# Detention and Alternatives to detention in international protection and return procedures

# Common Template for EMN Study 2020

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## 1 BACKGROUND AND RATIONALE FOR THE STUDY

In the context of migration, detention is a *non-punitive administrative measure applied by the state to restrict the movement through the confinement of an individual for another immigration procedure to be implemented*.[1] EU legislation regulates in detail the detention of migrants within the context of international protection and return procedures, setting the grounds on which an individual can be deprived of liberty and the relevant principles governing the matter. At both European and International levels, legal sources agree on the fact that detention should be used as a "last resort" and encourages the use of alternatives to detention, as an application of the principles of necessity and proportionality in order to avoid arbitrary deprivation of liberty.[2]

Although there is no common legal definition of alternatives to detention, they can be defined as *non-custodial measures used to monitor and/or limit the movement of third-country nationals during the period needed to resolve migration/asylum status and/or while awaiting removal from the territory*.[3] These measures, having an impact on the person's rights,[4] are subject to human rights standards and have to be imposed, on a case-by-case basis, by taking into consideration individual factors. Examples of such alternative measures include the

[1] EMN Glossary
[2] Articles 6, 52(3) and 53 of the EU Charter. Articles 8 and 11 of the Reception Directive (recast). Recital 16 and Article 8(1) Return Directive.
[3] EMN Glossary
[4] These rights include: the right to family life (Article 2 ECHR; Article 9 CFREU; Article 12(2) 1951 Refugee Convention), the right to privacy (Article 8 ECHR), prohibition of torture (Article 3 ECHR) the prohibition on inhuman or degrading treatment (Article 3 ECHR).

obligation of regular reporting to the authorities, the deposit of an adequate financial guarantee, an obligation to stay at an assigned place, etc.[5] Alternatives to detention measures could entail duties that imply different levels of coerciveness, and they are mainly aimed at mitigating the risk factors identified by the authorities who considered that the particular individual was liable to detention.[6] As a general principle, it is essential to clarify that the consideration of alternatives is only relevant and legal when there are legitimate grounds to detain.

Both international and EU law guarantee and protect the **right to liberty and security** as a core component of an individual's fundamental rights. The European Convention of Human Rights (ECHR) in its Article 5(1) states the principle that "Everyone has the right to liberty" while Article 9 of the International Covenant on Civil and Political Rights (ICCPR) stipulates that: "[…] Everyone has the right to liberty and security of person. No one shall be subjected to **arbitrary** arrest or detention. No one shall be deprived of his liberty except on such grounds and following such procedure as are established by law". In summary, all the measures that might have an impact on the person's human rights should be imposed on a **case-by-case basis**.

The principles of **necessity** and **proportionality** should be observed as a core part of the decision to detain a third-country national under EU law. Nevertheless, it should be noted that the principle of necessity, while applying in EU law in relation to the grounds for detention that must be justified, is not taken into consideration by the ECHR. Also, the principles of **non-arbitrariness** and legality provide that detention should be based on grounds for detention established by law.[7] Moreover, as the European Court of Human Rights has underscored in several judgments (see section 5 below), in practice, domestic authorities shall **effectively verify** and provide with **evidence** whether an alternative measure less coercive than detention is possible.[8] In this sense, the administrative detention of individuals can take place only in those cases where there are no alternatives.

Despite the legal obligation to consider the use of alternatives to detention, in practice, the widespread use of alternatives is hampered by the scarce availability of tools and for alternatives to detention that could achieve the same goal of detention especially in the context of return procedures – notably to ensure compliance with the migration procedures and prevent absconding. Alternatives to detention are considered to bring **effective advantages compared to detention**, specifically considering their reduced costs as compared to detention, the reduced interference with fundamental rights, and the fact that they can significantly relieve the pressure on national detention systems. Nevertheless, among Member States alternatives to detention remain often unused, and the findings of different actors in the field -

[5] Article 8(4) of the Reception conditions directive (recast)
[6] Detention of applicants for international protection in the context of the Common European Asylum System, EASO 2019
[7] The use of detention and alternatives to detention in the context of immigration policies, EMN 2014.
The principles of non-arbitrariness and legality are laid down in the following international law instruments: Art. 9 Universal Declaration of Human Rights (1948), Art. 9 (1) International Covenant on Civil and Political Rights (1966), Art 16(4) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, (1990), Council of Europe (PACE), Resolution 1707(2010), 10 Guiding Principles on detention of asylum seekers and irregular migrants, §9.1.5.
[8] A.B. and Others v. France, No. 11593/12, 12 July 2016, § 124

the Council of Europe,[9] the UN[10] and the EU[11] – while confirming this trend, identified different reasons for this.

The lack of **empirical research** on the practical applicability of alternative measures and which takes into account all related costs, has been identified as one of the main challenges for their implementation. date, there are several alternative measures, and some information is available on which measures work better than others. However, there is lack of clear evidence-based information on the effectiveness of these measures in achieving compliance with migration procedures and in particular to prevent **absconding**. In this sense, improving the overall quality of the assessment procedures, while boosting a greater legal clarity and objectivity in terms of criteria for assessing such risks could be crucial to ensure the most accurate decision on an appropriate alternative. Another issue identified is linked to the availability of alternatives that correctly match the individual circumstances because they are limited in scale or because the individual concerned cannot meet the requirements, for instance, this is the case of using bail where the lack of financial resources constitutes a limit in applying this scheme.

## 2 STUDY AIMS AND OBJECTIVES

The 2020 EMN study on detention and alternatives aims to identify similarities, differences, practical challenges and best practices concerning the use of detention and alternatives used by Member States and Norway in the framework of international protection and return procedures.

It follows the publication in 2014 of the EMN study on "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies" and aims to:

- Provide a comparative overview of the scale of detention and available alternatives to detention in each Member State in the context of international protection and return procedures and challenges Member States face to implement the alternatives to detention in practice;
- Give a comparative overview of the process and criteria used by national authorities to assess whether placing a third-country national in detention or instead applying an alternative to detention, in the context of international protection and return procedures;
- Assess the impact of placing third-country nationals in detention or in alternatives to detention on the effectiveness of Member States' international protection and return procedures. This impact is assessed against three key indicators, namely the extent to which measures: i) ensure compliance with migration procedures (including prompt and

[9] Legal and practical aspects of effective alternatives to detention in the context of migration, *Analysis of the Steering Committee for Human Rights (CDDH),* 7 December 2017; Commissioner for Human Rights, Human Rights Comment, High time for states to invest in alternatives to migrant detention, 31/01/2017; Parliamentary Assembly, Resolution 2020 (2014), § 8.
[10] Special Rapporteur on the human rights of migrants, François Crépeau, Regional study: management of the external borders of the European Union and its impact on the human rights of migrants, A/HRC/23/46, 24 April 2013, § 48.
[11] European Commission, Communication from the Commission to the Council and the European Parliament on EU Return Policy, COM(2014) 199 final, Brussels, 28.3.2014, p. 15.

fair case resolution, facilitating voluntary and forced returns, reducing absconding); ii) uphold fundamental rights; iii) improve the cost-effectiveness of migration management.[12]

Categories of third-country nationals considered in the study will include international protection applicants and individuals who have been issued a return decision. The study will focus on detention for asylum/return purposes only and will not include in its scope detention of third-country nationals who have committed a criminal offence. The study will give special attention to the possibility of detaining and/or providing alternatives to detention to vulnerable persons such as minors, families with children, pregnant women and persons with special needs.

The study will consider legal and practical approaches related to provision of detention and alternatives **available during the reporting period January 2015- December 2020**.

### MAIN RESEARCH QUESTIONS

The study seeks to address two primary questions:

- *To what extent are different options for alternatives to detention available and used across Member States and Norway?*
  - What type of alternatives are currently available and in use across Member States and Norway?
  - What are the challenges and advantages in the use and implementation of alternatives to detention?
  - What processes and criteria are used to assess the opportunity to use an alternative instead of detention (provided that grounds for detention exist)?
- *What evidence exists about the impact of different types of coercive measures on the effectiveness of return policies and international protection procedures?*
  - What are the different impacts of detention and alternatives, when considering:
    - Compliance with relevant migration procedures
    - Respect for fundamental rights
    - The cost-effectiveness *ratio*?
  - Which factors (e.g. personal characteristics such as gender, origin or age; design of the ATD) are found to increase the impact of detention or alternatives to detention?

## 3 OVERVIEW OF THE EU ACQUIS

### Detention and alternatives to detention in the context of international protection procedures

[12] Effective Alternatives to the Detention of Migrants, International Conference organised jointly by the Council of Europe, the European Commission and the European Migration Network, 2019. Cost-effectiveness is intended as the financial costs of alternatives to detention as compared with the costs of detention, taking into consideration their outcomes (effects). For instance, reducing the length of time a migrant is detained is a factor that might reduce the costs associated with detention.

The Reception Conditions Directive (recast)[13] requires Member States to consider alternatives to detention before subjecting asylum seekers to detention. Recital 15 provides that "applicants [for international protection] may be detained only under very **clearly defined exceptional circumstances** laid down in the Directive and subject to the principles of **necessity** and **proportionality** concerning both to the manner and the purpose of such detention". Under this Directive, Member States may detain an applicant only if other less coercive alternative measures cannot be effectively applied based on a case-by-case evaluation.[14]

The Reception Conditions Directive foresees a list of six grounds that may **justify the detention** of asylum seekers:

1. To determine the identity or nationality of the person;
2. To determine the elements of the asylum application that could not be obtained in the absence of detention (in particular, if there is a risk of absconding);
3. To decide, in the context of a procedure, on the asylum seeker's right to enter the territory;
4. In the framework of a return procedure when the Member State concerned can substantiate on the basis of objective criteria that there are reasonable grounds to believe that the person tries to delay or frustrate it by introducing an asylum application;
5. For the protection of national security or public order;
6. In the framework of a procedure for the determination of the Member State responsible for the asylum application.

Moreover, according to Article 18 of the Asylum Procedures Directive,[15] it is not lawful to detain a person solely for the reason that s/he has lodged an asylum application.

To guarantee the **non-arbitrariness** of detention and the respect of fundamental rights of applicants for international protection, the the list above is exhaustive. (Article 8). Several procedural guarantees were also put in place, such as the principles of brevity, due diligence and judicial review (Article 9). Further, the recast of the Directive regulates the conditions in detention facilities, such as access to fresh air and communication with lawyers, NGOs and family members (Article 10). Furthermore, according to the Dublin Regulation (Article 28),[16] "when there is a significant risk of absconding, Member States may detain the person concerned to secure transfer procedures following this Regulation, based on an individual assessment and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively."

[13] Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection
[14] Article 8(2) of the Reception conditions directive (recast)
[15] COUNCIL DIRECTIVE 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status and its recast Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection
[16] Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

### Detention and alternatives to detention in the context of return proceedings

The Return Directive[17] allows Member States to detain a migrant only to **prepare his/her return** and/or carry out the **removal process** if the application of less coercive measures is not sufficient. Article 15(4) specifies that detention is only justified as long as there is a **reasonable prospect for removal**. Furthermore, according to Article 15(5), each Member State shall set a limited period of detention, which may not exceed **six months**. Article 15(6) also allows Member States to **extend detention** for an additional 12 months based on either a lack of cooperation by the person concerned or difficulties in obtaining documents from a third country.

Recital 16 of the Return Directive states that: "detention for the purpose of removal should be limited and subject to the principle of proportionality concerning the means used and objectives pursued. Detention is justified only [...] if the application of less coercive measures would not be sufficient".[18]

However, the Return Directive does not impose explicitly Member States to establish national rules concerning alternative schemes, nor does it provide a list of examples of such alternative measures. Nevertheless, Article 7, within the context of voluntary return, lists specific measures that could be imposed on a third-country national benefiting from a period of voluntary departure to avoid the **risk of absconding**, such as regular reporting to the authorities, a deposit of a financial guarantee, submission of documents or the obligation to stay at a specific place. However, these measures cannot be considered alternatives to detention as there is no ground for detention within the context of voluntary return.

## 4 RELEVANT CASE LAW FROM THE COURT OF JUSTICE OF THE EU AND ECHR

### Obligation to consider alternatives to detention

Given the fact that the detention is an exceptional measure of last resort, States have to examine first alternative measures and resort to detention only if such alternatives are considered as not adequate to achieve the result pursued. The legal obligation to consider alternatives to detention has also been reaffirmed by the Court of Justice of the European Union (CJEU). Specifically, in the case of ***El Dridi*** the Court stated that removal should be carried out using a gradation of measures which goes from the measure which allows the person concerned the most liberty, namely granting a period for his voluntary departure, to measures which restrict that liberty the most, namely detention in a specialised facility. Only if, in the light of an assessment of each specific situation, the enforcement of the return decision risks being compromised by the conduct of the person concerned, Member States may deprive that person of his/her liberty and detain him/her.

