux critères et aux mécanismes permettant de déterminer l'Etat responsable de l'examen d'une demande d'asile introduite dans un Etat membre ou en Suisse, AAD, (RO 2008 515 ; RS 0.142.392.68)* and the *Règlement (CE) no 343/2003 du 18 février 2003 établissant les critères et mécanismes de détermination de l'Etat membre responsable de l'examen d'une demande d'asile présentée dans l'un des Etats („règlement Dublin“)*

⁸ RS 142.311.23. Section 3 “Logements dans les aéroports internationaux de Genève-Cointrin et de Zurich-Kloten”, Articles 14-16.

⁹ Access is in practice limited to the non-Schengen transit area.

¹⁰ National Commission for the prevention of torture – Commission nationale de prévention de la torture (CNPT), *Rapport à l'attention de l'Office fédéral des migrations sur la visite de la Commission nationale de prévention de la torture dans les centres d'enregistrement et de procédure de l'Office fédéral des migrations du 24.07.2012*, p. 13.

small communal area (at present 36 m²) and a kitchen. There is a room for a family (at present: 12 m²), a bedroom for up to ten women (at present: 23 m²), and a separate one for men (at present: 20 men/48 m²).

7. The change that is foreseen is that asylum-seekers are to be accommodated in a facility separate and removed from the building which make up the airport, although within the grounds of the airport.

8. The accommodation itself is to be improved. Asylum-seekers are to have a larger communal area (increased to 23 m²), more space for families (increased to 22 m²), women (increased to 10 women/32 m²) and men (increased to 16 men/50 m²). Asylum-seekers will, however, no longer be able to access the international zone freely. To remedy this, the external space – which is surrounded by barbed wire – is to be increased from currently 65 m² to 300 m². In addition, there is a plan to provide for a small shuttle bus, which would allow asylum-seekers to go from the accommodation to the “international zone” at the airport and return, if they so wish. It would run four times a day according to a fixed schedule.

9. In connection with the planned changes, UNHCR has been requested to provide its opinion on whether asylum-seekers would be deprived of their liberty in view of the planned facilities would constitute detention in the view of UNHCR.

UNHCR Detention Guidelines

10. UNHCR recently issued its new *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention* (hereinafter “Detention Guidelines”).¹¹ The Detention Guidelines reflect the state of international law relating to detention – on immigration-related grounds – of asylum-seekers and other persons seeking international protection. They equally apply to refugees and other persons found to be in need of international protection should they exceptionally be detained for immigration-related reasons. They also apply to stateless persons who are seeking asylum, although they do not specifically cover the situation of non-asylum-seeking stateless persons,¹² persons found not to be in need of

¹¹ UN High Commissioner for Refugees, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, available at: <http://www.refworld.org/docid/503489533b8.html>; also available in French: *Principes directeurs relatifs aux critères et aux normes applicables à la détention des demandeurs d’asile et alternatives à la détention*, sur internet au <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=520cc0ea4>

¹² A clear distinction is required between stateless persons who are seeking asylum in other countries and stateless persons who are residing in their “own” country in the sense envisaged by Article 12(4) of the *International Covenant on Civil and Political Rights*, 1966 (ICCPR). The latter include individuals who are long term, habitual residents of a State which is often their country of birth. Being in their “own country” they have a right to enter and remain there with significant implications for their status under national law. Rules governing the acceptable grounds for detention will vary between these two groups (Guideline 4.1). In relation to the former, the grounds outlined in these Guidelines apply; however, such justifications for the detention of stateless persons residing in their “own” country will in many instances lead to arbitrary and unlawful (including indefinite) detention. For more on detention and stateless persons, see UNHCR, *Guidelines on Statelessness No. 2: Procedures for Determining whether an Individual is a Stateless Person*, 5 April 2012, HCR/GS/12/02, paras. 59-62, available at: <http://www.unhcr.org/refworld/docid/4f7dafb52.html>.

international protection¹³ or other migrants, although many of the standards detailed herein may apply to them *mutatis mutandis*. This is particularly true with regard to non-refugee stateless persons in the migratory context who face a heightened risk of arbitrary detention. The Guidelines do not cover asylum-seekers or refugees imprisoned on the basis of criminal offences.

