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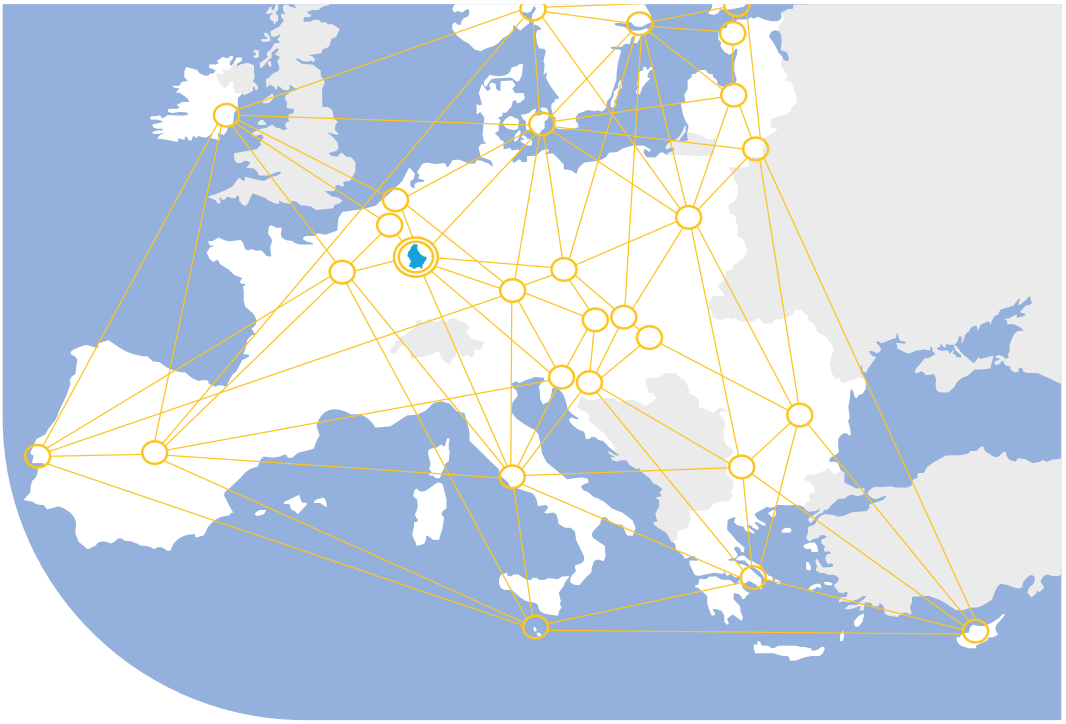

Fourth Study 2020

Detention and alternatives to detention in international protection and return procedures in Luxembourg

Luxembourg

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LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG
Ministère des Affaires étrangères et européennes
Office national de l'accueil

UNIVERSITÉ DU LUXEMBOURG

University of Luxembourg
EMN National Contact Point
11, Porte des Sciences
L-4366 Esch-Belval
Luxembourg

www.emnluxembourg.lu

E-mail: emn@uni.lu

The European Migration Network, created by Council Decision no. 2008/381/EC of 14 May 2008, has the objective of supplying up-to-date, objective, reliable and comparable information on migration and asylum in the Community institutions, to the authorities and institutions of the Member States and to the general public with a view to support policy- and decision-making with the European Union.

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Preface

The opinions expressed in this report are those of the authors. They do not necessarily reflect the positions of the Luxembourg Ministry of Foreign and European Affairs.

The present report was drafted by Adolfo Sommarribas and Ralph Petry, staff member of the National Contact Point Luxembourg within the European Migration Network, under the overall responsibility of Prof. Dr. Birte Nienaber. Continuous support was provided by the members of the national network of the National Contact Point Luxembourg: Sylvain Besch (CEFIS), Christiane Martin (Directorate of Immigration, Ministry of Foreign and European Affairs), François Peltier (STATEC), Pascale Millim (Ministry of Justice) and Pietro Lombardini (ONA, Ministry of Foreign and European Affairs).

Methodology

National reports are produced by the respective National Contact Points (NCPs) on the legal and policy situation in their Member State according to common specifications. Subsequently, a comparative synthesis report is generated by the European Commission with its service provider giving the key findings from each national report, highlighting the most important aspects and placing them as much as possible within an EU perspective. The various national accounts and the summary report are made publicly available.

The EMN engages primarily in desk research, i.e. it collects and analyses data and information already available or published at the Member State or international level. Legal texts, official documents (such as parliamentary documents) and reports have been used for this study. Furthermore, experts from the Directorate of Immigration of the Ministry of Foreign and European Affairs, the Detention Centre of the Ministry of Foreign and European Affairs, the Grand-Ducal Police, as well as the Ombudsman have been consulted.

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Detention and alternatives to detention in international protection and return procedures

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

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.

Since the 2014 EMN study on detention and alternatives to detention[1], Luxembourg has adopted a new Asylum Law, with the Law of 18 December 2015 on International Protection and Temporary Protection abrogating the amended Law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection.[2] This new Asylum Law transposed a number of dispositions of Directive 2013/32/EU (Recast Asylum Procedures Directive) and Directive 2013/33/EU (Recast Reception Conditions Directive) into national law. Particularly important in this context is the fact that the transposition of article 8 (4) of the Recast Reception Conditions Directive extended the alternatives to detention in the framework of international protection and in the framework of return procedures as foreseen by the Immigration Law. As a consequence, Luxembourgish legislation foresees three alternatives to detention:

- Alternative 1: Reporting obligations, which includes the obligation to surrender a passport, travel document or identity document;[3]
- Alternative 2: Home custody (+ electronic monitoring, if necessary);[4]
- Alternative 3: Deposition of a financial guarantee of 5.000€.[5]

Prior to the adoption of the new Asylum Law, Luxembourgish legislation only foresaw home custody as an alternative to detention in the international protection and return procedures.

A second important development in the context of alternatives to detention was the establishment of the Emergency Housing Structure of Kirchberg ('*Structure d'hébergement d'urgence Kirchberg*' – SHUK). The SHUK serves as a semi-open return facility for applicants for international protection and irregularly staying third-country nationals whose fingerprints have already been registered in Eurodac by another Member State and are therefore likely to be transferred to that Member State. A placement at the SHUK corresponds to home custody. The facility is also managed by the Detention Centre of the Ministry of Foreign and European Affairs.

Applicants of international protection (AIPs) in ordinary procedures and irregular migrants detected in the territory, persons who have been issued a return decision and irregular migrants detected at the border (in the case of Luxembourg, this only refers to Luxembourg Airport as an external border) can be placed in detention, as defined by the Asylum Law and the Immigration Law. Consequently, they can also see themselves being imposed an alternative to detention. In principle, this also includes persons belonging to vulnerable groups. However, it is important to highlight that, in practice, the Luxembourgish authorities generally do not detain vulnerable groups, nor are they assigned to home custody in the semi-open return facility SHUK. No formal assessment procedure exists in this context.

