



association for  
the prevention  
of torture



**UNHCR**  
United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

## **MEMORANDUM OF UNDERSTANDING**

**between**

**THE ASSOCIATION FOR THE PREVENTION OF  
TORTURE**

**and**

**THE OFFICE OF THE UNITED NATIONS HIGH  
COMMISSIONER FOR REFUGEES**

This **Memorandum of Understanding (MOU)** is hereby entered into between the **Association for the Prevention of Torture (APT)** and the **Office of the United Nations High Commissioner for Refugees (UNHCR)**, hereinafter individually referred to as “the Party” and collectively as “the Parties”.

Recalling the importance of the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees, as well as the 1954 Convention Relating to the Status of Stateless persons;

Recognising the importance of the fundamental right to liberty and security of person, the absolute prohibition of torture and inhuman and degrading treatment and the right of detainees to be treated with humanity enshrined in the Universal Declaration of Human Rights and in other international human rights instruments and their applicability without discrimination to asylum-seekers, refugees, stateless persons and others of concern to UNHCR;

Reaffirming that seeking asylum is not an unlawful act, and that the 1951 Convention relating to the Status of Refugees provides that asylum-seekers shall not be penalised for their illegal entry or stay, including by way of detention;

Observing that, even in situations when detention is necessary and unavoidable, the conditions of detention must respect international standards;

Concerned about the increasing use of detention in some national contexts as well as the substandard or prison-like conditions of some detention facilities;

Acknowledging that the Association for the Prevention of Torture (APT) has extensive experience in immigration detention monitoring and training national authorities and independent bodies on monitoring methodologies;

Emphasizing the importance of cooperation between the Parties in regards to capacity building and technical advice in the field of mutual interest; and

Supporting the implementation of the third goal of UNHCR’s *Global Strategy-Beyond Detention 2014-2019*, in annex, and strengthening UNHCR’s staff capacity to monitor places of immigration detention in accordance with the joint publication *Monitoring Immigration Detention: Practical Manual*;

**The Parties agree to work together**, insofar as their respective resources, mandates and other priorities reasonably permit, in organising a number of training activities during 2015-2017, following these criteria:

a) Technical cooperation and capacity-building:

- Strengthen the close cooperation between the Parties at Headquarters and Field Office levels in capacity building and technical advice activities;
- Collaborate in the planning and development of network and capacity-building activities, including joint participation in meetings, conferences, workshops and seminars;

b) Monitoring:

- Jointly develop monitoring tools and participate, as appropriate, in monitoring visits to places of detention;

c) Development of immigration detention monitoring workshops and training tools:

- Jointly organise three regional training workshops during 2015, 2016 and 2017;
- The general objective of these workshops is to build and enhance UNHCR's capacity to monitor independently and systematically the conditions of places of immigration detention where asylum-seekers, refugees and stateless persons are held;
- The methodology to be followed, modalities of the trainings, the learning objectives and the level of participation is to be defined jointly in accordance with the guiding principles set in the *Monitoring Immigration Detention: Practical Manual*.
- Collaborate in the development of training tools on detention monitoring.

To achieve these objectives, the APT and UNHCR will each nominate a focal person within each organisation to work on the above mentioned activities at the international and regional levels. These focal persons will work collaboratively to articulate more detailed concept notes and to implement the activities, as appropriate.

#### Other

i) This MOU commences upon the date of last signature, shall remain effective for three years and is renewable upon written agreement by the Parties. In the event of serious non-performance of the agreement by the other party, the parties shall first seek to resolve the dispute or claim through amicable dialogue. If no solution can be arrived at in between the Parties for a continuous period of four weeks then the non-defaulting party can invoke the arbitration clause and refer the disputes to Swiss arbitration.

ii) The Parties shall each be responsible for their own staff and other personnel or sub-contractors, and shall defend and hold each other harmless with respect to any claims or liabilities arising in connection with their respective activities under this MOU, or any claim brought by any third parties for damages, injury or death as a result of any act or omission by their respective staff, other personnel or sub-contractors.

ii) Nothing in or relating to this MOU shall be deemed a waiver, express or implied, of any of the privileges and immunities enjoyed by either of the Parties.

iv) All materials used for the purpose of this MOU shall remain the property of the Party that produced the material, unless the Party decides otherwise. In this case, the transfer of ownership shall be made in accordance with the Party's rules and procedures governing the transfer of ownership. The use of each Party's logo or name in connection with activities, projects performed or any materials produced under this MOU requires the prior written consent of the other Party.

By signing below, the Parties hereto have executed this MOU in two original copies.



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Volker Türk  
Assistant High Commissioner for Protection  
UNHCR Geneva



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Mark Thomson  
Secretary General  
APT Secretariat, Geneva

Geneva, October 2015