11. The Detention Guidelines define “**detention**” as the deprivation of liberty or confinement in a closed place which an asylum-seeker is not permitted to leave at will, including, though not limited to, prisons or purpose-built detention, closed reception or holding centres or facilities. The place of detention may be administered either by public authorities or private contractors; the confinement may be authorised by an administrative or judicial procedure, or the person may have been confined with or without “lawful” authority. Detention or full confinement is at the extreme end of a spectrum of deprivations of liberty. Other restrictions on freedom of movement in the immigration context are likewise subject to international standards.¹⁴ Distinctions between deprivation of liberty (detention) and lesser restrictions on movement is one of “*degree or intensity and not one of nature or substance*”.¹⁵

12. The Detention Guidelines make clear that detention is not limited to prisons or prison-like facilities, but that detention can take place in a range of locations, including at land and sea borders, in the “international zones” at airports,¹⁶ on islands,¹⁷ on boats,¹⁸ as well as in closed refugee camps, in one’s own home (house arrest) and even extraterritorially.¹⁹ Regardless of the name given to a particular place of detention, the important questions are whether an asylum-seeker is being deprived of his or her liberty *de facto* and whether this deprivation is lawful according to international law.

¹³ The term “‘persons found not to be in need of international protection’ is understood to mean persons who have sought international protection and who after due consideration of their claims in fair procedures, are found neither to qualify for refugee status on the basis of criteria laid down in the 1951 Convention, nor to be in need of international protection in accordance with other international obligations or national law”, see UNHCR, ExCom, Conclusion on the Return of Persons Found Not to be in Need of International Protection, No. 96 (LIV) – 2003, preambular para. 6, available at: <http://www.unhcr.org/3f93b1ca4.html>.

¹⁴ See, for example, Article 12, ICCPR, covers the right to freedom of movement and choice of residence for persons lawfully staying in the territory, as well as the right to leave any country, including one’s own. See, also, Article 12, *African Charter on Human and Peoples’ Rights*, 1981 (ACHPR); Article 22, American Convention on Human Rights, 1969 (ACHR); Article 2, *Convention for the Protection of Human Rights and Fundamental Freedoms* (as amended), 1950 (ECHR); Article 2, Protocol No. 4 to the ECHR, *Securing Certain Rights and Freedoms Other Than Those Already Included in the Convention and the First Protocol Thereto*, 1963; Article 45, CFREU.

¹⁵ *Guzzardi v. Italy*, (1980), ECtHR, App. No. 7367/76, para. 93, available at: <http://www.unhcr.org/refworld/docid/502d42952.html>.

¹⁶ *Amuur v. France*, (1996), ECtHR, App. No. 19776/92, available at: <http://www.unhcr.org/refworld/docid/3ae6b76710.html>.

¹⁷ See, for example, *Guzzardi v. Italy*, above note 11.

¹⁸ See, for example, *Medvedyev v. France*, (2010), ECtHR, App. No. 3394/03, available at: <http://www.unhcr.org/refworld/docid/502d45dc2.html> and *J.H.A. v. Spain*, UN Committee against Torture (CAT), CAT/C/41/D/323/2007, 21 November 2008, available at <http://www.unhcr.org/refworld/docid/4a939d542.html>.

¹⁹ “Extraterritorial” detention refers to, inter alia, the transfer and detention of asylum seekers in another country’s territory, including under agreement with that State. The responsibility of the sending State for the human rights standards in that place of detention will depend on a range of factors, see, for example, UNHCR, *Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol*, 26 January 2007, available at: <http://www.unhcr.org/refworld/pdfid/45f17a1a4.pdf>.