### Risk of absconding

Case C-528/15 **Al Chodor** relates to the interpretation of Article 28 of the Dublin III Regulation on the conditions of the detention of asylum seekers pending a transfer to another Member State. The Court affirmed that, some of the provisions of this Regulation necessitate the adoption of measures by national authorities for their implementation. In that sense, Article 2(n) of the Dublin III Regulation requires the criteria to establish a 'risk of absconding' to be

[17] Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.
[18] C-61/11 relates to the interpretation of Articles 15 and 16 of Directive 2008/115. The court specifically concluded that such Articles must be interpreted as precluding a Member State's legislation which provides for a sentence of imprisonment to be imposed on an illegally staying third-country national on the sole ground that he remains, without valid grounds, on the territory of that State, contrary to an order to leave that territory within a given period.

'defined by law'. The CJEU concluded that Article 2(n) and Article 28(2) of the Dublin III Regulation must be interpreted as requiring Member States to establish, in a binding provision of general application, **objective criteria** underlying the reasons for believing that an applicant who is subject to a transfer procedure may abscond. In the absence of that, Article 28(2) is inapplicable, and detention on this ground is unlawful. The Court also noted that the meaning of Article 6 of the Charter of Fundamental Rights should be defined in light of the established case-law of the ECtHR, which requires any measure on deprivation of liberty to be accessible, precise and foreseeable.

# 5 RELEVANT SOURCES AND LITERATURE

## EMN Studies and Ad-hoc Queries

- EMN synthesis report of the EMN study "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies", 2014
- EMN synthesis report on the EMN study "The effectiveness of Return in EU Member States", 2017
- EMN Ad-Hoc Query on Asylum Proceedings and Detention, Requested by HU EMN NCP on 31 July 2012
- EMN Ad-Hoc Query on detention of asylum seekers, Requested by HU EMN NCP on 30 January 2013.
- EMN Ad-Hoc Query on detention and removal of minors Compilation produced on 19 January 2015
- EMN Ad-Hoc Query on detention and material detention conditions Requested by FR EMN NCP on 21 February 2018
- The AHQ 2020.59 on detention of minors requested by BE EMN NCP on 26 August 2020

## Other relevant sources

- British Institute of International and Comparative Law, "Immigration Detention and the Rule of Law: Safeguarding Principles", 2013
- Council of Europe, Twenty Guidelines on Forced Return, 2005
- Council of Europe, "Legal and practical aspects of effective alternatives to detention in the context of migration", 2017
- Council of Europe, "Practical Guidance on Alternatives to Immigration Detention: Fostering Effective Results", 2019
- Council of Europe, European Commission and the European Migration Network, conclusion from the Conference "Effective Alternatives to the Detention of Migrants", April 2019
- European Asylum Support Office (EASO), Detention of applicants for international protection in the context of the Common European Asylum System, 2019
- European Commission, Return Handbook, C(2017) 6505, 2017
- European Law Institute, Detention of Asylum Seekers and Irregular Migrants and the Rule of Law: Checklists and European Standards, 2017.
- European Union Agency for Fundamental Rights, Detention of third-country nationals in return procedures, 2013

- European Union Agency for Fundamental Rights, Alternatives to detention for asylum seekers and people in return procedures, 2015
- Odysseus Academic Network, Alternatives to Immigration and Asylum Detention in the EU: Time for Implementation, 2015.
- UNHCR and the Office of the High Commissioner for Human Rights (OHCHR), Global Roundtable on Alternatives to Detention of Asylum-Seekers, Refugees, Migrants and Stateless Persons: Summary Conclusions, 2011.
- UNHCR, Option Paper no 1: Options for governments on care arrangements and alternatives to detention for children and families, 2015.
- UNHCR, Compilation of International Human Rights Law and Standards on Immigration Detention, 2018
- UNHCR, Beyond Detention - A Global Strategy to support governments to end the detention of asylum-seekers and refugees – 2014-2019, 2019

# 6 DEFINITIONS

The following key terms are used in the Common Template. The definitions are taken from the EMN Glossary v6.0[19] unless specified otherwise in footnotes.

**'Absconding'** refers to action by which a person seeks to avoid administrative measures and/or legal proceedings by not remaining available to the relevant authorities or to the court.

'**Alternatives to detention**' refers to non-custodial measures used to monitor and/or limit the movement of third-country nationals in advance of forced return or deciding on the individual's right to remain in the Member State, such as regular reporting, the surrender of a financial guarantee or travel documents, electronic monitoring. In the EU context, pursuant Art. 2(h) of Directive 2013/33/EU (Recast Reception Conditions Directive) and Art. 26 of Directive 2013/32/EU (Recast Asylum Procedures Directive), detention is defined as confinement (i.e. deprivation of liberty) of an applicant for international protection by a Member State within a particular place, where the applicant is deprived of their personal liberty.

**'Applicant for international protection'** is defined as third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken.

**'Application for international protection'** is defined as a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of Directive 2011/95/EU (Recast Qualification Directive), that can be applied for separately.

**'Asylum procedure'**: see definition for 'Procedure for international protection'.

**'Beneficiary of international protection'** is defined as a person who has been granted refugee status or subsidiary protection status.

**'Country of origin'** is the country or countries of nationality or, for stateless persons, of former habitual residence.

[19] Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/docs/interactive_glossary_6.0_final_version.pdf

**'Degrading treatment or punishment'** refers to treatment that humiliates or debases an individual, showing a lack of respect for, or diminishing, their human dignity, or when it arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance.

**"Detention'** is defined as a non-punitive administrative measure ordered by an administrative or judicial authority(ies) in order to restrict the liberty of a person through confinement so that another procedure may be implemented (Source: EMN Glossary 3.0).[20]

**'Detention facility'** is defined as a specialised facility used for the detention of third-country nationals in accordance with national law.

**'Dublin procedure'** is defined as the process for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person. (Source: Article 1 of the Regulation 604/2013).

**'Examination of an asylum application':** see definition for 'Examination of an application for international protection'.

**'Examination of an application for international protection':** Any examination of, or decision or ruling concerning, an application for international protection by the competent authorities in accordance with Directive 2013/32/EU (Recast Asylum Procedures Directive) and Directive 2011/95/EU (Recast Qualification Directive) except for procedures for determining the EU Member State responsible in accordance with Regulation (EU) No 604/2013 (Dublin III Regulation).

**'Forced return'** in the global context refers to compulsory return of an individual to the country of origin, transit or third country (i.e. country of return), based on an administrative or judicial act. In the EU context, refers to the process of going back – whether in voluntary or enforced compliance with an obligation to return to: one's country of origin; or a country of transit in accordance with EU or bilateral readmission agreements or other arrangements; or another third country, to which the third-country national concerned voluntarily decides to return and in which they will be accepted.

**'Fundamental rights' are** universal legal guarantees without which individuals and groups cannot secure their fundamental freedoms and human dignity and which apply equally to every human being regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status as per the legal system of a country without any conditions.

**'International protection'** is defined in the global context as" the actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin, who lack the national protection of their own countries" and in the EU context as" protection that encompasses refugee status and subsidiary protection status".

**'Irregular migrant'** in the global context, refers to a person who, owing to irregular entry, breach of a condition of entry or the expiry of their legal basis for entering and residing, lacks legal status in a transit or host country. In the EU context, a third-country national present on

[20] For the purpose of this study, the criminal detention, which is the deprivation of liberty which applies to a citizen or non-citizen due to criminal charges or convictions, is excluded. The administrative detention which is here considered is an administrative or civil decision taken by (usually) immigration authorities that operates separately to the powers given to the police and criminal courts.

the territory of a Schengen State who does not fulfil, or no longer fulfils, the conditions of entry as set out in the Regulation (EU) 2016/399 (Schengen Borders Code), or other conditions for entry.

**'Procedure for international protection'**: Set of measures described in the Directive 2013/32/EU (Recast Asylum Procedures Directive) which encompasses all necessary steps for granting and withdrawing international protection starting with making an application for international protection to the final decision in appeals procedures.

**'Return'** is the movement of a person going from a host country back to a country of origin, country of nationality or habitual residence usually after spending a significant period of time in the host country whether voluntary or forced, assisted or spontaneous.

**'Return decision'** is an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return.

**'Voluntary return'** is the assisted or independent return to the country of origin, transit or third country, based on the free will of the returnee.

# Common Template of EMN Study 2020

**National Contribution from LATVIA**

*Disclaimer: The following information has been provided primarily for the purpose of contributing to a synthesis report for this EMN study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.*

## Top-line factsheet [max. 2 pages]

The top-line factsheet will serve as an overview of the **national reports** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers.

Please provide a concise summary of the main findings of Sections 1-4:

*Study paper "Detention and Alternatives to Detention in Asylum and Return Procedures" provides an insight into the legislation and practice of the Republic of Latvia on the application of detention and alternative means of detention. The study examines the principles, challenges and benefits of using alternative means of detention, as well as the criteria included in the Immigration Law and the Asylum Law, which the responsible officials must take into account when making a decision on detention. The research has been prepared in cooperation with the State Border Guard.*

*The 2014 study "On Alternatives to Detention and Detention in the Context of Immigration Policy"[21] was conducted shortly after the transposition of the Return Directive[22] into the legislation of the Republic of Latvia (mid-2011) on a period of time, when the number of illegal immigrants in Latvia was relatively small, thus the practice of using alternatives to detention*

[21] European Migration Network Research, National Report, 2014. Available http://www.emn.lv/wp-content/uploads/EMN_study_Detention1.pdf

[22] Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32008L0115

*and detention was not diverse. Starting from 2014, the number of illegal immigrants started to increase, as a result of which the number of illegal immigrants detected in 2015, who were subjected to alternative means of detention or detention, has reached 797 persons, which is 4 times more than in 2013, when only 227 foreigners were detected. Thus, this study allows for an assessment based on greater experience with alternatives to detention and detention.*

*An analysis of the practice of using alternatives to detention may show that an alternative to detention is more effective than detention, in cases where the competent authority deciding on an alternative to detention has carefully and comprehensively assessed the foreigner's situation before taking such a decision, individual circumstances, paying particular attention to signs that may indicate risks of absconding. An important aspect in choosing the type of detention is the foreigner's own readiness to co-operate in the return procedure and to fulfill his / her obligation to leave the territory of the European Union in good faith.*

*Since 2014, there have been changes in national legislation - on 19 January 2016, a new Asylum Law[23], entered into force, which sets out a comprehensive framework for the conditions and procedures for the application of restrictive measures in the framework of the asylum procedure.*

*According to the law, the State Border Guard, guided by necessity and observing the principle of proportionality, may apply two types of restrictive measures to an asylum seeker in the asylum procedure: registration at a certain time in the unit of the State Border Guard and detention.*

*The Asylum Law sets out the conditions under which an **asylum seeker may be detained**. These include the need to ascertain or verify the identity or nationality of the asylum seeker, the facts on which the application is based and which can only be ascertained by detention, especially if escape is possible, to decide on the asylum seeker's right to enter the Republic of Latvia. An asylum seeker may also be detained in cases where there are grounds for believing that, during the removal procedure, the detained person has lodged an application to delay or make impossible the execution of the removal order or expulsion order, and it has been established that the person concerned has not been prevented from submitting such an application in advance or that the asylum seeker poses a threat to national security or public order and safety, and the need for a transfer procedure has been established in accordance with Article 28 of Regulation No. 604/2013[24].*

*The Asylum Law reduces the period of detention of an asylum seeker from seven days to six days. According to the Asylum Law, when evaluating a decision on the application of restrictive measures, an asylum seeker may be required to register with the unit of the State Border Guard at a specified time, but not less than once a month, if there is reason to believe that any of the following conditions exist:*

*1) the application has been submitted in order to unreasonably acquire the right of residence;*

*2) the application has been submitted in order to unreasonably avoid the execution of a removal order or a decision regarding forced removal;*

[23] Asylum Law, adopted on 17.12.2015, entered into force on 19.01.2016. https://likumi.lv/ta/en/en/id/278986-asylum-law

[24] Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, https://eur-lex.europa.eu/legal-content/LV/TXT/?uri=celex%3A32013R0604

*3) the asylum seeker will avoid the asylum procedure;*

*4) the circumstances which are the basis for the detention of the asylum seeker have been established, but taking into account his or her individual situation and circumstances, the detention would be a disproportionate restrictive measure.*