In principle, the assessment between detention or alternatives to detention is made at the same time as when the grounds for detention are considered, as long as the Directorate of Immigration has all the necessary information to decide if an alternative to detention can be ordered. This applies both for

international protection and for return procedures. Furthermore, the possibility to impose an alternative to detention is in principle systemically considered, as both relevant laws foresee that the detention decision is ordered in writing by the Minister on the basis of a case-by-case assessment, where necessary and if other less coercive measures cannot be effectively applied. While no specific individual assessment procedure exists in this context, it is important to note that the motives to place the person in detention over the ordering of an alternative to detention are specified in the decision that is notified to the person. An appeal can be made to the First instance Administrative Court. If, following judicial review, the detention has been found to be unlawful as a last resort, the detainee is released immediately.

As already mentioned, grounds for detention are generally rejected in favour of an alternative to detention if the person concerned falls within the category of vulnerable groups and if person is able to proof effective guarantees of representation to prevent the risk of absconding. This latter obligation on the third-country national to revert the legal presumption that there is a risk of absconding remains the main challenge because effective guarantees of representation are not defined by law. This is particularly challenging in the context of return procedures, where this legal presumption exists in nearly all cases where a third-country national has no valid identity, travel or residence documents. In the absence of such effective guarantees of representation, the Minister in charge of Immigration and Asylum generally does not make the decision to apply an alternative to detention. And although detention is motivated on a case-by-case basis, a quasi-automatic placement in detention is ordered in these cases. An additional reported challenge relates to the fact that most potential candidates for alternatives to detention do not fulfil a second key condition, namely an official address in Luxembourg. An official address is essential as it is one of the criteria that is taken into consideration when determining if there is a risk of absconding or not.

Consequently, the research in the context of this study has shown that alternatives to detention are only rarely used in Luxembourg, with the important exception of home custody in the SHUK for AIPs that are likely to be transferred to another Member State in accordance with the Dublin III Regulation. This can mainly be explained by the aforementioned challenges in this context, as well as by the related fact that the authorities do not consider them as being of much added value in the specific context of Luxembourg (e.g. small size of the country). In case home custody (as the most used alternative) is used in practice, outside of home custody in the SHUK, it is usually coupled with another alternative, i.e. either with the requirement to deposit a financial guarantee of 5.000€ or the obligation to surrender one's passport, travel document or identity document and to present oneself regularly to the Directorate of Immigration.

The rare use of alternatives to detention also results in the fact that there is generally not much data available in this regard, with the important exception of home custody in the SHUK which is more widely used. In contrast to the 2014 EMN study, however, the data provided by the Detention Centre was separated according to international protection and return procedures (see Q13-18 for more information).

An analysis of the data with regard to detention revealed that in the period 2017-2019, third-country nationals in return procedures represented the majority of detainees (overall share of 69.59% of all detainees). Furthermore, the data shows that the share of persons placed in detention that left the territory (either via return or Dublin transfer) was between around 64% and 74% in the context of return procedures, and between 84% and 94% in the context of international protection procedures.

As for the data regarding home custody in the SHUK, the data shows that the total number and share of Dublin transfers from the SHUK slightly increased from 2017 to 2019 (from 68 transfers in 2017 to 88 transfers in 2019, and an increase in the share from around 11% in 2017 to around 21% in 2019). However, they still remain very low in comparison to other outcomes, in particular compared to the rate of absconding which accounts for over 2/3 of the total outcomes in 2017 to 2019.

Please also refer to the conclusions for more analysis of the outcome of the research for this study.

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

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.

Detention with regard to international protection

The law of 18 December 2015 on International Protection and Temporary Protection (hereinafter Asylum Law), which entered into force on 1 January 2016, abrogated the amended law of 5 May 2006 on the Right of Asylum and Complementary Forms of Protection.[6]

It details and extends the cases in which an applicant for international protection can be placed in detention, namely only in the following cases:[7]

(a) for the purpose of establishing or verifying his or her identity or nationality;

(b) to determine the elements on which the application for international protection is based which could not be obtained without detention, in particular where there is a risk of absconding;

(c) where the protection of national security or public order so requires;

(d) in regard to a Dublin III Regulation[8] case procedure and where there is a risk of absconding based on a set of circumstances establishing that the applicant intends to abscond from the authorities for the sole purpose of obstructing a removal order;

(e) where the applicant is detained in the context of a return procedure to prepare for return and carry out removal and where there are reasonable grounds to believe that the applicant has submitted the application for international protection for the sole purpose of delaying or preventing the enforcement of the return decision when he or she had already had the opportunity to access the asylum procedure.

The law transposes article 26 of the Directive 2013/32/EU (Recast Asylum Procedures Directive) as well as articles 8 to 11 of the Directive 2013/33/EU (Recast Reception Conditions Directive).

The law states that minors may only be held in detention as a measure of last resort and after it has been established that no other less coercive measures can be applied effectively. Such detention should be for the shortest possible period of time.[9]

Only in cases where it is established that less stringent measures cannot be applied with reasonable certainty of effectiveness, a detention measure is ordered (see Q3).

[1] 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 law also includes the guarantees for applicants for international protection who are placed in detention set out in Article 9 (1) of the Recast Reception Conditions Directive.[10]

Furthermore, the law transposes paragraphs 4 and 5 of Article 9 of the Recast Reception Conditions Directive.[11]

The rules on legal assistance are applicable if an applicant for international protection is placed in detention.[12]

The law also amended Article 6 of the amended law of 28 May 2009 on the creation and organisation of the detention centre, in the sense that as a general rule, applicants for international protection who are placed in detention are separated from other third-country nationals who are in detention.[13]

Detention with regard to the return procedure

The Asylum Law also amended the amended law of 29 August 2008 on Free Movement of Persons and Immigration (hereinafter 'Immigration Law') allowing the placement in detention of third-country nationals to prepare the enforcement of a removal order or an application for transit by air or where the holding in the waiting area exceeds 48 hours unless other, less coercive measures can be effectively applied.[14] In other words, the extention of the alternatives to detention were also introduced into the Immigration Law (see Q3).

The law of 8 March 2017[15], amending the law of 28 May 2009 on the Creation and Organisation of the Detention Centre, extended the permitted period of detention of adults/families with children from 72 hours to 7 days to organize their return.[16]

This legislative amendment follows a recommendation of the Schengen acquis evaluation that a realistic and enforceable detention period should be provided for families with minors placed in the detention centre. During the parliamentary discussion, a motion was adopted inviting the Government to conduct an evaluation of the functioning of the detention centre as it was announced in the Government programme at the time, taking into account: 1) the recommendations made by the Ombudsman in 2014, 2) data on the number of families placed in detention in the detention centre and the average duration of their placement; and 3) the rules for receiving and supervising families and minors placed in detention (see Q20 for more information on the recommendations made by the Ombudsman).[17]

In any case, as is specified in the motion, unaccompanied minors and families with minors should only be held in detention as a measure of last resort and for the shortest possible period of time.[18] In practice, unaccompanied minors are not placed in detention.[19] As for adults/families with children, the maximum duration of 7 days has never been reached in practice (see Q4 for more information).[20]

The law of 4 December 2019[21] also amended the Immigration Law. The main amendment introduced the systematic verification by the Administrative Courts when the Minister in charge of Immigration and Asylum decides to extend the detention period beyond four months (after an initial detention period of 1 month, renewed three times for 1 month each).[22] In this case, the Minister must lodge a request with the President of the First instance Administrative Court within five days of the notification of the decision. Within ten days of the introduction of the request, the President of the First instance Administrative Court must take a decision. An appeal against the decision of the President can be filed before the Administrative Court.