13. Any measures preventing asylum applicants who are in the „international zone“ of an airport from entering the country are therefore to be qualified as deprivation of liberty or detention.²⁰ The Detention Guidelines would thus apply to asylum-seekers held within the premises of Geneva airport or on the grounds of the airport.

14. The question which arises is whether this deprivation of liberty is in conformity with international law. In accordance with the Detention Guidelines, the following principles apply in determining whether this is the case:

Guideline 1: The right to seek asylum must be respected

Guideline 2: The rights to liberty and security of person and to freedom of movement apply to asylum-seekers

Guideline 3: Detention must be in accordance with and authorized by law

Guideline 4: Detention must not be arbitrary, and any decision to detain must be based on an assessment of the individual's particular circumstances, according to the following:

Guideline 4.1: Detention is an exceptional measure and can only be justified for a legitimate purpose

Guideline 4.2: Detention can only be resorted to when it is determined to be necessary, reasonable in all the circumstances and proportionate to a legitimate purpose

Guideline 4.3: Alternatives to detention need to be considered

Guideline 5: Detention must not be discriminatory

Guideline 6: Indefinite detention is arbitrary and maximum limits on detention should be established in law

Guideline 7: Decisions to detain or to extend detention must be subject to minimum procedural safeguards

Guideline 8: Conditions of detention must be humane and dignified

Guideline 9: The special circumstances and needs of particular asylum-seekers must be taken into account

Guideline 10: Detention should be subject to independent monitoring and inspection

15. These standards should thus be met if detention at Geneva airport is to be relied upon pursuant to the Asylum Act.

Case law of the European Court of Human Rights

16. The view that assignment of asylum-seekers to the Geneva airport constitutes detention is supported by the jurisprudence of the European Court of Human Rights (ECtHR). According to the established case-law of the ECtHR, the difference between deprivation of liberty and restriction of freedom of movement is one of degree and

²⁰ See above, footnote 16, *Amuur v. France*, (1996),

intensity and not of nature and substance.²¹ The Court has held that there needs to be an assessment of the individual's situation, taking into account a range of criteria, such as the type, duration, effects and manner of implementation of the measure in question, when determining whether an individual's situation is protected by Article 5 of the European Convention on Human Rights²² (ECHR).²³ Accordingly, the assessment will depend on the specific facts of the case and a deprivation of liberty may not be established on the significance of any factor taken individually but by examining all elements cumulatively. In three cases²⁴ involving third-country nationals in the "international zone" of an airport, the Court has held that the factors present – taking into account aspects such as police surveillance, accommodation conditions, access to social and legal assistance by humanitarian organizations, ability to organize their daily life and enter into contact with third persons – amounted to deprivation of liberty and not merely a restriction on freedom of movement.

17. The Court did not accept the argument by the authorities that there is no deprivation of liberty because the person concerned could avoid detention at the airport by taking a flight out of the country. It considered this possibility to be rather theoretical if no other country offering comparable protection is inclined. Furthermore, the Court held that any underlying public interest motive for detention, such as protecting or having the intention to protect, treat or care for the community against a risk or threat caused by the individual, has no bearing on the question whether that person has been deprived of his or her liberty. Such intentions could be relevant when considering the justification for detention.²⁵

Swiss jurisprudence

18. These standards are accepted in principle by the respective Swiss courts.²⁶ Nevertheless, the Asylum Appeals Commission (CRA) in two leading judgments in 1997 and 1998 found that – inasmuch as asylum-seekers are free to move in the whole of the "international zone" - even if there was no immediate possibility to enter Switzerland, this would constitute solely a restriction in freedom of movement and not detention. Only after a certain (unspecified) duration of stay in the "international zone" of an airport would the restrictions constitute deprivation of liberty.²⁷ It is important to note, that this judgment is only partially applicable to the current situation as it was handed down prior to the introduction of a full asylum procedure at the airport. The possible duration of stay of 30 days during the asylum procedure, although accelerated in comparison to the regular procedure, is relatively long; there is a (maximum) period of 20 days until the first instance decision and a further period of ten days (five days for

²¹ ECtHR, *Guzzardi v. Italy*, App. No. 7367/76, para. 93, available at: <http://www.refworld.org/docid/502d42952.html>.