*An official of the State Border Guard is entitled to take a decision regarding the* ***detention of a foreigner to be expelled*** *if there is reason to believe that he or she will evade the removal procedure or interfere with its preparation or there is a possibility of the foreigner fleeing, and it is justified by one of the circumstances specified in Section 51 of the Immigration Law[25]:*

*1) the foreigner conceals his or her identity, provides false information or otherwise refuses to co-operate;*

*2) the foreigner has crossed the external border, avoiding border checks, as well as has used a forged travel document, forged visa or residence permit;*

*3) the foreigner cannot indicate a place where he or she will stay until the end of the relevant removal procedure and submit a written certification of the apartment or house owner regarding determination to ensure the accommodation to the foreigner, or cannot present the sum of money that would be sufficient for booking a hotel until his or her removal;*

*4) the competent state or foreign institution has provided information which is the basis for believing that the foreigner endangers national security, public order or safety;*

*5) the foreigner is involved in the promotion of illegal immigration;*

*6) the foreigner has been convicted of a criminal offense committed in the Republic of Latvia, for which the intended punishment is related to deprivation of liberty for at least one year;*

*7) the foreigner has previously avoided a removal procedure in the Republic of Latvia or in another Member State of the European Union;*

*8) the foreigner has unjustifiably failed to execute the voluntary return decision;*

*9) the foreigner has unjustifiably failed to fulfil the specified obligation to register with the relevant unit of the State Border Guard;*

*10) the foreigner has previously arbitrarily left an accommodation centre for detained foreigners or detention premises;*

*11) the foreigner has entered the Republic of Latvia by ignoring the decision to include in the list or decision on the prohibition to enter the Schengen Area.*

*As an alternative means of detention, a foreigner may be subject to regular registration with a unit of the State Border Guard or the surrender of a valid travel document for a specified period of time to the State Border Guard.*

*Before taking a decision on the detention of a person, it is the duty of the responsible official to consider the possibility of deciding on the application of alternatives to detention, which are less about the restriction of a person's freedoms. Detention is applied as a last resort and for the shortest possible period of time.*

[25] Immigration Law, adopted on 31.20.2002, entered into force on 01.05.2003. https://likumi.lv/ta/en/en/id/68522-immigration-law

*For vulnerable persons, the possibility of using alternatives to detention in both asylum and return procedures is a priority when applying restrictive measures.*

## Section 1: National policy and legal framework: development since 2015[26]

*This section aims at providing an update about the legal and policy framework on detention and the use of alternatives to detention since 2015 and until December 2020. Questions from 1 to 4 relate to both migration procedures, namely asylum and return procedures. As such, it gives an overview of the main legal and policy changes since 2015 and until Decemberr 2020, as well as an overview of the categories of third-country nationals that can be placed in detention in Member States and Norway according to national law and practice.*

Q1. Please report any **changes** on the legal and policy framework on **detention concerning both international protection and return procedures** since 2015.

Please provide a short description of national provisions, grounds for detention or different typologies of detention, from 2015 onwards and the rationale for any changes introduced. Please elaborate on any type of detention available to specific groups e.g. women or families.

From 2016 to 2017, Latvian national legislation in the field of detention, accommodation and custody of third-country nationals was harmonized. In order to implement the requirements of EU law, including the provisions of Directive 2013/33/EC concerning the legal framework for the detention of an asylum seeker during the asylum procedure, a new Asylum Law was developed and entered into force on 19 January 2016, which sets out a comprehensive framework for the conditions and procedures for applying restrictive measures.

With the entry into force of the law, it is stipulated that the administrative authority, that is, the State Border Guard, guided by the necessity and observing the principle of proportionality, may apply the following restrictive measures to an asylum seeker in the asylum procedure:

1) registration at a specified time in the unit of the State Border Guard;
2) detention.

The Asylum Law reduces the period of detention of an asylum seeker from seven days to six days. In essence, the detention of any asylum seeker is intended as an emergency and last resort measure, including in the case of minor asylum seekers, and for the shortest possible period if, taking into account the individual situation and circumstances of the asylum seeker, it is not possible to ensure the proper conduct of the asylum procedure, as well as national security and public order and safety, incuding prevention of illegal immigration.

The Asylum Law stipulates that an asylum seeker may be detained for more than six days only on the basis of a court decision. In view of the above, in cases where any of the conditions of detention referred to in the Asylum Law exist, the State Border Guard shall submit to the court (according to the actual place of detention of the detained asylum seeker) a reasoned proposal to detain the asylum seeker for more than six days not later than 48 hours before the end of the detention period. If the court has made a decision to refuse to detain the asylum seeker, the State Border Guard shall, immediately after receiving a copy of the decision and acquainting the asylum seeker with it, release the asylum seeker.

[26] The latest EMN study on detention and alternatives to detention was published in 2014, therefore the study will cover the period between 2015-2020.https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf

The asylum seeker may be re-detained only if information has been obtained or new circumstances justifying the detention have been identified.

The period of detention shall run from the time when the asylum seeker was actually detained. The asylum seeker has the right to appeal the initial detention to the court within 48 hours after presenting him/her the detention protocol (reasons for detention), the appeal procedure, the procedure for judicial control over detention and his / her right to seek free legal assistance.

In addition, the new Asylum Law stipulates that an asylum seeker or his or her legal representative may submit an application to a court at any time to assess the need for further application of detention.

Article 16 of the Asylum Law contains the following conditions for the detention of an asylum seeker:
1) it is necessary to ascertain or verify the identity or nationality of the asylum seeker;
2) it is necessary to ascertain the facts, on which the application is based and which may be ascertained only by detention, particularly if escaping is possible (the person crossed the State border without an obvious reason evading border controls, previously evaded removal, hid his or her identity, provided false or conflicting information, there are other facts pointing to the likelihood of escape);
3) it is necessary to decide on the rights of the asylum seeker to enter the Republic of Latvia;
4) there are grounds for assuming that within the scope of the removal procedure the detained person submitted an application to hinder execution of a voluntary return decision or a removal order or to make it impossible, and it is detected that the relevant person did not have any obstacles for submitting such application earlier;

5) the competent State authorities (including the State Border Guard) have a reason to believe that the asylum seeker presents a threat to national security or public order and safety;
6) the necessity for transfer procedure in accordance with the provisions of Article 28 of Regulation No 604/2013 has been detected.

On 23 May 2017, unified regulations of the Cabinet of Ministers (subordinated to the Immigration Law and the Asylum Law) were adopted: "Regulations Regarding the Subsistence Norms, and also the Amount of Hygienic and Basic Necessities for an Asylum Seeker Accommodated in the State Border Guard Accommodation Premises for Asylum Seekers and a Foreigner Placed in the Accommodation Centre of the State Border Guard or the State Border Guard Temporary Holding Room"[27], which apply simultaneously to both groups of detainees: asylum seekers and foreigners to be returned. These regulations include norms that determine the provision of food, hygiene and basic necessities to detained foreigners. The regulations stipulate the internal procedures of the State Border Guard accommodation centers - placement of foreigners, rights and obligations during accommodation, agenda, meetings with visitors, security measures, action in emergency situations, etc. issues.

### Q3. Please report on any **legal and policy changes regarding the use of alternatives to detention** concerning both international protection and return procedures since the last EMN study on detention and alternatives to detention (2014)

According to the new Asylum Law, which entered into force on 19 January 2016, when assessing a decision on the application of restrictive measures, an asylum seeker may be required to register with

[27] Regulations of the Cabinet of Ministers No. 263 of 23 May 2017 "Regulations Regarding the Subsistence Norms, and also the Amount of Hygienic and Basic Necessities for an Asylum Seeker Accommodated in the State Border Guard Accommodation Premises for Asylum Seekers and a Foreigner Placed in the Accommodation Centre of the State Border Guard or the State Border Guard Temporary Holding Room", entered into force on 27.05.2017. https://likumi.lv/ta/en/en/id/291005-regulations-regarding-the-subsistence-norms-and-also-the-amount-of-hygienic-and-basic-necessities-for-an-asylum-seeker-accommodated-in-the-state-border-guard-accommodation-premises-for-asylum-seekers-and-a-foreigner-placed-in-the-accommodation-centre-of-the-state-border-guard-or-the-state-border-guard-temporary-holding-room

the State Border Guard at a specified time, but not less than once a month if there is reason to believe that any of the following conditions exist:

1) the application has been submitted in order to unreasonably acquire the right of residence;
2) the application has been submitted in order to unreasonably avoid the execution of a removal order or a decision regarding forced removal;
3) the asylum seeker will avoid the asylum procedure;
4) the circumstances which are the basis for the detention of the asylum seeker have been established, but taking into account his or her individual situation and circumstances, the detention would be a disproportionate restrictive measure.

An asylum seeker has the right to contest this within seven working days after the decision on registration with the unit of the State Border Guard has taken effect within a certain time in a higher institution (the Chief of the State Border Guard). An appeal against a decision shall not suspend the decision itself.

The decision of the supreme institution regarding registration with the unit of the State Border Guard within a specified time may be appealed in court within seven working days from the day of its entry into force. The submission of an application to the court does not suspend the operation of the above decision.

An asylum seeker has the right to request legal aid provided by the state in order to appeal against the decision of the State Border Guard regarding registration within a certain time with the unit of the State Border Guard.

There have been no changes in legislation and policy on alternatives to detention for third-country nationals in the return procedure since 2014.

Q4. Please complete the table below with regard to the **categories of third-country nationals that can be detained** in your (Member) State. You can refer to the same information reported in the 2014 EMN study on Detention and Alternatives. Please highlight any changes since then.

Note: Children and other vulnerable groups are not included in this table as they are a cross-cutting category; instead, they are dealt with in a separate question (Q5) after the table.

**Table 1. Categories of third-country nationals that can be detained**

| | Categories of third-country nationals | Can third-country nationals under this category be detained? *Yes/No* | If yes, what is the legal basis for detention? *List the ground for detention* | Which alternatives to detention are available for this category? *List in bullet point the alternatives to detention available for each category. Further details on each measure will be collected in section 2.* | What are the (judicial and non -judicial) authorities involved in the decision about placing the person in detention or instead using an alternative to detention? |
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| *International Protection* | ***Applicants for international protection in ordinary procedures*** | Yes | 1. The identity or nationality of the asylum seeker needs to be established or verified.<br>2. It is necessary to ascertain the facts on | Regular registration at a certain time with the unit of the State Border Guard | - The State Border Guard decides on the initial detention of an asylum seeker (up to six days);<br>- on registration at a certain time with the |

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| | | | which the application is based and which can only be ascertained by detention, especially if escape is possible (the person crossed the state border without obvious reason, avoided border checks, previously avoided deportation, hid his/her identity, provided false or contradictory information, there are other facts that indicate the possibility of escape).<br>3. There are grounds for believing that, in the context of removal proceedings, the detained person has lodged an application to prevent or render impossible the execution of the removal order or forced removal decision, and it has been established that the person concerned has not been prevented from making such an application in advance.<br>4. The competent state institutions (including the State Border Guard) have reason to believe that the asylum seeker poses a threat to national security or public order and safety.<br>5. The need for a transfer procedure has been established in accordance with the provisions of Article 28 of Regulation (EU) No 604/2013. | | unit of the State Border Guard<br><br>The court shall decide on<br>- detention of an asylum seeker for more than six days;<br>- an appeal lodged by an asylum seeker against a decision of the State Border Guard regarding his or her detention or a decision regarding registration with a unit of the State Border Guard |
| | ***Applicants for international protection in border procedures*** | Yes | It is necessary to make a decision on the asylum seeker's right to enter the Republic of Latvia. | Regular registration at a certain time with the unit of the State Border Guard | - The State Border Guard decides on the initial detention of an asylum seeker (up to six days);<br>- on registration at a certain time with the |

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| | | | | | unit of the State Border Guard<br><br>The court shall decide on<br>- detention of an asylum seeker for more than six days;<br>- an appeal lodged by an asylum seeker against a decision of the State Border Guard regarding his or her detention or a decision regarding registration with a unit of the State Border Guard |
| ***Return procedures*** | ***Irregular migrants detected in the territory*** | Yes | There is reason to believe that a foreigner will avoid the removal procedure or interfere with its preparation or there is a possibility of the foreigner fleeing, and this is justified by one of the circumstances specified in the Immigration Law:<br>1) the foreigner hides his/her identity, provides false information or otherwise refuses to cooperate;<br>2) foreigner has crossed the external border, avoiding border checks, as well as used a forged travel document, forged visa or residence permit;<br>3) the foreigner cannot indicate a place where he or she will stay until the end of the relevant removal procedure and submit a written certification of the apartment or house owner regarding | 1) Regular registration with the specified unit of the State Border Guard,<br>2) Surrender of travel and/or other identity documents to the State Border Guard. | The State Border Guard decides on the initial detention or on an alternative to detention;<br>The State Border Guard has the right to hold a foreigner for a period of 10 days.<br>Court takes a decision on:<br>- an appeal lodged by the returnee third-country national regarding the decision on detention;<br>- detention of a third-country returnee for a period of 2 months;<br>- for the extension of the detention of a returnee for a period of 2 months. |