This amendment implements one of the findings of the experts in the framework of the evaluation of the application of the Schengen acquis in the field of return which took place in 2016. They found that the Luxembourgish legislation was not in compliance with Article 15 (3) of Directive 2008/115/EC (Return Directive), which provides that "In each case, detention shall be reviewed at reasonable intervals, either at the request of the third-country national concerned or ex officio. In the case of prolonged periods of detention, the reviews shall be subject to review by a judicial authority."[23]

According to the 2018-2023 Coalition Agreement[24], the current detention system should be supplemented by structures better suited to the needs and current situation of different groups of people concerned. It is planned to create a specific structure for the detention of women, families and vulnerable persons. Once this specific structure has been created, the legislation on detention will be

adapted to ensure that children are no longer placed in the detention centre. The measure of detention is always a measure of last resort, if there are no applicable alternatives.[25]

Q2. 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)

The legislative procedure of the current Asylum Law, which began before the so-called migration crisis (2015-2017), introduced several amendments in the fields of return and detention.[26]

In the field of detention, the transposition of article 8 (4) of the Recast Reception Conditions Directive extended the alternatives to detention in the framework of international protection[27] and of the execution of a return decision[28] (i.e. home custody[29], which can be coupled with electronic monitoring[30], the deposition of a financial guarantee[31], and the obligation to report regularly to the authorities[32]). The alternatives of detention can be applied individually or jointly.[33]

Home custody as an alternative to detention was already foreseen in the abrogated Asylum Law and in the execution of a return decision foreseen in the Immigration Law,[34] but less detailed than in the new legislative text.

The electronic monitoring had already been discussed in a motion adopted by the Parliament on 9 June 2011 during the debate of the transposition of the Return Directive.[35]

To facilitate the transfer to another Member State of third-country nationals falling under the Dublin III Regulation, the Returns Department of the Directorate of Immigration established on 1 April 2017 the Emergency Housing Structure of Kirchberg ('*Structure d'hébergement d'urgence Kirchberg*' – SHUK), which serves as a semi-open return structure.[36] In essence, the SHUK concerns people whose finger prints have already been registered in Eurodac by another Member State and are therefore likely to be transferred to that Member State.[37] A placement at the SHUK corresponds to home custody.[38] The facility is managed by the Detention Centre of the Ministry of Foreign and European Affairs.

According to the 2018-2023 Coalition Agreement,[39] semi-open structures as alternatives to detention should be supplemented by structures better suited to the needs and current situation of different vulnerable groups concerned. In addition, efforts will be made to propose alternatives to detention. Thus, it is planned to replace the SHUK (which is of temporary nature), with a new permanent semi-open structure, to serve as an alternative to the detention centre, which should take into account the needs of minors, women and other vulnerable groups.

Q3. 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?
International Protection	***Applicants for international protection in ordinary procedures***	Yes	According to Article 22 (2) of the Asylum Law, an applicant for international protection (AIP) may be detained: a) to determine or verify his or her identity or nationality; b) to determine those elements on which the application for inter-national protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant; c) when protection of national security or public order so requires; d) in order to guarantee the transfer proce-dures in accordance with Article 28 of the Dublin III Regulation and where there is a risk of absconding based on a set of circumstances establishing that the	The Asylum Law foresees the following alternatives to detention: • Reporting obligations, which includes the obligation to surrender a passport, travel document or identity document[42] • Home custody (+ electronic monitoring, if necessary)[43] • Deposition of a financial guarantee[44]	The Minister in charge of Immigration and Asylum will order the AIP to be placed in detention or decide on an alternative to detention.[45] The notification of the detention decision is made by a member of the Grand-Ducal Police who has the status of judicial police officer.[46] An appeal against a detention order or against a decision ordering a less coercive measure (alternative to detention) shall be made to the First instance Administrative Court, which shall rule as a judge on the merits of the case. This appeal must be lodged within three

			AIP intends to abscond from the authorities for the sole purpose of obstructing a removal order; e) when he or she is detained subject to a return procedure to prepare the return and carry out the removal process, and where there are reasonable grounds to believe that the applicant has submitted the application for inter-national protection for the sole purpose of delaying or preventing the enforcement of the return decision when he/she had already had the opportunity to access the asylum procedure. Other grounds: If the AIP does not respect the obligations imposed to an alternative to detention granted to him/her, the Minister in charge of Immigration and Asylum will order the placement in detention.[40] Persons detained based on the Asylum Law can be detained for as short of a period as possible not exceeding 3 months. Without prejudice to the provisions of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 on detention, the detention measure may be renewed by the Minister each time for a period of 3 months as long as the grounds for detention still apply, but the total period of detention may not exceed 12 months.[41]		months of notification.[47]

	Applicants for international protection in border procedures	No[48]			
Return procedures	***Irregular migrants detected in the territory***	Yes	In order to prepare for the enforcement of a removal order[49] or an application for transit by air, or where detention in the holding area exceeds 48 hours, the foreigner may be detained in a closed structure, unless other less coercive measures can be effectively enforced. A foreigner is placed in detention if there is a risk of absconding. This risk, assessed on a case-by-case basis, is presumed in the following cases:[50] - if the foreigner does not fulfil the requirements of entry and stay in the territory[51]; - if the foreigner remains on the territory longer than his/her visa is valid (visa over-stayer), or in case no visa is needed, if s/he stays longer than 3 months[52]; - if the foreigner has withdrawn from the execution of a previous removal decision; - if an expulsion decision has been taken against the foreigner[53]; - if the foreigner has counterfeit, falsified or established under a name other than his/her own a residence permit, an identification document or a travel document; - if the foreigner cannot justify the possession of valid identification or travel documents[54], or if s/he has hidden elements of his/her identity, or if s/he has not	The Immigration Law foresees the following alternatives to detention: • Reporting obligations, which includes the obligation to surrender a passport, travel document or identity document[60] • Home custody (+ electronic monitoring, if necessary)[61] • Deposition of a financial guarantee[62]	The Minister in charge of Immigration and Asylum will order the irregular migrant to be placed in detention.[63] The notification of the detention decision is made by a member of the Grand-Ducal Police who has the status of judicial police officer.[64] Against the decision regarding a placement in detention, an appeal is opened before the First instance Administrative Court, which rules as judge of the merits.[65] Against the decision of the First instance Administrative Court an appeal may be lodged with the Administrative Court.[66]

			declared the location of his/her actual residence, or does not respect the order to leave the territory or the terms of home custody. In the absence of effective guarantees of represent-tation to prevent the risk of absconding, the Minister generally does not make the decision to apply an alternative to detention.[55] Other grounds of detention: - the person represents a threat to public order, public or national security;[56] - the person avoids or hampers the preparation of a return or removal process;[57] - in the event of failure to comply with the obligations imposed by the Minister in the framework of an alternative to detention, the measure is revoked and placement in detention is ordered.[58] Persons detained on the basis of the Immigration Law can be detained for 1 month and the decision can be renewed each time for another month up to 6 months in total.[59]		
	Persons who have been issued a return decision	Yes	See above.	See above.	See above.
	Irregular migrants detected at the border	Yes[67]	According to article 120 in relation with articles 119 and 104 of the Immigration Law: - In case of entry of an individual who arrives at the external border in an irregular situation (without residence permit or visa), the person will be issued	N/A As mentioned in the left column, in case the holding in the waiting area exceeds 48 hours, the individual will be placed in the detention centre. No alternative to	The control service at Luxembourg Airport will issue and notify a refusal to enter decision and the individual will be detained in the waiting area of the airport for 48 hours.[70]

			and notified a refusal to enter decision. The person can be detained in the waiting area of the airport for 48 hours. S/he is allowed to contact any person of her/his choosing, her/his consulate or lawyer. In case the removal of the foreigner cannot be executed during the next 48 hours, the individual will be placed in the detention centre.[68]	detention is imposed in this context.[69]	In case the removal of the foreigner cannot be executed during the next 48 hours, the individual will be placed in the detention centre on decision of the minister.[71] Against the decision on a placement in detention, an appeal is opened before the First instance Administrative Court, which rules as judge of the merits.[72] Against the decision of the First instance Administrative Court an appeal may be lodged with the Administrative Court.[73]

Q4. 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.