²² RS 0.101.

²³ ECtHR, *Amuur v. France*, App. No.19776/92, para. 42, available at: <http://www.refworld.org/docid/3ae6b76710.html>; ECtHR, *A. and Others v. United Kingdom*, Nos. 39692/09, 40713/09 and 41008/09, 15 March 2012, para. 57.

²⁴ ECtHR, *Amuur v. France*, App. No.19776/92, paras. 38-49; ECtHR, *Riad and Idiab v. Belgium*, App. Nos. 29787/03 and 29810/03, available at: <http://www.refworld.org/docid/45d5c1942.html>; ECtHR, *Nolan and K. v. Russia*, App. No. 2512/04, paras. 93-96, available at <http://www.refworld.org/docid/49b152932.html>.

²⁵ ECtHR, *A. and Others v. United Kingdom*, App. Nos. 39692/09, 40713/09 and 41008/09, paras. 163-164.

²⁶ See in particular the precedent setting cases of the Swiss Federal Tribunal, 123 II 193 and 129 I 139 (Considérant 4.4).

²⁷ See Decisions of Asylum Appeals Commission (JICRA), 1997 No. 19 and 1998 No. 7.

filing an appeal plus five days for the court to decide) for the appeals stage.²⁸ At the time of the decisions, entry was denied only if the case was found to be manifestly unfounded or manifestly inadmissible. Moreover, the restrictions applied in practice at Geneva airport are not as set out in these judgments (free movement in the “international zone” has since been restricted to the non-Schengen zone). The judgments of the CRA would, moreover, appear to be in contradiction with the jurisprudence of the ECtHR.

Application to the planned new facility at Geneva airport

19. As outlined above, holding aliens in the “international zone” of the airport involves a deprivation of liberty. Entry into the country is only granted if requirements elaborated above are met. The possibilities for departure possibilities are –accordance also to ECtHR’s case-law – to be considered theoretical. The conditions outlined in the *Ordonnance du DFJP relative à l’exploitation des logements de la Confédération dans le domaine de l’asile du 24 novembre 2007*²⁹ can be considered to impose far more restrictive conditions than apply to asylum-seekers applying elsewhere in Switzerland. The current situation thus already gives rise to detention related concerns.

20. The new facility that is planned separate from and remote to the buildings of the Geneva airport and thus the “international zone” of Geneva airport, foresees further restrictions, as it involves the placement of asylum-seekers in a separate, confined location, where even their movement to the international zone is restricted. It is in the very nature of the new placement and the airport procedure itself that particular safety precautions need to be introduced, as there cannot be unhindered movement on the airport grounds or the airport buildings. This applies generally. In the view of UNHCR, the new structures and the necessity to take a bus that runs only four times a day in practice furthermore bears a significant risk that free access to legal advisors will be curtailed considerably. The same applies to the ability of the asylum-seekers to organize their daily life and enter into contact with third persons. For UNHCR, placement in the new facilities would constitute detention; the additional structural restrictions are in the view of UNHCR not remedied by an increased external space surrounded by barbed wire.

Necessary safeguards

21. In view of the above, UNHCR would like to highlight the most important safeguards, which apply to asylum applicants, as outlined in its Detention Guidelines. These would be applicable regardless of whether they are held in the “international zone” in Geneva airport or in the new airport facility.

22. Detention should not be arbitrary, and any decision to detain must be based on an assessment of the individual’s particular circumstances. Detention is an exceptional measure and can only be justified for a legitimate purpose. Detention decisions need to be taken individually and can only be resorted to when it is determined to be necessary, reasonable in all the circumstances and proportionate to a legitimate purpose. In this context it is necessary to consider alternatives to detention (Guideline 4).