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| | | | determination to ensure the accommodation to the foreigner, or cannot present the sum of money that would be sufficient for booking a hotel until his or her removal;<br>4) competent national or foreign authority has provided information which is the basis for considering that the foreigner poses a threat to national security, public order or safety;<br>5) foreigner is involved in the promotion of illegal immigration;<br>6) foreigner has been convicted of a criminal offense committed in the Republic of Latvia, for which the punishment provided is related to deprivation of liberty for at least one year;<br>7) the foreigner has previously avoided the removal procedure in the Republic of Latvia or another Member State of the European Union;<br>8) the foreigner has unjustifiably failed to execute the voluntary return decision;<br>9) the foreigner has unjustifiably failed to fulfil the specified obligation to register with the relevant unit of the State Border Guard;<br>10) the foreigner has previously arbitrarily left an accommodation center for detained | | |

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| | | | foreigners or detention premises;<br>11) the foreigner has entered the Republic of Latvia by ignoring the decision to include in the list or decision on the prohibition to enter the Schengen Area. | | |
| | ***Persons who have been issued a return decision*** | Yes | There is reason to believe that a foreigner will avoid the removal procedure or interfere with its preparation or there is a possibility of the foreigner fleeing, and this is justified by one of the circumstances specified in the Immigration Law:<br>1) the foreigner hides his/her identity, provides false information or otherwise refuses to cooperate;<br>2) foreigner has crossed the external border, avoiding border checks, as well as used a forged travel document, forged visa or residence permit;<br>3) the foreigner cannot indicate a place where he or she will stay until the end of the relevant removal procedure and submit a written certification of the apartment or house owner regarding determination to ensure the accommodation to the foreigner, or cannot present the sum of money that would be sufficient for booking a hotel until his or her removal; | 1) Regular registration with the specified unit of the State Border Guard,<br>2) Surrender of travel and/or other identity documents to the State Border Guard. | The State Border Guard decides on the initial detention or on an alternative to detention;<br>The State Border Guard has the right to hold a foreigner for a period of 10 days.<br>Court takes a decision on:<br>- an appeal lodged by the returnee third-country national regarding the decision on detention;<br>- detention of a third-country returnee for a period of 2 months;<br>- for the extension of the detention of a returnee for a period of 2 months. |

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| | | | 4) competent national or foreign authority has provided information which is the basis for considering that the foreigner poses a threat to national security, public order or safety;<br>5) foreigner is involved in the promotion of illegal immigration;<br>6) foreigner has been convicted of a criminal offense committed in the Republic of Latvia, for which the punishment provided is related to deprivation of liberty for at least one year;<br>7) the foreigner has previously avoided the removal procedure in the Republic of Latvia or another Member State of the European Union;<br>8) the foreigner has unjustifiably failed to execute the voluntary return decision;<br>9) the foreigner has unjustifiably failed to fulfil the specified obligation to register with the relevant unit of the State Border Guard;<br>10) the foreigner has previously arbitrarily left an accommodation center for detained foreigners or detention premises;<br>11) the foreigner has entered the Republic of Latvia by ignoring the decision to include in the list or decision on the prohibition to enter the Schengen Area. | | |

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| | ***Irregular migrants detected at the border*** | Yes | An official of the State Border Guard is entitled to take a decision regarding the detention of a foreigner if there is reason to believe that he or she will avoid the removal procedure or interfere with its preparation or there is a possibility of the foreigner fleeing, and it is justified by any of the Immigration Law:<br>1) the foreigner hides his/her identity, provides false information or otherwise refuses to cooperate;<br>2) foreigner has crossed the external border, avoiding border checks, as well as used a forged travel document, forged visa or residence permit;<br>3) the foreigner cannot indicate a place where he or she will stay until the end of the relevant removal procedure and submit a written certification of the apartment or house owner regarding determination to ensure the accommodation to the foreigner, or cannot present the sum of money that would be sufficient for booking a hotel until his or her removal;<br>4) competent national or foreign authority has provided information which is the basis for considering that the foreigner poses a threat | 1) Regular registration with the specified unit of the State Border Guard,<br>2) Surrender of travel and/or other identity documents to the State Border Guard. | State Border Guard - the only institution that makes a decision regarding the placement of a foreigner in a detention center or the application of an alternative measure to detention.<br>The court shall decide on an appeal against a decision of the State Border Guard regarding his or her detention or a decision regarding alternatives to detention |

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| | | | to national security, public order or safety;<br>5) foreigner is involved in the promotion of illegal immigration;<br>6) foreigner has been convicted of a criminal offense committed in the Republic of Latvia, for which the punishment provided is related to deprivation of liberty for at least one year;<br>7) the foreigner has previously avoided the removal procedure in the Republic of Latvia or another Member State of the European Union;<br>8) the foreigner has unjustifiably failed to execute the voluntary return decision;<br>9) the foreigner has unjustifiably failed to fulfil the specified obligation to register with the relevant unit of the State Border Guard;<br>10) the foreigner has previously arbitrarily left an accommodation center for detained foreigners or detention premises;<br>11) the foreigner has entered the Republic of Latvia by ignoring the decision to include in the list or decision on the prohibition to enter the Schengen Area. | | |

Q5. Is it possible, within the national legal framework of your (Member) State, to detain (or to impose an alternative to detention to) persons belonging to **vulnerable groups**, including minors, families with children, pregnant women or persons with special needs? Please indicate

whether persons belonging to these vulnerable groups are exempt from detention, or whether they can be detained in certain circumstances.

**Yes**

If yes, under which conditions can vulnerable persons be detained?

| | International protection procedures<br>*Please indicate if the persons belonging to these vulnerable groups can be detained and under which circumstances. Please also indicate whether alternatives to detention are provided* | Return procedures<br>*Please indicate here if the persons belonging to these vulnerable groups can be detained and under which circumstances. Please also indicate whether alternatives to detention are provided* |
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| **Unaccompanied Minors** | The detention of an unaccompanied minor is intended as an exceptional and last resort and for the shortest possible period of time, putting the best interests of the child first.<br>An official of the State Border Guard may decide on the detention of an unaccompanied minor or on the application of an alternative measure to detention if any of the conditions included in the Asylum Law exist:<br>1) it is necessary to ascertain or verify the identity or nationality of the asylum seeker;<br>2) it is necessary to ascertain the facts, on which the application is based and which may be ascertained only by detention, particularly if escaping is possible (the person crossed the State border without an obvious reason evading border controls, previously evaded removal, hid his or her identity, provided false or conflicting information, there are other facts pointing to the likelihood of escape);<br>3) it is necessary to decide on the rights of the asylum seeker to enter the Republic of Latvia;<br>4) there are grounds for assuming that within the scope of the removal procedure the detained person submitted an application to hinder execution of a voluntary return decision or a removal order or to make it impossible, and it is detected that the relevant person did not have any obstacles for submitting such application earlier;<br>5) the competent State authorities (including the State Border Guard) have a reason to believe that the asylum seeker presents a threat to national security or public order and safety;<br>6) the necessity for transfer procedure in accordance with the provisions of Article 28 of Regulation No 604/2013 has been detected.<br><br>Before applying detention to an unaccompanied minor, the State Border Guard shall evaluate the possibility of applying registration to unaccompanied minors at a specified time in the unit of the State Border Guard.<br><br>In the event that an unaccompanied minor is nevertheless detained, he or she shall be | An official of the State Border Guard may decide on the detention of an unaccompanied minor (from the age of 14) or on the application of an alternative measure to detention, if there are serious/significant grounds for believing that the person will avoid removal, flee or obstruct the preparation of the expulsion procedure. Unaccompanied minor foreigners are subject to the general conditions of detention set out in the Immigration Law:<br><br>1) the foreigner is hiding his or her identity, provides false information or refuses to co-operate in other ways;;<br>2) the foreigner has crossed the external border, avoiding border checks, as well as has used a forged travel document, forged visa or residence permit;<br>3) the foreigner cannot indicate a place where he or she will stay until the end of the relevant removal procedure and submit a written certification of the apartment or house owner regarding determination to ensure the accommodation to the foreigner, or cannot present the sum of money that would be sufficient for booking a hotel until his or her removal;<br>4) a competent State or foreign institution has provided information which provides grounds for considering that the foreigner threatens the State security, public order or safety;<br>5) the foreigner is involved in promoting illegal immigration;<br>6) the foreigner has been convicted of a criminal offence committed in the Republic of Latvia, for which the sentence intended is related to the deprivation of liberty for at least one year;<br>7) the foreigner has previously avoided a removal procedure in the Republic of Latvia or in another Member State of the European Union;<br>8) the foreigner has unjustifiably failed to execute the voluntary return decision;<br>9) the foreigner has unjustifiably failed to fulfil the specified obligation to register with the relevant unit of the State Border Guard;<br>10) the foreigner has previously arbitrarily left an accommodation centre for detained foreigners or detention premises;<br>11) the foreigner has entered the Republic of Latvia by ignoring the decision to include in the list or decision on the prohibition to enter the Schengen Area. |

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| | accommodated in accommodation facilities for asylum seekers of the State Border Guard, which are equipped for his or her age, as well as give access to trained staff. A detained minor shall be provided with an opportunity to study, participate in leisure activities appropriate to his or her age. | Before deciding on detention, the responsible official shall consider the possibility of determining alternative means of detention. Vulnerability shall be the justification for using an alternative detention measure. |
| **Disabled people** | Guided by necessity and in compliance with the principle of proportionality, a person with a disability may be subject to a restrictive measure in the asylum procedure (detention), if any of the conditions referred to in the Asylum Law exists.<br><br>Detention of a person with a disability is intended as an emergency and last resort measure and for the shortest possible period of time, if, considering the individual situation and circumstances of the asylum seeker, it is not possible to ensure a proper asylum procedure by less restrictive means, i.e. registration at a specified time with the unit of the State Border Guard, as well as national security and public order and safety, inclusing prevention of illegal immigration. | A decision to detain a person may be taken if there are serious / significant grounds for believing that the person will avoid removal, flee or obstruct the preparation of the return procedure.<br><br>Persons with disabilities are subject to the general conditions of detention set out in the Immigration Law.<br><br>Given that the person is vulnerable, the possibility of deciding on the use of alternatives to detention is primarily assessed. |
| **Elderly people** | Guided by necessity and observing the principle of proportionality, a person of the age at which an old-age pension is granted in the Republic of Latvia may be subject to a restrictive measure in the asylum procedure (detention), if any of the conditions referred to in the Asylum Law exists.<br>Detention of a person at the age of reaching an old-age pension in the Republic of Latvia is intended as an emergency and last resort measure and for the shortest possible period of time, if, considering the individual situation and circumstances of the asylum seeker, it is not possible to ensure a proper asylum procedure by less restrictive means, i.e. registration at a specified time with the unit of the State Border Guard, as well as national security and public order and safety, inclusing prevention of illegal immigration. | A decision to detain a person may be taken if there are serious / significant grounds for believing that the person will avoid removal, flee or obstruct the preparation of the return procedure.<br><br>Persons at the age of reaching an old-age pension in the Republic of Latvia are subject to the general conditions of detention set out in the Immigration Law.<br><br>Given that the person is vulnerable, the possibility of deciding on the use of alternatives to detention is primarily assessed. |
| **Families with children and single parents with minor** | Guided by necessity and in compliance with the principle of proportionality, the decision to detain adult asylum seekers of a family shall be made after assessing the individual situation and circumstances of the asylum seeker. Before taking a decision on detention, the State Border Guard evaluates the possibility to apply regular registration at a certain time in the unit of the State Border Guard.<br>Detention is intended as an emergency and last resort measure and for the shortest possible period of time.<br><br>The State Border Guard shall make a decision regarding detention or application of an alternative to detention in cases where any of the conditions included in the Asylum Law exist..<br><br>After the decision on the detention of the asylum seeker has been made, the asylum seeker shall be | A decision to detain a person (applies to children from the age of 14) may be taken if there are serious / significant grounds for believing that the person will avoid expulsion, flee or obstruct the preparation of the return procedure.<br><br>For family members, the general conditions of detention set out in the Immigration Law apply.<br><br>In the case of detention, each family member is detained on the basis of an individual decision and individual circumstances. Detained family members are accommodated together in the accomodation center for detained foreigners.<br><br>In case of minor children accompanied by an adult detained asylum seeker, they shall be accommodated (without detention) together with the parents on the basis of an application for accommodation of the children |