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

Yes. In principle, the law does not prevent the placement in detention of persons belonging to vulnerable groups, such as unaccompanied minors, disabled or elderly people, pregnant women, persons with serious illnesses and persons with mental disorders, families with children or single parents with children, or victims of human trafficking.[74] The same goes for the imposition of alternatives to detention, as they are less coercive measures imposed to persons that would otherwise be placed in detention.[75]

According to the amended law of 28 May 2009 on the creation and organisation of the detention centre[76], in case they are/would be placed in detention, special attention is paid to the situation of vulnerable persons, such as minors, unaccompanied minors, disabled people, elderly persons, pregnant women, single parents with minor children and persons, who have been victims of torture, rape or other serious forms of psychological, physical or sexual violence.

However, it is important to highlight that vulnerable groups are generally not detained in Luxembourg. As reported by the competent authorities, this only happened on very rare occasions in the past as this is generally avoided.[77] This also applies to home custody in the semi-open return structure SHUK for applicants of international protection who are likely to be transferred to another Member State in accordance with the Dublin III Regulation.[78] In addition, the Detention Centre reported that they are not adequately equipped to accommodate, for example, disabled people.[79]

Furthermore, in the context of international protection, it is important to highlight that female AIPs and families with children falling under the Dublin III Regulation are not assigned to home custody in the semi-open return structure SHUK.[80]

	International protection procedures *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** *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*
Unaccompanied Minors (UAMs)	Yes. The Asylum Law[81] states that unaccompanied minors (UAMs) can be detained as a measure of last resort and after it has been determined that other less coercive measures cannot be effectively applied. Such detention shall be for the shortest possible period of time. Unaccompanied minors may only be detained in exceptional circumstances. The UAM can not be placed in a unit for adult men or women. In practice, however, UAMs are not placed in detention or ordered an alternative to detention.[82]	Yes, as mentioned above, it is in principle possible. However, the Immigration Law states that UAMs may be detained in an appropriate place adapted to the needs of their age. The best interests of the child shall be taken into account.[83] The UAM could therefore not be placed in a unit for adult men or women. However, it is important to note that, in practice, UAMs are neither placed in detention, nor imposed an alternative to detention or returned.[84]
Disabled people	Yes, as mentioned above, detention is in principle possible. However, this was only used on very rare occasions in the past, for the shortest possible time, as the detention centre is not adequately equipped.[85] The special needs and conditions of these detainees will be taken into consideration.[86] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) allows it.[87]	Yes, as mentioned above, detention is in principle possible. However, this was only used on very rare occasions in the past, for the shortest possible time, as the detention centre is not adequately equipped.[88] The special needs and conditions of these detainees will be taken into consideration.[89] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) allows it.[90]
Elderly people	Yes, as mentioned above, detention is in principle possible. However, this was only used on very rare occasions in the past. The oldest person that has been detained, where the person's age was known, was around 75 years of age.[91] The special needs and conditions of these detainees will be taken into consideration.[92] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) allows it.[93]	Yes, as mentioned above, detention is in principle possible. However, this was only used on very rare occasions in the past. The oldest person that has been detained, where the person's age was known, was around 75 years of age.[94] The special needs and conditions of these detainees will be taken into consideration.[95] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) allows it.[96]
Families with children and single parents with minor	Yes, as mentioned above, detention is possible and is also used in practice on rare occasions.[97] In accordance with the law, an adult/family accompanied by minor(s) cannot be detained for more than seven days.[98] On average, the concerned individuals do not stay longer than	Yes, as mentioned above, detention is in principle possible and is also used in practice on rare occasions.[102] In accordance with the law, an adult/family accompanied by minors cannot be detained for more than seven days.[103] On average,

	48 hours in the detention centre.[99] Furthermore, it should be noted that this has become increasingly rare in recent years.[100] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) allows it.[101]	the concerned individuals do not stay longer than 48 hours in the detention centre.[104] Furthermore, it should be noted that this has become increasingly rare in recent years.[105] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) concerned allows it.[106]
Persons with serious illnesses and persons with mental disorders	Yes, as mentioned above, detention is in principle possible. The special needs and conditions of these detainees will be taken into consideration.[107] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) allows it.[108]	Yes, as mentioned above, detention is in principle possible. The special needs and conditions of these detainees will be taken into consideration.[109] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) allows it.[110]
Victims of human trafficking	No. These persons may be eligible to be granted a period of reflection and a residence permit for victims of trafficking in human beings if the conditions set out by the Immigration Law are met.[111]	No. These persons may be eligible to be granted a period of reflection and a residence permit for victims of trafficking if the conditions set out by the Immigration Law are met.[112]
Pregnant women	Yes, as mentioned above, detention is in principle possible. Pregnant women have already been detained in Luxembourg and received special care from the medical staff.[113] Decisions on placement in detention are taken case-by-case. The special needs and conditions of these detainees will be taken into consideration.[114] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) allows it.[115]	Yes, as mentioned above, detention is in principle possible. Pregnant women have already been detained in Luxembourg and received special care from the medical staff.[116] Decisions on placement in detention are taken case-by-case. The special needs and conditions of these detainees will be taken into consideration.[117] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) allows it.[118]
Other vulnerable persons: **Persons who have been victims of torture, rape or other serious forms of psychological, physical or sexual violence**	Yes, as mentioned above, detention is in principle possible. However, in practice, this is only very rarely the case. The special needs and conditions of these detainees will be taken into consideration.[119] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) allows it.[120]	Yes, as mentioned above, detention is in principle possible. However, in practice, this is only very rarely the case as these persons would be eligible to apply for a residence permit for humanitarian reasons of exceptional gravity.[121] The special needs and conditions of these detainees will be taken into consideration.[122] Furthermore, it is in principle also possible to impose alternatives to detention if the individual situation of the person(s) allows it.[123]

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.

Q5. 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.

Three different alternatives to detention for third-country nationals are foreseen in the Immigration Law and the Asylum Law, namely:

- Reporting obligations (A1 below) + obligation to surrender a passport, travel document or identity document (A2 below)
- Home custody (A4 below) (+ electronic monitoring (A6 below), if necessary)
- Deposition of a financial guarantee (A5 below).