²⁸ The judgment of the German FCC (above note 9) was related to the airport asylum procedure in Germany pursuant to Section 18a German Asylum Procedures Act where the time limit for handing down the decision by the first instance is two days.

²⁹ RS 142.311.23. Section 3 Logements dans les aéroports internationaux de Genève-Cointrin et de Zurich-Kloten, Articles 14-16.

23. Detention must not be discriminatory (Guidelines 5).
24. Decisions to detain or to extend detention must be subject to minimum procedural safeguards (Guideline 7).
25. Guideline 7 especially contains the right to an effective legal remedy and further procedural safeguards. In the present case this would mean in particular that access to legal assistance should be available as soon as possible after detention. Furthermore, the applicants should be brought promptly before a judicial or other independent authority to have the decision, which led to a deprivation of liberty, reviewed and their right to challenge the lawfulness of detention before a court of law at any time needs to be respected. It is clear that this right to an effective remedy against the decision is dependent upon the adherence to the procedural rights of the applicant (especially the right to be heard and the right to specific and up-to-date information are important in this context).
26. The conditions of detention should further be humane and dignified (Guideline 8) and any special needs or circumstances need to be practically and (where applicable) legally fully taken into account (Guideline 9).
27. With regard to the discussion whether the new facilities would be designed in a way which is more suitable for families and children. UNHCR further wishes to highlight that children, whether accompanied or not, should in principle not be detained. If children were to be detained, the principles as set out in Guideline 9.2 of the UNHCR detention guidelines need to be observed. In this context an examination of alternatives to detention for children is particularly important.³⁰
28. Taking into account these safeguards and UNHCR's Guidelines, UNHCR recommends that the new facility of Geneva airport only be used for persons where it is apparent from the registration interview that their application can be considered manifestly unfounded or very likely to be inadmissible (non-entrée en matière).

Conclusions

29. As outlined above, the term "detention" refers to the deprivation of liberty or confinement in a closed place which an asylum-seeker is not permitted to leave at will, including, though not limited to, prisons or purpose-built detention, closed reception or holding centers or facilities. Regardless of the designation of a particular place of detention, the questions which are of concern are whether an asylum-seeker is deprived of his or her liberty *de facto* and whether this deprivation is lawful according to international law.
30. In UNHCR's view, the placement of asylum-seekers in a separate building located on the other side of the runway, without the immediate possibility to enter Switzerland and only a theoretical possibility to return or leave for another country should be properly qualified as detention and not as a mere restriction in freedom of movement.

³⁰ In Belgium for example, families with children are not detained at the border but rather accommodated in specially adapted houses or apartments. The setup is set out in the presentation of Geert Verbauwhede, of the Belgian Aliens Office, at the UNHCR conference on alternatives to detention in November 2011 in Brussels which is available from the website of UNHCR in Belgium: <http://www.unhcr.be/fr/nos-activites/campagnes/conference-regionale-sur-les-alternatives-a-la-detention.html>.

31. Consequently, the placement of asylum seekers in the airport facility should be carried out in accordance with the standards set out in the UNHCR Detention Guidelines. While Article 22 and 23 of the Asylum Act provide for a legal basis for this placement in detention as well as for a time limit to this detention, they do not provide an assessment of the necessity, reasonableness in all circumstances and proportionality of the placement. These factors should be considered in any review of the placement.

32. UNHCR also recommends to exempt in particular children, whether accompanied or not, from being detained in the airport facility and to find for them a different, child-protection sensitive environment and accommodation during the procedure.

33. In all cases, an individual assessment with regard to the necessity, the reasonableness in all circumstances and proportionality of the decision to place the person into the airport facility should be carried out to ensure that their detention is not arbitrary.

UNHCR Office for Switzerland and Liechtenstein

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