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| | accommodated in the State Border Guard's accommodation premises of asylum seekers, provided that the detained asylum seekers' family members are accommodated together, if none of them object, but separately from other detainees, ensuring privacy.<br><br>In case of minor children accompanied by an adult detained asylum seeker, they shall be accommodated (without detention) together with the parents on the basis of an application for accommodation of the children together with the parent and after evaluation of the best interests of the child. | together with the parent and after evaluation of the best interests of the child.<br><br>Given that families with children must be especially protected, the possibility of deciding on the use of alternative means of detention is primarily considered.. |
| **Persons with serious illnesses and persons with mental disorders** | Guided by necessity and in accordance with the principle of proportionality, a restrictive measure (detention) may be applied, if any of the conditions referred to in the Asylum Law exists.<br><br>Before taking a decision on detention, the State Border Guard evaluates the possibility to apply registration with the unit of the State Border Guard at a certain time.<br>Detention is intended as an emergency and last resort measure and for the shortest possible period of time.<br><br>A detained asylum seeker who has a health disorder, in accordance with the instructions of a medical practitioner, shall be placed in the State Border Guard's accommodation premises of asylum seekers in a room specially equipped for this purpose. | A decision to detain a person may be taken (if a person cannot be accommodated in a specialized institution due to health or mental disorders) if there are serious / significant grounds for believing that the person will avoid expulsion, flee or obstruct the preparation of the return procedure.<br><br>In the case of foreigners with health or mental disorders, the general conditions of detention specified in the Immigration Law apply.<br><br>Given that the person must be especially protected, the possibility of deciding on the application of alternatives to detention is primarily assessed. |
| **victims of human trafficking** | Recognized victim of human trafficking shall not be detained.<br><br>Guided by necessity and in accordance with the principle of proportionality, a restrictive measure (detention) may be applied, if one of the conditions referred to in the Asylum Law exists.<br><br>Before taking a decision on detention, the State Border Guard evaluates the possibility to apply registration with the unit of the State Border Guard at a certain time.<br><br>Detention is intended as an emergency and last resort measure and for the shortest possible period of time. | Recognized victim of human trafficking shall not be detained with aim to return.<br><br>While the person is considered as a potential victim of human trafficking, he or she may be detained until all conditions are established and the social service procedure is about to begin.<br><br>A decision to detain a person may be taken if there are serious / significant grounds for believing that the person will avoid removal, flee or obstruct the preparation of the return procedure.<br><br>Detention can only be applied to a victim of trafficking in human beings as a last resort and only in the event of special circumstances, namely that the person poses a significant threat to national security. |
| **Pregnant women** | Guided by necessity and in accordance with the principle of proportionality, a restrictive measure (detention) may be applied, if any of the conditions referred to in the Asylum Law exists.<br><br>Before taking a decision on detention, the State Border Guard evaluates the possibility to apply | A decision to detain a person may be taken if there are serious / significant grounds for believing that the person will avoid removal, flee or obstruct the preparation of the return procedure. |

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| | registration with the unit of the State Border Guard at a certain time.<br>Detention is intended as an emergency and last resort measure and for the shortest possible period of time. | For pregnant women, the general conditions of detention set out in the Immigration Law apply.<br>Given that the person is vulnerable, the possibility of deciding on the use of alternatives to detention is primarily assessed |
| **Other vulnerable persons** | Guided by necessity and in accordance with the principle of proportionality, a restrictive measure (detention) may be applied, if any of the conditions referred to in the Asylum Law exists.<br>Before taking a decision on detention, the State Border Guard evaluates the possibility to apply registration with the unit of the State Border Guard at a certain time.<br>Detention is intended as an emergency and last resort measure and for the shortest possible period of time. | A decision to detain a person may be taken if there are serious / significant grounds for believing that the person will avoid removal, flee or obstruct the preparation of the return procedure.<br>For other vulnerable groups, the general conditions of detention set out in the Immigration Law apply.<br>Given that the person must be especially protected, the possibility of deciding on the application of alternatives to detention is primarily assessed. |

## Section 2: Availability and practical organisation of alternatives to detention

*This section explores the availability of different types of alternatives to detention for different categories of third-country nationals. For each, it explores the practical organisation of the alternative, including information on the authorities/organisations responsible for managing the implementation of the alternatives; the conditions that must be met by the third-country national to benefit from an alternative to detention; and information on the mechanisms in place in order to monitor the third-country national's compliance with these conditions.*

*EMN NCPs are further requested to provide information on the challenges associated with the implementation of the alternatives, and any examples of good practice in their (Member) State that they may wish to share.*

Q6. Please indicate whether any **alternatives to detention for third-country nationals are available in your (Member) State** and provide information on the practical organisation of each alternative (including any mechanisms that exist to monitor compliance with/progress of the alternative to detention) by completing the table below.

### Table 2. 1 Available alternatives to detention for third-country nationals

| | **Alternatives to detention** | **Yes/No** |
|---|---|---|
| A1 | Reporting obligations (e.g. reporting to the police or immigration authorities at regular intervals)<br>*Please provide information on how often and to which authority persons subject to this measure should report*<br>Guided by necessity and observing the principle of proportionality, the State Border Guard may decide on the obligation to register regularly (at least once a month) in the relevant unit of the State Border Guard, which is closest to the place of residence indicated by the foreigner. The regularity of registration is determined for each foreigner individually, taking into account the circumstances of the case. | Yes |
| A2 | Obligation to surrender a passport, travel document or identity document<br>The State Border Guard may take a decision regarding the surrender of a foreigner's (except an asylum seeker's) travel or other identity document for storage in the State Border Guard for a specified period of time. | Yes |
| A3 | Requirement to communicate the address to authorities (including requesting permission for absences/changing the address) | No |

| | | |
|---|---|---|
| A4 | Requirement to reside at a designated place (e.g. a facility or specific region). Please specify if you also consider house arrest as an ATD. | No |
| A5 | Release on bail (with or without sureties)<br>*Please provide information on how the amount is determined; whether this can be paid by a third person/entity r (e.g. family member, NGO or community group); and at what point the money is returned* | No |
| A6 | Electronic monitoring (e.g. tagging) | No |
| A7 | *Release to a guardian/guarantorPlease provide information on who could be appointed as a guarantor/guardian (e.g. family member, NGO or community group)* | No |
| A8 | Release to care worker or under a care plan | No |
| A9 | Community management programme (i.e. programmes where individuals live independently in the community and are attached to a case manager) or Case management- based programme (where participants are provided with individualised tailored support) | No |
| A10 | | |
| | Other alternative measure available in your (Member) State. Please specify. | |

Q6.1 Amongst the alternatives above indicated, please could you indicate which ones (amongst those defined by law) are the **most used and why**? Please indicate as relevant the specific time frame

*The State Border Guard most often uses regular registration with the unit of the State Border Guard (at leas once a month) as an alternative means of detention, because not in all cases a person has a valid travel or identity document. The obligation to surrender a travel and other identity documents only applies if the perso has a valid travel document, the removal of which is likely to deter him/her from fleeing.*

Q6.2 Please briefly describe each of the alternatives indicated above. Copy paste the table below as many times as necessary.

### Table 2.2 Description of available alternatives to detention for third-country nationals

| **Name of alternatives (as reported in table 2 above)**<br>*Regular registration with the unit of the State Border Guard* | |
|---|---|
| *In what it consists, and maximum duration* | Regular registration obliges a person to regularly appear in person at the specified unit of the State Border Guard.<br>There is no deadline for regular registration. In practice, the maximum period of application of the alternative measure is equal to the maximum period of detention, that is, 18 months. |

| | |
|---|---|
| | When working with an asylum seeker, if the circumstances which led to the establishment of regular registration no longer exist or the asylum procedure has been terminated, that duty to register shall be revoked. |
| *Legal basis (law, soft law, other guidance). Please provide reference to the original sources* | Section 51(3) of the Immigration Law (https://likumi.lv/ta/en/en/id/68522-immigration-law)<br>Sections 13 and 14 of the Asylum Law (https://likumi.lv/ta/en/en/id/278986-asylum-law) |
| *Is it used in practice? Please provide any available data for the period 2016-2020* | Of the total number of irregular migrants identified, this alternative to detention was used in approximately 8-10% of cases.<br>2016 – 55 cases<br>2017– 32 cases<br>2018 – 29 cases<br>2019 – 16 cases<br>2020 – 12 cases<br>Number of cases of regular registration for asylum seekers:<br>2016 - 6 cases<br>2017 – 2 cases<br>2018 – 1 cases<br>2019 – 7 cases<br>2020 – 2 cases |
| *National authorities responsible to administer the alternative* | The State Border Guard shall make a decision regarding the application of an alternative measure to detention, select the type of alternative measure, as well as ensure the control of execution. |
| *Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)* | - |
| *Obligations attached to the granting of the alternative (if relevant)* | A person has obligations to appear in person at the relevant unit of the State Border Guard at the specified time. |

| | |
|---|---|
| *Consequences of non-compliance with the alternative (i.e. does non-compliance with an ATD automatically leads to detention, or is this determined or a case-by-case basis?)* | For non-compliance, the alternative means of detention may be replaced by detention. Each case shall be assessed on its own merits, taking into account the reasons for the non-compliance and the general circumstances of the case. |
| *Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)* | The regularity of registration (at least once a month) serves as a control mechanism, it can be determined more or less often. If necessary, an inspection may also be carried out at the person's place of residence as a part of immigration control. |
| *Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.* | The expulsion procedure (from the moment of the return decision) is monitored by the Ombudsman (observer).<br>In 2011, a Memorandum of Understanding was signed between the State Border Guard and the UNHCR Regional Office on mutual co-operation and exchange of information on issues related to ensuring the rights of asylum seekers. Consequently, the UNCHR representative has the right to observe whether the asylum seeker's rights are respected during the asylum procedure, including the application of restrictive measures and their justification. |
| *Was an evaluation conducted (at the national level) to assess the effectiveness of this alternatives to detention? Provide any available online sources/ references/ available information. Please specify how "effectiveness" was defined/which aspects were assessed* | - |

| **Name of alternatives (as reported in table 2 above)**<br>*Surrender of a travel document and other identity documents held by a foreigner* | |
|---|---|
| *In what it consists, and maximum duration* | The State Border Guard decides to apply an alternative means of detention to a foreigner (surrender of a travel document and other identity documents in the possession of the foreigner). The document is in the relevant unit of the State Border Guard until the end of the removal procedure of the alien (for the implementation of removal or its cancellation). |
| *Legal basis (law, soft law, other guidance). Please provide reference to the original sources* | Section 51(3) of the Immigration Law (https://likumi.lv/ta/en/en/id/68522-immigration-law) |

| | |
|---|---|
| *Is it used in practice? Please provide any available data for the period 2016-2020* | Applies only to foreigners to be removed.<br>2016 – 6 cases<br>2017 – 5 cases<br>2018 – 5 cases<br>2019 – 4 cases<br>2020 – 7 cases<br>Of the total number of deportees identified, this alternative to detention was used in about 2-3% of cases. |
| *National authorities responsible to administer the alternative* | The State Border Guard shall make decisions regarding the application of an alternative measure to detention, select the type of alternative measure, as well as ensure the control of execution. |
| *Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)* | - |
| *Obligations attached to the granting of the alternative (if relevant)* | A foreigner has obligations to surrender documents to the State Border Guard. |
| *Consequences of non-compliance with the alternative (i.e. does non-compliance with an ATD automatically leads to detention, or is this determined or a case-by-case basis?)* | For non-compliance, the alternative means of detention may be replaced by detention. Each case is assessed on its own merits, taking into account the reasons for non-compliance with the obligation imposed and the general circumstances of the case. |
| *Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)* | Not applicable, because when transferring a document, a foreigner fully fulfills the obligation imposed on him or her. |
| *Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.* | The forced return procedure (from the moment of the return decision) is monitored by the Ombudsman (observer). |
| *Was an evaluation conducted (at the national level) to assess the effectiveness of this alternatives to detention? Provide any available online sources/ references/ available information. Please specify how "effectiveness" was defined/which aspects were assessed* | - |

Q7. Please identify any **practical challenges associated with the implementation of each alternative** to detention available in your (Member) State, based on existing studies or evaluations or information received from competent authorities, specifically in relation to

(add more column as needed). Please elaborate your answer by providing a short description. Please cover here the same alternatives reported in Q8.