However, the jurisprudence of the Administrative Courts is clearly stating that "As a general rule, it is common ground that, because of its effects of deprivation of liberty, detention must be regarded as an ultima ratio and must be imposed only in cases where any other appropriate measure to ensure the presence of the person concerned at the place to which he is legally bound - home, residence, house arrest with or without electronic surveillance measures, etc. - is assured and any risk of absconding can reasonably be reduced."[124]

Furthermore, in the context of return procedures, article 125 (1) of the Immigration Law stipulates that it is only possible to order an alternative to detention if the execution of an obligation to leave the territory has been postponed for technical reasons and if proper guaranties to avoid the risk of absconding can be presented.[125]

In practice, however, alternatives to detention are only rarely used in Luxembourg, with the important exception of home custody for international protection applicants or irregularly staying third-country nationals falling under the Dublin III Regulation.[126] These persons are generally assigned to home custody in the semi-open return structure SHUK as they are likely to be transferred to another Member State.[127]

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) *Please provide information on how often and to which authority persons subject to this measure should report.* According to article 22 (3) a) of the Asylum Law and article 125 (1) a) of the Immigration Law, this measure also includes the obligation to surrender a passport and any identity document (see A2 below). The foreigner or applicant for international protection has to regularly report, at intervals to be fixed by the Minister in charge of Immigration and Asylum, before the	**Yes**

	services of the Directorate of Immigration or any other authority designated by the Minister.[128] In principle, the Grand-Ducal Police could be such authority. However, this is not applied in practice.[129] In practice, however, reporting obligations as an alternative to detention is only rarely used, which is why no general information can be provided regarding the intervals at which the person should report to the Directorate of Immigration. If applied, the intervals are determined on a case-by-case basis.[130]	
A2	Obligation to surrender a passport, travel document or identity document This requirement is not an alternative to detention in itself, but according to article 22 (3) a) of the Asylum Law and article 125 (1) a) of the Immigration Law, it is included in the reporting obligations (see A1 above).	**Yes**, but not a standalone alternative (it is included in A1)
A3	Requirement to communicate the address to authorities (including requesting permission for absences/changing the address) This requirement is not an alternative to detention in itself. However, in order to benefit from home custody, the person concerned has to communicate a fixed address to the authorities.[131] Furthermore, for rejected applicants for international protection, this applies indirectly as they might be allowed to remain in the reception centre. Thereby, the authorities are aware of the address of the person. However, it is important to stress that this is not considered an alternative to detention (see A10 point 2) below for more information).[132]	**Yes**, but not a standalone alternative (necessary prerequisite in order to be awarded an alternative to detention)
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.* This requirement is foreseen in article 22 (3) b) of the Asylum Law and article 125 (1) b) of the Immigration Law and can only be imposed if the third-country national is able to communicate a fixed address to the authorities (see above).[133] Third-country nationals falling under the Dublin III Regulation are generally assigned to home custody in the semi-open facility SHUK[134] to facilitate their transfer to another Member State.	**Yes**
A5	Release on bail (with or without sureties) *Please provide information on how the amount is determined; whether this can be paid by a third person/entity (e.g. family member, NGO or community group); and at what point the money is returned.* The deposition of a financial guarantee is foreseen in article 22 (3) c) of the Asylum Law and article 125 (1) c) of the Immigration Law, but used only very few times.[135] The financial guarantee is fixed by law to an amount of 5.000€ and can be paid by the third-country national him-/herself or by a third party.[136] The third party can either be an individual (such as a family member) or an organisation.[137] If applied in practice, it is usually the lawyer that provides	**Yes**

	the Directorate of Immigration with the proof of payment of the financial guarantee (see below for more information).[138] In the context of international protection, the financial guarantee shall be returned if the grounds for detention are no longer applicable or in the event of voluntary return.[139] In the context of return procedures, the financial guarantee shall be returned in the event of voluntary return.[140]	
A6	Electronic monitoring (e.g. tagging) Electronic monitoring is not an alternative to detention in itself, but it can be coupled with home custody (see A4 above).[141] However, in practice, electronic monitoring was not yet used due to the technical complexity of its implemention.[142]	**Yes**, but not as a standalone alternative (it is included in A4 and can be applied if necessary)
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. 1. It is important to add that the Asylum Law and the Immigration Law foresee that the measures can be applied individually or cumulatively.[143] 2. In addition to the alternatives to detention laid down in the Asylum Law and Immigration Law reported above, one can also add an administrative practice applied by the Luxembourgish authorities, namely the practice that rejected applicants for international protection (AIPs) can stay in the reception facilities if they agree to cooperate in a voluntary return, without being put in detention.[144] This practice is mainly applied for two reasons: 1) the Luxembourgish authorities apply a standard policy of not leaving rejected AIPs without accommodation, especially if they cooperate in a voluntary return; 2) the absence of an alternative facility, namely a specific return structure, that could accommodate rejected AIPs and families with children.[145] It is, however, important to stress that this administrative practice is not an alternative to detention as no assignment to home custody is ordered in these cases.[146]	

Q5.1 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 Directorate of Immigration reported that the order of the most often used alternatives in Luxembourg is the following:

- Home custody;
- Deposition of a financial guarantee;
- Reporting obligations, which includes obligation to surrender a passport, travel document or identity document.[147]

However, it is important to note that, in practice, all three alternatives are rarely used in Luxembourg because there are some significant challenges related to them (see Q6 for more details).

One important exception in this regard is the usage of home custody in the semi-open return structure SHUK for applicants for international protection that are likely to be transferred to another Member State in accordance with the Dublin III Regulation (see Table 2.2 in Q5.2. for more information).[148] In these cases, the AIPs are not required to communicate an address to the authorities, as they are assigned to a facility that is managed by the Ministry of Foreign and European Affairs, more specifically by the Detention Centre. It is important to note in this context that Luxembourg does not have external borders, with the exception of Luxembourg Airport, and is therefore confronted with a significant share of AIPs coming from other Member States, in particular neighbouring countries. As a consequence, transfer decisions in accordance with the Dublin III Regulation accounted for 30% of all decisions regarding international protection over the last five years.[149]

As for the other two alternatives, they are only very rarely used in the context of international protection because there are generally not many cases where detention is used in this context.[150] In case detention would be necessary in these cases, many AIPs would not fulfill the requirements set out in the Asylum Law to be awarded alternatives to detention, namely the requirement to have an official address, the financial guarantee of 5.000€ and/or a passport or other travel or identity documents.[151]

Alternatives to detention are particularly rarely used with regard to return procedures because of the presumption of the risk of absconding in combination with the small size of Luxembourg (see also Q6 and Q8 for more information).[152] For persons who have been issued a return decision and did not leave the country during the period awarded for voluntary return (in general, 30 days[153]), the alternatives to detention are of limited added value and are considered ineffective because the persons concerned do not want to be returned.[154]

If home custody (as the most used alternative) is used in practice, outside of home custody in the SHUK, it is usually coupled with another alternative, i.e. either with the requirement to deposit a financial guarantee of 5.000€ or the obligation surrender one's passport, travel document or identity document and to to present oneself regularly to the Directorate of Immigration.[155]

Due to the rare usage of alternatives to detention, there is not much data available on their usage, with the aforementioned exception of home custody in the SHUK (see Q13-Q18 for more information).