**Alternatives to detention applicable in the return procedure**

| Challenge | Alternative 1 (Regular registration) | Alternative 2 (Surrender of documents) |
|---|---|---|
| **Availability of facilities related to accommodation (i.e. beds)** | The person is not provided with accommodation and guarantees during the accommodation because the person is not detained | The person is not provided with accommodation and guarantees during the accommodation because it is not detained |
| **Availability of staffing and supervisior** | None | None |
| **Administrative costs** | A person may incur transport costs | None |
| **Mechanisms to control movements of the person** | If the person has not arrived at the required registration, if necessary, an inspection may be carried out at the person's place of residence within the framework of immigration control. | None |
| **Legislative obstacles** | Currently, the law does not provide for the right of a foreigner to be returned to challenge and appeal against a decision on the application of an alternative measure.<br>This will be remedied in the near future by amendments to the Immigration Law. | Currently, the law does not provide for the right of a foreigner to be return to challenge and appeal against a decision on the application of an alternative measure.<br>This will be remedied in the near future by amendments to the Immigration Law. |
| **Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support)** | It is often not possible for a person to provide a long-term residence address due to insufficient means of subsistence. | It is often not possible for a person to provide a long-term residence address due to insufficient means of subsistence. |
| **Other challenges** | None | None |

Q8. Please identify any **practical advantage associated with the implementation of each alternative** to detention available in your (Member) State in comparison with detention, based on existing studies or evaluations or information received from competent authorities specifically in relation to (add more column as needed). Please elaborate your answer by providing a short description. Please cover here the same alternatives reported in Q7:

| Advantage | Alternative 1 (Regular registration) | Alternative 2 (Surrender of documents) |
|---|---|---|
| **Availability of facilities related to accommodation (i.e. beds)** | The person is not accommodated in the premises of the State Border Guard's Accommodation Center | The person is not accommodated in the premises of the State Border Guard's Accommodation Center |

| | | |
|---|---|---|
| **Availability of staffing and supervision** | None | None |
| **Administrative costs** | No additional costs | No additional costs |
| **Mechanisms to control movements of the person** | The obligation to register serves as control mechanism. | None |
| **Legislative obstacles** | None | None |
| **Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support)** | None | None |
| **Other advantages** | None | None |

## Section 3: Assessment procedures and criteria used for the placement of third-country nationals in detention or alternatives to detention

*This section examines the assessment procedures and criteria/benchmarks that are used by Member States and Norway in order to decide whether placing the third country national in detention or to instead use an alternative. The section will also explore how authorities decide which alternative to detention is most suitable to an individual case.*

*The section starts from the assumption that the grounds for detention exists and does not specifically analyse how the existence of such grounds are assessed.*

*The section begins with an overview of the steps taken to decide to use an alternative instead of placing the individual in detention. Questions then explore the timing of this assessment, whether an individual assessment is conducted, which authorities are involved in the assessment procedure and which criteria are used to determine whether to use detention or an alternative.*

*The session will assess how vulnerability factors are assessed when taking a decision for detention and when making an assessment to opt for detention or an alternative.*

Q9. Please provide an **overview of when and how the decision** about placing a person in an alternative instead of in detention is made. Please respond considering the following elements

i. Is the assessment between detention or alternatives to detention made at the same time as when the grounds for detention are considered or at a different time?
ii. In what circumstances are the grounds for detention rejected in favour of an alternative to detention?
iii. Does the procedure vary depending on the categories of third country nationals or their country of origin (e.g. because of the specific situation in the country)?
iv. Which authorities are involved in the procedure, please specify the respective role (i.e. consultative, decision maker)?

International protection procedure

In accordance with the Asylum Law, when deciding on the detention of an asylum seeker, the State Border Guard first evaluates the possibility to apply an alternative means of detention - registration at a certain time in the unit of the State Border Guard.

Detention of an asylum seeker is intended as an emergency and last resort measure and for a maximum period of time (up to 6 days; further detention is allowed only by a court decision). Having assessed the individual situation and circumstances of the asylum seeker, the asylum seeker shall be detained if by registering with the State Border Guard unit within a certain time it is not possible to ensure the proper conduct of the asylum procedure, as well as national security and public order and safety.

The need to apply a restrictive measure (detention or registration at a certain time with the unit of the State Border Guard) is assessed taking into account the individual situation and circumstances of the asylum seeker, and not, for example, the asylum seeker's nationality or gender.

The decision regarding registration with the unit of the State Border Guard within a specified time shall be made by an official of the unit of the territorial administration of the State Border Guard, who is competent in working with asylum seekers.

An asylum seeker has the right to contest the decision on registration within a certain time with the unit of the State Border Guard within seven working days after the said decision has entered into force addressing the appeal to a higher institution, namely, the Chief of the State Border Guard. An appeal against a decision shall not suspend operation of the decision.

The asylum seeker may appeal before the court the decision of the supreme institution (the Chief of the State Border Guard) regarding registration within certain time with the unit of the State Border Guard by submitting such an appeal within seven working days from the day of its entry into force. The submission of an application to the court does not suspend the operation of the above decision.

Return procedure

For foreigners in the return procedure, one of the alternatives to detention shall apply in the event that:

- State Border Guard official, assessing the individual situation of the person and the circumstances of the case, concludes that there is a justification for the detention and at the same time establishes that the detention is a disproportionate restrictive measure;
- the court, after reviewing the grounds for detention, decides that the detention is disproportionate.

Detention may be considered a disproportionate measure if, for example, there are humanitarian considerations.

When deciding on the detention of a person, the existence of humanitarian considerations shall be assessed and, if so, a decision shall be taken on the application of an alternative measure to detention. If no grounds for detention have been established, no alternative to detention shall be applied.

Each case and the circumstances of the case are assessed individually. It is not allowed to apply this procedure due to a person's affiliation with a group of persons (citizenship, country of entry, etc.).

The decision regarding alternative means of detention shall be made and revoked, as well as the fulfillment of the imposed obligation shall be controlled by the officials of the State Border Guard.

Q11. Is the possibility to provide alternatives to detention **systematically considered** in your (Member) State when assessing whether to place a person in detention? Please respond separately for international protection and return procedures.

International protection procedures:

**Yes**

Details:

When deciding on the detention of an asylum seeker, the State Border Guard **first** evaluates the possibility to apply an alternative means of detention - registration at a certain time with the unit of the State Border Guard..

In addition, according to the Asylum Law, an asylum seeker or his/her representative may **at any time** submit an application to the court (according to the actual location of the detained asylum seeker) for the assessment of the need for further application of detention. In case the court has made a decision to terminate the detention of an asylum seeker (the court decision is not subject to appeal), the State Border Guard has the right to assess the possibility to apply a restrictive measure in the asylum procedure - registration with the unit of the State Border Guard.

Return procedures:

**Yes**

Details: In order to apply one of the alternatives to detention, two elements must be identified at the same time: the grounds for detention and humanitarian considerations.

*The grounds for detention shall be reviewed:*

1) The State Border Guard shall review ex-officio in the following cases:
   a) at the end of the initial detention (the initial detention of a foreigner is 10 days, the detention decision is made by the State Border Guard);
   b) every 2 months, assessing the need to apply to a court for an extension of the detention period;
   c) where necessary, when circumstances have arisen which indicate the need to review the grounds for detention.
2) Court on the basis of a request of the State Border Guard:
   a) a decision to detain the third-country national for 2 months;
   b) in the case of an extension of detention, every 2 months.

*Humanitarian considerations:*

The State Border Guard and the court, upon establishing humanitarian considerations (e.g. deterioration of a person's state of health, pregnancy), immediately assess the circumstances of the case and decide on the application of an alternative measure or review the decision on detention. There is no regularity for the review of humanitarian considerations.

Q12. When there are grounds for authorising detention, which **considerations or criteria** are used to decide whether to place the third-country national concerned in detention or instead provide an alternative?

| Criteria | International protection procedures | Return procedures |
|---|---|---|
| **Suitability of the alternative to the needs of the individual case** | *Yes*<br>*Each case is assessed individually and an appropriate alternative remedy is applied in each case.* | *Yes*<br>*Each case is assessed individually and an appropriate alternative remedy is applied in each case.* |
| **Cost-effectiveness** | *No*<br>*This criterion is not assessed and taken into account when deciding* | *No*<br>*This criterion is not assessed and taken into account when* |

| Criteria | International protection procedures | Return procedures |
|---|---|---|
| | *on detention or the use of an alternative measure.* | *deciding on detention or the use of an alternative measure.* |
| **Nationality or Country of origin/ return (e.g. considerations on the specific situation in the country of origin)** | *No*<br>*This criterion is not assessed and taken into account when deciding on detention or the application of an alternative to detention. Irrespective of the third-country national's nationality or country of origin or return, the circumstances may be different in each case, so the individual situation of each case is assessed.* | *No*<br>*This criterion is not assessed and taken into account when deciding on detention or the application of an alternative to detention. Irrespective of the third-country national's nationality or country of origin or return, the circumstances may be different in each case, so the individual situation of each case is assessed.* |
| **Level of the risk of absconding** | *Yes*<br>*If there is a compelling reason that the asylum seeker in question might abscond or otherwise refuse to cooperate with public authorities, such as concealing his or her identity, providing false or contradictory information, etc..* | *Yes*<br>*The risk of absconding is one of the grounds for detention set out in the Immigration Law.* |
| **Vulnerability** | *Yes*<br>*The State Border Guard assesses whether the asylum seeker has special reception or procedural needs. If this is established, the asylum seeker must have the right to receive adequate and appropriate support for the exercise of his or her rights and obligations throughout the asylum procedure..* | *Yes*<br>*The vulnerability criterion is a minimum condition that is applied when assessing the application of an alternative remedy* |
| **Less-invasive legal measures impacting on human rights** | *No*<br>*The decision on detention or the application of an alternative to detention shall take into account the criteria set out in the Asylum Law, which incorporates the EU acquis in the field of asylum and is also in line with international standards..* | *No*<br>*When deciding on detention or applying an alternative measure to detention, the criteria set out in the Immigration Law, which are included in the field of return of the EU acquis and also* |

| Criteria | International protection procedures | Return procedures |
|---|---|---|
| | | *comply with international norms, are taken into account..* |
| **Other** | *Yes/No further explain*<br>*No*<br>*Details:* | *Yes/No further explain*<br>*No*<br>*Details:* |

- Q.12.1. If **vulnerability** is one of the criteria used to assess whether placing the person under an alternative instead of detention, please **describe how the vulnerability assessment is made** (e.g., the responsible authority and the procedures followed). Please respond separately for international protection and return procedures.

  Elements of vulnerability considered (unaccompanied minors, families with children, pregnant women and persons with special needs, victims of violence etc)
- Are vulnerability assessments conducted on a case-by-case basis, or is the assessment based on pre-defined categories/groups?
- Authorities / organisation conduct th+e assessment?
- Procedures followed

International protection procedures

After establishing a person, State Border Guard officials, performing initial activities with a person (namely, an initial survey, inspection of a person and property), evaluate the information obtained and identify any vulnerabilities.

Less protection is assessed on a case-by-case basis, taking into account the individual circumstances of the case. But there are also cases where the assessment is based on pre-defined categories / groups (e.g. families with children, unaccompanied minors, pregnant women, seniors).

The State Border Guard and the Office of Citizenship and Migration Affairs assess whether an asylum seeker has special acceptance or procedural needs. If the State Border Guard or the Office of Citizenship and Migration Affairs has established that an asylum seeker has special procedural or acceptance needs, he or she has the right to receive appropriate and justified support for the exercise of his or her rights and duties throughout the asylum procedure..

In case there are indications that the asylum seeker may have special procedural or acceptance needs, the State Border Guard shall carry out the procedural actions taking into account the conclusion of the evaluation of the practical tool developed by the European Asylum Support Office.

If the application for international protection has been submitted by an unaccompanied minor, the State Border Guard shall immediately contact the Orphan's and Custody Court. All procedural activities with an unaccompanied minor shall take place in the presence of a representative of the unaccompanied minor.

With the consent of the asylum seeker, the relevant public authorities and associations providing support services to victims of human trafficking shall be informed of the fact that the person may be a victim of human trafficking or has suffered torture, rape or other serious psychological, physical or sexual abuse.

Return procedures

After the identification of a person, the State Border Guard officials, when performing initial activities with a person (namely, a survey, inspection of a person and property), evaluating the information obtained and inspecting the documents at the person's disposal, may detect signs of vulnerability.

The assessment of vulnerability in each case is based on an individual assessment, however, there are cases when a person's vulnerability is clearly indicated by his/her belonging to a certain group, for example, unaccompanied minor, pregnant women, persons with obvious signs of disability.

If an unaccompanied minor is identified, a representative of the Orphan's and Custody Court, who is the child's legal representative, is immediately invited and participates in the proceedings, as well as decides on the accommodation of the detained minor in a childcare institution.

In some cases, a medical opinion (if the person's state of health has not been confirmed) is required to confirm the person's vulnerability (e.g. pregnancy, disability). In cases where there are doubts about the age of a third-country national, an age examination shall be determined and performed at the State Forensic Medical Examination Center.

An official of the State Border Guard shall make a written decision regarding the application of an alternative measure to detention. A copy of the decision shall be issued to the person so that the status of the person to be expelled can be confirmed during his or her inspection. Information about the decision is entered into the information system, which is available to law enforcement authorities. If regular registration is applied, the decision on the application of the alternative to detention shall be supplemented with the date of the next registration; if this restrictive measure has been lifted, this shall be indicated in the decision.

### Q14. Which **legal remedies** are available to the third-country national against a decision to opt for detention /instead of an alternative to detention? Please describe. Please respond separately for international protection and return procedures.

International protection procedures:

An asylum seeker has the right to appeal the initial detention (the State Border Guard may detain an asylum seeker for up to six days) to a court within 48 hours after he or she is presented the detention protocol (reasons for detention), as well as information on the appeal procedure, the procedure for exercising judicial control over detention. Free legal aid is available to asylum seekers.

The Asylum Law stipulates that an asylum seeker or his/her representative may at any time submit to the court (according to the actual location of the detained asylum seeker) an assessment of the need for further detention (in cases where the asylum seeker is detained on the basis of a court decision).

Return procedures:

A person has the right to appeal against his detention at any time. The foreigner shall be informed of such rights at the time of detention. A detained foreigner has the right to get acquainted with the materials related to his or her detention. The right of a detained foreigner to submit applications and complaints to state and non-governmental organizations is not restricted.

A detained foreigner is entitled to receive legal aid at his or her own expense.

### Q15. What **support (legal, social, psychological)** is available for migrants during the period when a decision is made about placing the individual in detention or to use an alternative to detention?

International protection procedures:

An asylum seeker has the right to receive state-provided legal aid in the amount specified in regulatory enactments by appealing in court against a decision of the State Border Guard regarding the registration of an asylum seeker with a unit of the State Border Guard or the detention of an asylum seeker.

When appealing the decision of the State Border Guard regarding the registration of an asylum seeker in a unit of the State Border Guard in a higher institution (Chief of the State Border Guard), the state-provided legal aid is not ensured, however, the asylum seeker has the right to invite a legal aid at his or her own cost.

Furthermore, the asylum seeker has the right to contact the United Nations High Commissioner for Refugees or any other organization that provides legal or other advice to asylum seekers in accordance with the laws and regulations..

If an asylum seeker is accommodated in an accommodation center for asylum seekers, he or she has the right to receive state-paid health care services, including a psychologist, and the support of a social mentor.

Return procedures:

While the State Border Guard official evaluates the circumstances of the case in order to make a decision regarding the detention of a person or the application of an alternative measure, the person may invite a legal aid provider or a representative at his or her own expense; furthermore, if a decision is made regarding an unaccompanied minor, the presence of a representative of the Orphan's Court is mandatory.

If the person is accommodated in the accommodation centre for detained third-country nationals, he or she has the right to receive state-paid health care services. In case a foreigner needs psychological support, the State Border Guard invites a psychologist.

## Section 4: Impact of detention and alternatives to detention on the effectiveness of return and international protection procedures

*This section aims at comparing the different impact of detention and alternatives to detention on the effectiveness of international protection and return procedures.*

*The impact of placing third-country nationals in detention or in alternatives to detention on the effectiveness of Member States' international protection and return procedures is assessed against three key indicators, namely the extent to which measures: i) ensure compliance with migration procedures (including prompt and fair case resolution, facilitating voluntary and forced returns, reducing absconding); ii) uphold fundamental rights; iii) improve the cost-effectiveness of migration management.*

*Whilst an attempt is made to compare the impact of detention and alternatives to detention on each of these aspects of effectiveness, it is recognised that the type of individuals placed in detention and in alternatives to detention (and their corresponding circumstances) are likely to differ significantly and therefore the comparisons made need to be treated cautiously.*

### Ensuring compliance with migration procedures

**Note: If it is possible please provide separately data related to international protection (Q16, Q17) and for return (Q18, Q19) procedures. If this is not possible, please clarify and respond to Q16 and Q17 covering both procedures.**

Q16. Please provide **statistics** available in your country for the latest available year on the **number of asylum seekers** that were placed in detention and in alternatives to detention during the international protection procedures **who absconded**.

If possible, distinguish between the different types of alternatives to detention that are available in your country (add more rows as needed).

| Flow number of third-country nationals in detention or in alternatives to detention in the context of international protection procedures who absconded during the year. Data expressed in absolute figures. Reference years: 2017, 2018, 2019 (Please provide data for each year) | | |
|---|---|---|
| | # People in international protection procedures (including Dublin) * | # of applicants who absconded* |
| **Detention (Absolute figures)** | Please note that in these numbers are included all asylum seekers who are in detention:<br>2017 - 71<br>2018 - 37<br>2019 – 42 | 2017 – 2<br>2018 - 0<br>2019 - 0 |
| **Alternatives to detention 1 (REGULAR REGISTRATION)** | 2017 - 2<br>2018 – 1<br>2019 – 7 | 2017 - 1<br>2018 - 1<br>2019 - 6 |
| **Alternatives to detention 2 (NAME)** | - | - |
| **Alternatives to detention 3 (NAME)** | - | - |
| **Alternatives to detention 4 (NAME)** | - | - |

*Data of the State Border Guard

If you cannot provide statistics, do you have any other, even qualitative, information on the above (e.g. data on shares, information on possible trends, qualitative observations, etc.)?

| |
|---|
| |

Q17. Please provide any statistics available in your country on **the average length of time needed to determine the status of applicants for international protection** who are held in detention or are in an alternative to detention. Please also indicate the share of decisions which were appealed and the share of those which overturned the initial decision. Those MS who do not place asylum applicants in detention, shall indicate this at the beginning of the question and skip to the next question.

If possible, distinguish between the different types of alternatives to detention that are available in your country (add more rows as needed)

| Average length of time needed to determine the status of applicants for international protection who where detained or in alternatives. Reference years: 2017, 2018, 2019 (Please provide data for each year) | | |
|---|---|---|
| | Average length of time in determining the status of an | Share of decisions which were appealed and of these, the share |

| | applicant for international protection* | which overturned the initial decision* |
|---|---|---|
| Detention (Absolute figures) | The calculation is made from the moment of submitting the asylum application until the final decision within the asylum procedure. It must be kept in mind that the persons were not detained during the whole period.<br>2017 – 93 days<br>2018 – 150 days<br>2019 – 120 days | 2017 – 20 appealed/ 2 applications from 2 people have been approved<br>2018 – 12 appealed / 0<br>2019 – 18 appealed / 1 satisfied application |
| Alternatives to detention 1 (Regular registration) | 2017 – 106 days (calculation is made from the moment of submitting the asylum application to the final decision within the asylum procedure).<br>2018 – 120 days (the calculation is made from the moment of submitting the asylum application to the final decision within the asylum procedure. It is necessary to take into account the fact that the person has left the territory of Latvia arbitrarily without waiting for the final decision)<br>2019 – 50 days (the calculation is made from the moment of submitting the asylum application to the final decision within the asylum procedure. It is necessary to take into account the fact that the person has left the territory of Latvia arbitrarily without waiting for the final decision) | 2017 – 2 appealed / 0<br>2018 – 0/0<br>2019 – 2 appealed /2 satisfied application |
| Alternatives to detention 2 (NAME) | - | - |
| Alternatives to detention 3 (NAME) | - | - |
| Alternatives to detention 4 (NAME) | - | - |

- *Data of the State Border Guard*

If you cannot provide statistics, do you have any other, even qualitative, information on the above (e.g. data on shares, information on possible trends, qualitative observations, etc.)?

Q18. Please provide any statistics that may be available in your (Member) State about the number of **irregular migrants** including failed asylum seekers placed in detention and in alternatives to detention during the return procedure, **who absconded**.

If possible, distinguish between the different types of alternatives to detention that are available in your (Member) State.

| Flow number of third-country nationals in detention or in alternatives in the context of return procedures who absconded. Data expressed In absolute figures per year. Data expressed in absolute figures. Reference years: 2017, 2018, 2019 (Please provide data for each year) | | |
|---|---|---|
| | # of irregular migrants in return procedures (including pre-removal)* | # who absconded before removal is implemented* |
| Detention (Absolute figures) | Please note that 0 means that no migrant has absconded from detention. It does not mean that no migrant was in detention.<br>2017 - 0<br>2018 - 0<br>2019 - 1 | 2017 – 0<br>2018 – 0<br>2019 – 0 |
| Alternatives to detention 1 (registration) | 2017 – 2<br>2018 - 4<br>2019 - 2 | 2017 – 2<br>2018 – 1<br>2019 - 0 |
| Alternatives to detention 2 (surrender of documents) | 2017 – 0<br>2018 – 0<br>2019 - 0 | 2017 – 0<br>2018 – 0<br>2019 - 0 |

** Data of the State Border Guard*

If you cannot provide statistics, do you have any other, even qualitative, information on the above (e.g. data on shares, information on possible trends, qualitative observations, etc.)?

Q19. Please provide any statistics that might be available in your country on

(i) the proportion of voluntary returns and
(ii) the success rate in the number of departures among persons that were placed in detention and in alternatives to detention.

If possible, distinguish between the different types of alternatives to detention that are available (add more rows as needed)

| Average length of procedures to issue a return decision, and number of voluntary return among third country nationals placed in detention or alternatives. Reference years: 2017, 2018, 2019 (Please provide data for each year)** | | | | |
|---|---|---|---|---|
| | Average length of time from apprehending an irregular migrant to issuing a return decision* | Average length of time from issuing a return decision to the execution of the return* | Number of voluntary returns (persons who opted to return voluntarily) (absolute figures) | Number of effective forced departures (absolute figures) |
| Detention (Absolute figures) | 2017 – 10<br>2018 - 13<br>2019 - 12 | 2017 - 12<br>2018 - 9<br>2019 - 21 | 2017 - 24<br>2018 - 17<br>2019 - 18 | 2017 - 174<br>2018 - 88<br>2019 - 69 |
| Alternatives to detention 1 (registration) | 2017 – 1<br>2018 – 40<br>2019 – 37 | 2017 – 56<br>2018 – 13<br>2019 - 2 | 2017 – 10<br>2018 – 13<br>2019 -1 | 2017 – 1<br>2018 - 3<br>2019 - 0 |
| Alternatives to detention 2 (surrender of documents) | 2017 – 1<br>2018 – 11<br>2019 – 1 | 2017 – 1<br>2018 – 3<br>2019 - 7 | 2017 - 4<br>2018 – 4<br>2019 - 3 | 2017 - 0<br>2018 – 1<br>2019 - 0 |

**Number of days*

*** Data of the State Border Guard*

If you cannot provide statistics, do you have any other, even qualitative, information on the above (e.g. data on shares, information on possible trends, qualitative observations, etc.)?

| |
|---|
| |

Q20. Have any **evaluations or studies on the rate of absconding and degree of cooperation** of third-country nationals in detention and in alternatives to detention been undertaken in your (Member) State? Please provide details and if possible, distinguish between the international protection and return procedures.

| |
|---|
| <u>International protection procedures</u> |
| No. |
| Key findings |
| Reference |
| <u>Return procedures</u> |
| No. |
| Reference: |

Key findings

Q21. Is there any evidence, or empirical observation on **whether detention or alternatives to detention have a greater impact on migration procedures**, (e.g. whether they make return procedure more effective), **depending on certain characteristics of migrants** and specifically country of origin, nationality, family situation, gender, age.

Discuss separately for each available alternative to detention. If possible, provide examples and statistics.

Please discuss separately for international protection and return procedures

International protection

No, no such evidence has been obtained.

Detention:

Alternative 1:

Alternative 2:

Alternative 3:

…

Return procedures

In general, evaluating Latvia's practice in the field of return, it has been established that factors characterizing foreigners, such as nationality, marital status, age and gender, do not affect the effectiveness of the return procedure. Each case is individual.

Detention:

Detention fully ensures the presence of the foreigner in the return procedure, which allows additional information to be obtained from the foreigner throughout the procedure. This has a major impact on the effectiveness of the return procedure, as the measures taken (identification, obtaining documents, route planning) and the resources used (financial and human resources) ensure a full return, namely the successful return of the person.