Lastly, as mentioned in table 2.1. above (see A10 point 2), in case rejected applicants for international protection cooperate in view of a voluntary return, they can generally stay in the reception facility until their return. However, it should be repeated that this is an administrative practice applied by the Luxembourgish authorities that is not defined or prescribed by the law.

Q5.2 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

A1 + A2 – Reporting obligations, which includes the obligation to surrender a passport, travel document or identity document	
In what it consists, and maximum duration	This alternative to detention is defined as an obligation upon the applicant for international protection[156] or

	the foreigner to regularly report, at intervals to be fixed by the Minister in charge of Immigration and Asylum, before the services of the Directorate of Immigration or any other authority designated by the Minister.[157] As mentioned in Table 2.1., in principle, the Grand-Ducal Police could be such an authority. However, this is not applied in practice, among others because of the fact that there would be no added value due to the small size of the country.[158] This measure also includes the obligation for the person to hand over his/her original passport and any other supporting document proving his/her identity in exchange for a receipt justifying the identity.[159] It is important to mention that the AIPs must hand over, in return for a receipt, their identity documents and other documents relevant for the examination of the application for international protection.[160] These documents will be returned once they have been granted refugee or subsidiary protection status, with the exception of the travel and identity documents which will not be returned to the person recognised as a refugee within the meaning of the Geneva Convention.[161] Furthermore, the measure of reporting obligations can be coupled with the other two alternatives to detention[162], namely home custody[163] and the deposition of a financial guarantee.[164] No maximum duration is foreseen for this measure. In the context of return procedures, no maximum duration is foreseen in this regard because the person has been issued a return decision and is obligated to leave the country.[165] At the same time, one should keep in mind that an alternative to detention is imposed instead of a placement in detention, which is limited in time in accordance with the Asylum Law and the Immigration Law (see Q3 above).
Legal basis (law, soft law, other guidance). Please provide reference to the original sources	Article 22 (3) a) of the Asylum Law Article 125 (1) a) of the Immigration Law
Is it used in practice? Please provide any available data for the period 2015-2020	Yes, this alternative is used in practice, but only on very rare occasions.[166] There is no data available.[167]
National authorities responsible to administer the alternative	Minister in charge of Immigration and Asylum Directorate of Immigration, Refugees or Returns Department (depending on whether it was applied in accordance with the Asylum Law or the Immigration Law)

Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)	No.
Obligations attached to the granting of the alternative (if relevant)	In addition to the obligations mentioned in the first row of this alternative, it should be noted that in the context of return procedures, the person concerned has the additional obligation to voluntary leave the territory[168] and to provide the necessary proof in this regard.[169]
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?)	In the event of failure to comply with the obligations imposed by the Minister or in the event of a risk of absconding, the measure shall be revoked and the placement in detention is ordered.[170] The decision is taken on a case-by-case basis and the reason for revoking the measure is notified in the corresponding decision.[171]
Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)	The obligation to regularly present oneself before the services of the Directorate of Immigration or any other authority designated by the Minister is in itself a mechanism to monitor the compliance of the third-country national.
Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.	N/A
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	No, as it is very rarely used in practice.[172]

A4 (+A6) – Requirement to reside at a designated place (home custody/arrest) (+ electroning monitoring, if necessary)	
In what it consists, and maximum duration	The person is required to reside in a specific place established by the Minister in charge of Immigration and Asylum if the applicant for international protection or the foreigner presents adequate guarantees of representation to prevent the risk of absconding.[173] In order to be able to present these adequate guarantees of representation, the person concerned is required to communicate an official address in Luxembourg to the Directorate of Immigration. In the absence of an official address, this alternative cannot be ordered.[174] The situation is different for AIPs and irregularly staying third-country nationals in a Dublin procedure, as they are automatically placed in house custody at the semi-open return structure SHUK even before the Refugees

	Department (Dublin Unit) has taken a transfer decision.[175] The Asylum Law does not fix a maximum duration of time for home custody.[176] In practice, home custody for AIPs in a Dublin procedure is assigned for 3 months.[177] The measure may be renewed by the Minister each time for a period of 3 months as long as the grounds for detention still apply, but the total period may not exceed 12 months.[178] The Immigration Law foresees a maximum duration of 6 months.[179] At the same time, it needs to be reminded that the person has been issued a return decision and is obligated to leave the country.[180] Furthermore, this measure can be coupled with electronic monitoring, if necessary.[181] Electronic monitoring prohibits foreigners from leaving the perimeter set by the Minister. The law stipulates that the enforcement of the measure is monitored by means of a procedure enabling remote detection of the presence or absence of the foreigner within the predefined perimeter. The implementation of this procedure may result in the imposition on the foreigner, for the entire duration of the placement under electronic monitoring, of a device incorporating an issuer. The procedure used is approved for this purpose by the Minister. Its implementation must guarantee respect for the dignity, integrity and privacy of the individual. The implementation of the technical device enabling remote monitoring and of the remote monitoring itself may be entrusted to a person governed by private law.[182]
Legal basis (law, soft law, other guidance). Please provide reference to the original sources	Article 22 (3) b) of the Asylum Law Article 125 (1) b) of the Immigration Law
Is it used in practice? Please provide any available data for the period 2015-2020	Yes. However, the answer needs to be differentiated. Home custody is used with regard to applicants for international protection and irregularly staying third-country nationals who are likely to be transferred to another EU Member State in accordance with the Dublin III Regulation to the SHUK.[183] Home custody to another place than the SHUK is only very rarely used in the context of international protection procedures.[184] Furthermore, it is also very rarely used in the case of return procedures for irregularly staying migrants outside the international protection procedure as the Immigration Law requires that the applicant presents effective guarantees of representation to prevent the risk of absconding[185] and in most of the cases, irregular migrants are considered as persons with a risk of absconding.[186]

	For the reporting period of this study, there is only data regarding AIPs assigned to the SHUK in the context of the Dublin III Regulation (see above). This information is available from 1 April 2017 onwards as the SHUK was opened on that date (see also Q13 below for more detailed information). *Home custody in the SHUK for AIPs likely to be transferred to another Member State:*[187] 2017: 605 2018: 571 2019: 423 There is no data available regarding the number of individuals placed in house custody in other places than the SHUK in the context of international protection or in the context of return procedures because they are only very rarely used (see also Q13 and Q15, respectively, for more information).
National authorities responsible to administer the alternative	Minister in charge of Immigration and Asylum Directorate of Immigration, Refugees or Returns Department (depending on whether it was applied in accordance with the Asylum Law or the Immigration Law)
Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)	No.
Obligations attached to the granting of the alternative (if relevant)	The obligations established by the Asylum Law and/or the Immigration Law for granting home custody are the following: - The person is required to reside in a specific place established by the Minister[188]; - The person presents effective guarantees of representation to prevent the risk of absconding[189]; - The person must present himself/herself at the Directorate of Immigration when summoned by the Minister[190]; - The withholding of travel documents for applicants of international protection.[191] In the context of return procedures, the person concerned has the obligation to voluntary leave the territory[192] and to provide the necessary proof in this regard.[193] Furthermore, the measure of home custody can be coupled with with electronic monitoring, if necessary (see above),[194] as well as with the other two alternatives of detention[195], namely reporting

	obligations[196] and the deposition of a financial guarantee.[197]
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?)	In the event of failure to comply with the obligations imposed by the Minister or in the event of a risk of absconding, the measure shall be revoked and the placement in detention is ordered.[198] The decision is taken on a case-by-case basis and the reason for revoking the measure is notified in the corresponding decision.[199]
Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)	The Minister in charge of Immigration and Asylum can order specific controls to see if the measures are respected.[200] These controls are carried out by the Grand-Ducal Police.[201] With regard to home custody in the SHUK, a system is in place whereby the person is obligated to check themselves in and out in order to enter and leave the facility because the person is free to leave the facility during the day as it is a semi-open facility. However, they have to be in the facility during the night from 11pm until 8am (see also Q6 - 'Mechanisms to control movements of the person' below for more information).[202]
Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.	No.[203]
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	No, as it is very rarely used in practice.[204]