Alternative 1: Registration in the unit of the State Border Guard allows to control the stay of a foreigner in the territory of Latvia, to plan the performance of procedural measures on the day of registration of a foreigner. If the registration obligation is performed in good faith, then the presence of the foreigner and communication between the foreigner and the institution is ensured throughout the procedure without obstacles and without restriction of the foreigner's right to liberty. Compliance with the registration obligation has a similar effect on the efficiency of the return procedure, i.e. successful return. This restrictive measure has less of an impact on the restriction of human rights during the return process. This only applies if the obligation to register is complied with. The effectiveness of this restrictive measure is lost if the obligation imposed on the foreigner is not complied with.

Alternative 2: Compared to the above-mentioned restrictive measures, the surrender of the document is the least burdensome measure for the foreigner and does not impose a significant administrative burden on the competent authorities. This restrictive measure has an even smaller effect on the restriction of human rights during the return process.

## Upholding fundamental rights

Q22. What **human rights safeguards** are available in detention and in alternatives to detention?

| Safeguards | Detention | Alternatives to detention | Comparison between safeguards provided in detention and in the alternatives to detention |
|---|---|---|---|
| **Is access to legal aid ensured? If so, how? Please specify.** | Details:<br>A foreigner has the right to legal aid at his or her own expense at any stage of the return procedure.<br>A foreigner has the right to free legal aid in the event of an appeal against a return decision. | Details:<br>A foreigner has the right to legal aid at his or her own expense at any stage of the return procedure.<br>A foreigner is entitled to free legal aid at the appeal stage of a return decision if he or she does not have sufficient financial resources. | A detained foreigner who appeals against a return decision shall be provided with free legal aid, whether or not he or she has the financial means.<br>In turn, the right of an alien to receive legal aid at his or her own expense at any stage of the return procedure is the same for both the detained foreigner and the foreigner to whom an alternative means of detention has been applied. |
| **Is the right to be heard ensured during detention/alternatives to detention? If so, how? Please specify.** | Details:<br>The right to be heard is guaranteed at any stage of the return process. Before applying a decision on detention of a person or a decision on return, a foreigner shall provide an explanation with his or her opinion, as well as at any stage of the return process, the foreigner may express his or her opinion in writing or verbally. | Details:<br>The right to be heard is guaranteed at any stage of the return procedure. Before applying a decision on an alternative measure to detention or a decision on return, the foreigner shall provide an explanation with an opinion, as well as at any stage of the return procedure the foreigner may express his or her opinion in writing or verbally.. | The foreigner's right to be heard is the same throughout the return process. |
| | | | |

| | | | |
|---|---|---|---|
| **Is the right to health (e.g. access to facilities, monitoring of health and wellbeing of the person) ensured? If so, how? Please specify.** | Details:<br>During detention and accommodation, a person has the right to receive emergency medical care, primary and secondary health care services (to be provided as a matter of urgency).<br>A medical practitioner is available in the accommodation centers of detained foreigners, who provides primary medical health care on a daily basis. Other health services may be received by a foreigner at his or her own expense. | Details:<br>A person is entitled to free emergency medical care, maternity care and epidemiological assistance. Other health services are provided to foreigners at their own expense. | During detention, a person has the right to receive a wider range of health services free of charge. |
| **Please add any additional safeguard** | Detained foreign minors have the right to basic education during their detention. | A foreigner who is a minor has the right to receive basic education during the period specified for voluntary return or during the period for which removal is postponed. | Have the right to basic education. |

Q23. Have **evaluations or studies** been conducted in your (Member) State on the impact of detention and alternatives to detention on the fundamental rights of the third-country nationals concerned (for example, with regard to the number of complaints of detainees or persons provided alternatives to detention, of mental and physical health)?

| |
|---|
| Yes/No |
| **No** |
| Key findings |
| Reference |

Q24. Please provide any statistics available in your country on the **number of complaints regarding violations of human rights**[28] and the number of court cases regarding fundamental rights violations in detention as opposed to alternatives to detention (please quote the relevant case law/decision). Please provide the statistics for 2019 or the latest year available and, if

[28] Please consider appeals to a judge but also to a specific administrative commission or ombudsman

possible, distinguish between the different types of alternatives to detention that are available in your country.

| |
|---|
| International protection procedures<br>Information is not collected.<br><br>Return procedures<br>Information is not collected. |

### Improving the cost-effectiveness of migration management.

Q25. Have any evaluations or studies in your (Member) State considered the **cost-effectiveness of using detention or alternatives to detention as part of the asylum procedure** (e.g. length of time to determine an international protection status and executing decisions, costs of procedures, etc)?

If Yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report.

| |
|---|
| No<br><br>Key findings<br>Reference |

Q26. **Have any evaluations or studies** in your (Member) State considered **cost-effectiveness of using detention and alternatives to detention as part of the return procedures**. (e.g., the length of time that transpires from issuing a return decision to the execution of the removal, the share of voluntary returns out of the total number of returns, the total number of removals completed, costs of procedures,)?

If Yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report

| |
|---|
| No<br>Key findings<br>Reference |

## Conclusions

Please draft a short conclusion based on your responses to the template above, considering the following:

i. To what extent are alternatives to detention applied in practice in your country?
ii. What are the challenges in the implementation and use of alternatives to detention?

iii. What are the concerns regarding the use of alternatives (if any) compared to detention in international protection and return procedures? In answering this question, please consider each aspect of effectiveness: 1) compliance with migration procedures including reduce the risk of absconding; 2) maximising cost-effectiveness; 3) ensuring respect for fundamental rights;
iv. What does evidence suggest about main factors identified which contributed to greater or reduced cost-effectiveness (e.g. personal characteristics of the third-country nationals affected, type of alternative provided, etc.)

According to the collected statistical data, it can be concluded that in recent years, on average, only 8% of foreigners are subjected to alternative means of detention (regular registration with the unit of the State Border Guard or surrender of a travel document to the State Border Guard). On the other hand, the number of alternative means of detention applied to asylum seekers (regular registration with the unit of the State Border Guard) is even lower.

In order to reduce the risk of foreigners fleeing, the State Border Guard carefully assesses the individual circumstances of the case, the person's behavior and connection with Latvia before applying alternative means to detention. The number of foreigners who have been served with alternative means of detention is not high, as evidenced by the statistics provided, which show that the number of those fleeing is less than 1/3 of the total number of foreigners who have been subjected to alternative means of detention. In addition, another share of foreigners, which makes up about 1/3 of the total number of foreigners eligible for alternative means of detention, has acquired legal status (mainly residence permit and in some cases stateless or non-citizen status) in Latvia, taking into account their close connection with Latvia. Other foreigners to be returned have been successfully returned to their country of residence or nationality.

The main challenge in applying alternative means to detention can be considered to be the observance of the principle of proportionality when assessing the grounds for detention of a foreigner, as well as the assessment of the circumstances of the case and the establishment of humanitarian considerations in order to successfully return the foreigner.

Due to the fact that in Latvia there is no open-type accommodation center for foreigners to be returned, where foreigners who have an alternative means of detention could be accommodated, these foreigners choose their place of residence. Alternatives to detention are highly valued from a human rights perspective, as they are the weakest means of restrictive measures. It is financially advantageous for public authorities to apply such measures. However, the use of alternatives to detention may not in all cases ensure the effective return of a person, as well as create a financial burden for the person himself to cover the costs of the stay. In many cases, a person does not have the financial means to ensure a decent standard of living while awaiting return proceedings.

Alternative means of detention for asylum seekers are applied taking into account the individual situation and circumstances of each case. It does not in any way affect a person's right to free movement. The principle of proportionality is also respected. Experts point out that the application of alternative means of detention in practice does not ensure the stay of persons in the territory of the country until the final decision is taken in the asylum procedure, as asylum seekers often leave the country arbitrarily, despite regular registration with the unit of the State Border Guard.

Re-evaluating the issue of detention and the use of alternatives to detention (since 2014), it can be concluded that an individual approach to each case is still important, taking into account the specific circumstances of each individual case.

## Statistical annex

Statistics from EU-harmonised sources, such as Eurostat and the EMN Annual Policy Report, on inter alia the outcome of international protection applications and return, including voluntary return will be used in the Synthesis Report to contextualise the statistics provided in this annex.

### Table 1: Statistics on number of third-country nationals in detention and provided alternatives to detention per category

**Please provide the cumulative figures (the number of all third-country nationals that have been detained during the year) or please use N/A if data is not available.**

Please describe if you are counting persons or numbers of entries (if one person would be countet several times with multepel enteries). We would prefer number of persons if both options are possible.

| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | Source / further information |
|---|---|---|---|---|---|---|---|
| ***Statistics on number of third-country nationals in detention per category*** | | | | | | | |
| Total number of third-country nationals in detention | **263** | **743** | **671** | **407** | **393** | **216** | **SBG internal statistics** |
| Number of applicants for international protection in ordinary procedures in detention (including Dublin) | **269** | **213** | **115** | **71** | **37** | **42** | |
| Number of persons detained to prevent illegal entry at borders * | **92** | **343** | **343** | **64** | **164** | **46** | **SBG internal statistics** |
| Number of person detained during return procedures (including pre-removal) ** | **166** | **479** | **432** | **286** | **203** | **91** | **SBG internal statistics** |
| Number of vulnerable persons part of the aforementioned categories of third-country nationals - Please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.) | **n/a** | **n/a** | **n/a** | **n/a** | **n/a** | **n/a** | **SBG collects data only on foreign minors** |
| Vulnerable persons specified - minors | **9** | **30** | **44** | **15** | **24** | **16** | **SBG internal statistics** |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Vulnerable persons specified – unaccompanied minors | 6 | 24 | 43 | 11 | 21 | 14 | SBG internal statistics |
| Number of other third-country nationals placed in immigration detention | 228 | 653 | 476 | 443 | 340 | 243 | SBG internal statistics |
| *Statistics on number of third-country nationals provided alternatives to detention* | | | | | | | |
| Total number of third-country nationals in alternatives to detention | 57 (47 registration and 10 document surrender) | 54 (53 registration and 1 document surrender) | 61 (55 registration and 6 document surrender) | 37 (32 registration and 5 document surrender) | 34 (29 registration and 5 document surrender) | 20 (16 registration and 4 document surrender) | SBG internal statistics |
| Number of applicants for international protection in ordinary procedures in Alternatives to detention (including Dublin) | 20 | 12 | 6 | 2 | 1 | 7 | |
| Number of persons given alternatives to detention to prevent illegal entry at borders *** | 0 | 0 | 0 | 0 | 0 | 0 | |
| Number of person in alternatives to detention during return procedures (including pre-removal) | n/a | n/a | n/a | 15 (10 registration and 5 – document surrender) | 16 (11 – registration, 5 – document surrender) | 4 (1 - registration, and 3 - document surrender) | SBG internal statistics |
| Number of vulnerable persons part of the aforementioned categories of third-country nationals - Please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.) | n/a | n/a | n/a | n/a | n/a | n/a | SBG collects data only on foreign minors |
| Vulnerable persons specified - minors | less than 5 | less than 5 | less than 5 | less than 5 | less than 5 | 0 | SBG internal statistics |
| Vulnerable persons specified – unaccompanied minors | 0 | 0 | less than 5 | 0 | less than 5 | 0 | SBG internal statistics |

* (crossing the green border)

** including those removed in accordance with a sentence imposed in criminal proceedings.

*** alternatives to detention shall not be applied at the border

## Table 2: Average length of time in detention

Please provide information on the methodology used to calculate the average length of time in detention, including whether the mean or the median was used to calculate the average.

| Average length of time in detention | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | Source / further information |
|---|---|---|---|---|---|---|---|
| Average length of time in detention of all categories of third-country nationals in detention | 29 | 22 | 22 | 13 | 9 | 19 | SBG internal statistics |
| Average length of time in detention of applicants for international protection in ordinary procedures | | | | | | | |
| Average length of time in detention of persons detained to prevent illegal entry**** | 1 | 1 | 1 | 1 | 1 | 1 | SBG internal statistics |
| Average length of time in detention of persons during return procedures | 25 | 20 | 47 | 16 | 10 | 20 | SBG internal statistics |
| Average length of time in detention of vulnerable persons part of the aforementioned categories of third-country nationals - Please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.) and by category***** | 37 | 34 | 66 | 10 | 11 | 25 | SBG internal statistics |

**** In case of entry refusal, a foreigner may be detained for a maximum of 48 hours

***** The statistical data provided are on detained minor aliens (accompanied and unaccompanied), as other vulnerable groups of foreigners are not accounted for.

**********