A5 – Deposition of a financial guarantee	
In what it consists, and maximum duration	The alternative consists in the obligation for the foreigner to deposit a financial guarantee of 5.000€, which can be paid by him-/herself or by a third party, to the "Caisse de Consignation".[205] The third party can either be an individual (such as a family member) or an organisation.[206] If applied in practice, it is usually the lawyer that provides the Directorate of Immigration with the proof of payment of the financial guarantee (see below for more information).[207] No maximum duration is foreseen for this measure in the Asylum Law or the Immigration Law. In the context of international protection, the financial guarantee shall be returned if the grounds for detention

	are no longer applicable or in the event of voluntary return (see also table 2.1 of Q5).[208] In the context of return procedures, the financial guarantee shall be returned in the event of voluntary return.[209] In case the person concerned agrees to be assisted by IOM in their return, the Directorate of Immigration is provided the necessary proof by IOM. If the person leaves the territory on his/her own, they will have to provide this proof to the Directorate of Immigration by themselves, for example by sending a copy of the ticket(s) and the passport/travel document proving they have left the Schengen area. Only after the Directorate of Immigration was provided with this proof will they proceed with the unblocking and reimbursement of the financial guarantee.[210] In the context of return procedures, no maximum duration is foreseen in this regard because the person has been issued a return decision and is obligated to leave the country.[211]
Legal basis (law, soft law, other guidance). Please provide reference to the original sources	Article 22 (3) c) of the Asylum Law Article 125 (1) c) of the Immigration Law
Is it used in practice? Please provide any available data for the period 2015-2020	Yes, this alternative is used in practice, but only on very rare occasions.[212] There is no data available.[213]
National authorities responsible to administer the alternative	Minister in charge of Immigration and Asylum Directorate of Immigration, Refugees or Returns Department (depending on whether it was applied in accordance with the Asylum Law or the Immigration Law)
Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)	No.
Obligations attached to the granting of the alternative (if relevant)	As previously mentioned, the third-country national has the obligation to provide the necessary proof that the financial guarantee of 5.000€ has been wired to the "Caisse de Consignation".[214] In the context of return procedures, the person concerned has the obligation to voluntary leave the territory[215] and to provide the necessary proof in this regard.[216] Furthermore, the measure of a deposition of a financial guarantee can be coupled with the other two alternatives of detention[217], namely reporting obligations[218] and home custody[219].
Consequences of non-compliance with the alternative (i.e. does non-compliance with an ATD automatically	In the event of failure to comply with the obligations imposed by the Minister or in the event of a risk of

leads to detention, or is this determined or a case-by-case basis?)	absconding, the measure shall be revoked and the placement in detention is ordered.[220] The decision is taken on a case-by-case basis and the reason for revoking the measure is notified in the corresponding decision.[221] In case the foreigner absconds or is forcefully returned, the financial guarantee shall be paid to the State. This applies also in case it was paid by a third party, i.e. the third party will also loose the deposited 5.000€ in case of absconding or forced return (see also Table 2.1 in Q5 above).[222]
Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)	There is no mechanism in place in this regard as the main obligation consists in providing the necessary proof that the financial guarantee of 5.000€ has been wired to the "Caisse de Consignation". Furthermore, the State has the information if the financial guarantee has been reimbursed or if it was acquired by the State.[223]
Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.	N/A
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	No, as it is very rarely used in practice.[224]

Q6. 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 Q7.

Before elaborating on the various practical challenges in more detail, it is important to stress that the practical implementation of all three alternatives to detention pose a general challenge in Luxembourg and are therefore perceived as being of limited added value (see also Q7 below).

Challenge	Alternative 1 – Reporting obligations, which includes the obligation to surrender a passport, travel document or identity document	Alternative 2 - Home custody (+ electroning monitoring, if necessary)	Alternative 3 – Deposition of a financial guarantee
Availability of facilities related to accommodation (i.e. beds)	In principle, the answer is no. However, there is the possible exception of rejected applicants for international protection who are allowed to stay in the reception facility until their voluntary return (see Q5 table 2.1. – A10 point 2)). In such cases, it could be possible that they would be required to regularly report to the Directorate of Immigration.[225] In this sense, if applied in many cases, this could pose a challenge for the availability of accommodation (i.e. beds) for AIPs in the reception facilities.[226] However, this is not applied in practice.[227] Furthermore, as previously mentioned, this is an administrative practice, without the coupling of reporting obligations, that is not considered an alternative to detention by the authorities.	No. The third-country national has the obligation to communicate an address to the Directorate of Immigration in order to be assigned to a designated place (home custody). In the absence of an address, home custody cannot be awarded to the person.[228] As for home custody in the SHUK for AIPs and irregularly staying migrants who are likely to be transferred to another Member State within the scope of the Dublin III Regulation, the current availability of facilties related to accommodation was not reported as posing a challenge. To date, the maximum capacity of the SHUK has never been reached.[229]	N/A
Availability of staffing and supervision	No, the availability of staffing and supervision was not reported as posing a challenge because the practical implementation of the alternative is so rare that it is covered by the staff	In principle, the answer is similar to the answer provided for alternative 1 (see left column).[232] Overall, its added value is limited and its implementation therefore very rare.[233]	No, this measure does not require additional staff or supervision.[236]

	working for the Directorate of Immigration.[230] At the same time, it was reported that there would be an administrative burden to a certain degree, with not much added value for the authorities.[231]	In addition, with regard to the aspect of the electronic monitoring, the Returns Department of the Directorate of Immigration reported that the absence of specialised staff to implement and supervise the measure is one of the reasons why it has not yet been implemented so far. At the same time, due to the limited added value of the measure, the hiring of specialized staff is not being considered because the administrative costs would be too high (see next point below).[234] As for home custody in the SHUK, the availability of staffing and supervision was not reported as posing a challenge. Furthermore, there have always been funds available to hire more supervision staff in case of need.[235]	
Administrative costs	No, the additional administrative costs are considered to be minor.[237]	In principle, the additional administrative costs are considered to be minor,[238] with two important exceptions: a) As indicated above, the implementation of the electronic monitoring would entail significant administrative costs. Coupled with its limited added value, this is one of the reasons why this measure has not yet been implemented so far.[239] b) The administrative costs of home custody in the SHUK for AIPs who are likely to be transferred to another Member State within the scope of the Dublin III Regulation are significant. In fact, operational costs, including staff costs, of the SHUK are similar to, or rather a little lower than, those of the detention centre. This is because most services provided are similar, with the exception of medical care which is not directly provided in the SHUK (as is the case in the detention	No, the additional administrative costs are considered to be minor.[241]

		centre, see also Q22 'right to health' for more details).[240]	
Mechanisms to control movements of the person	N/A	Yes, with regard to the 'general' home custody, as there is no mechanism to control movements of the person that is applied in practice. As was mentioned before, the electroning monitoring would be such a mechanism which, however, has not yet been implemented so far. Therefore, it is difficult to monitor if the individual remains in home custody or not.[242] If applied in practice, this alternative is often coupled with reporting obligations (alternative 1) in view of being able to monitor if the person is still on the territory.[243] Furthermore, as mentioned in table 2.2 above, the Minister in charge of Immigration and Asylum can order specific controls by the Grand-Ducal Police to see if the measures are respected.[244] By contrast, the answer is different for home custody in the SHUK. In this context, a system is in place whereby the person is obligated to check themselves in and out in order to enter and leave the facility because the person is free to leave the facility during the day as it is a semi-open facility. However, they have to be in the facility during the night from 11pm until 8am.[245] So, on the one hand, this does not pose a challenge because there is a system in place that allows to control the movements of the person coming in and going out of the facility.[246] On the other hand, as the SHUK is a semi-open facility, the person is allowed to leave the facility and therefore can abscond during the day and not return to the facility. In practice, this happens on many occasions (see also Q13 and Q18 for more information).[247]	N/A
Legislative obstacles	In principle, the answer is no because the alternative to detention itself is foreseen by the Asylum Law and the Immigration Law.[248]	In principle, the answer is no because the alternative to detention itself is foreseen by the Asylum Law and the Immigration Law.[254] See answer to left column.	In principle, the answer is no because the alternative to detention itself is foreseen by the Asylum Law and the Immigration Law.[260]

	However, the definition of guarantees to avoid the risk of absconding[249] remains a major challenge in the field of alternatives to detention, particularly in the context of return procedures. In the absence of effective guarantees of representation to prevent the risk of absconding, the Minister generally does not make the decision to apply an alternative to detention.[250] The guaranteed legal representation is not defined in the law and the burden of proof for reverting the legal presumption that there is a risk of absconding lays on the third-country national.[251] In most cases, they fail to provide the evidence enabling to reverse the legal presumption of the existence of a risk of absconding, which has allowed the Minister to use a detention measure instead of another less coercive measure.[252] As long as the concerned third-country national is unable to indicate a fix address of stay (reception facilities are not taken into account), the competent authorities cannot rule out the existence of a risk of absconding.[253]	Home custody is linked to the guarantee to prevent the risk of absconding. As reported in the left column, a major challenge is the definition of the guarantees to avoid the risk of absconding of the concerned person. The scope under which the benefit can be granted is indeed very limited as the evaluation to determine whether there is a risk of absconding or not is based in most cases on situations specified in the legislation.[255] In the written decision to detain a person, it is often notified that home custody is not an option for the concerned person – the counter-argument used is the risk of absconding.[256] However, the Administrative Court has indicated how to balance these two arguments for taking a decision.[257] Experience shows that home custody as an alternative measure in a country like Luxembourg is problematic. Controls by the Grand-Ducal Police of persons who had been granted home custody often result in the detection that they did not reside at the fixed address anymore and had absconded.[258] Therefore, the precaution has been taken more often lately to argue against home custody using the risk of absconding and to record this in the notification for the detention of the concerned person.[259]	See answer to left column with regard to the general challenge of the definition of guarantees to avoid the risk of absconding. Furthermore, the amount of 5.000€ foreseen by the Asylum Law and the Immigration Law is significant. As a consequence, most AIPs or irregular migrants do not have the financial means to obtain a bail of 5.000€[261] or it is difficult for them provide the necessary proof as to the seriousness of the proposal.[262]
Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support)	Yes, the third-country national must provide efficient guarantees of representation to prevent the risk of absconding (see above). This means that they have to communicate an official address in Luxembourg to the authorities. As most potential candidates for this alternative are unable to provide this necessary proof, this alternative to detention	Yes, in that the practical implementation of home custody as an alternative to detention is problematic because most potential candidates do not have a fixed address in Luxembourg, which is a necessary prerequisite in order to be awarded home custody (see also left column, and see also above).[264] Furthermore, as mentioned above, it is often difficult for the persons concerned to provide the necessary proof as to the seriousness of the proposal (see previous point	Yes, the substantial amount of the financial guarantee of 5.000€ makes the practical implementation of this measure difficult (see also previous point regarding 'legislative challenges' above).[267]

	is only ordered in very rare cases.[263]	regarding 'legislative challenges' above).[265] With regard to home custody in the SHUK, this was not reported as posing a challenge because the SHUK accommodates those persons that are assigned to the facility.[266]	
Other challenges	N/A	As previously mentioned, although the Law foresees the possibility of coupling home custody with electronic monitoring, the latter has not yet been implemented in practice.[268] With regard to home custody in the SHUK, the competent authority reported that the main challenge was the temporary nature of the facility itself and that it did not necessarily meet the standards they would imagine.[269] As reported in Q1 and Q2 above, the current Coalition Agreement stipulates that it is planned to replace the SHUK (which is of temporary nature), with a new permanent semi-open structure.[270]	N/A

Q7. 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 Q6:

Advantage	Alternative 1 – Reporting obligations, which includes the obligation to surrender a passport, travel document or identity document	Alternative 2 – Home custody (+ electroning monitoring, if necessary)	Alternative 3 – Deposition of a financial guarantee
Availability of facilities related to accommodation (i.e. beds)	An effective implementation of this alternative could have a positive impact on the availability of accommodation in the reception facilities (in the case, for example, of rejected applicants for international protection that are allowed to stay after their negative decision and before their departure) or in the detention centre.[271]	See answer to alternative 1. Furthermore, the Detention Centre reported that home custody in the SHUK may lead to a decrease in the number of persons placed in detention in the context of Dublin transfers. As a consequence, this could have a positive impact on the availability of facilities related to accommodation in the detention centre for persons not falling under the Dublin III Regulation.[273]	See answer to alternative 1.

	However, as mentioned above, the practical implementation of this alternative poses challenges, thereby rendering the alternative inefficient.[272]	At the same, the Detention Centre pointed out that AIPs likely to be transferred to another Member State still represent a significant share of persons placed in detention due to the risk of absconding in those cases (see also Table 6 in Q18 below).[274]	
Availability of staffing and supervision	The Directorate of Immigration reported that this would not constitute an advantage.[275]	The Directorate of Immigration reported that this would not constitute an advantage.[276] Furthermore, the detention centre reported that this would not constitute an advantage with regard to home custody in the SHUK.[277]	The Directorate of Immigration reported that this would not constitute an advantage.[278]
Administrative costs	The Directorate of Immigration reported that this would not constitute an advantage.[279]	The Directorate of Immigration reported that this would not constitute an advantage.[280] Furthermore, the detention centre reported that this would not constitute an advantage with regard to home custody in the SHUK.[281]	The Directorate of Immigration reported that this would not constitute an advantage.[282]
Mechanisms to control movements of the person	The Directorate of Immigration reported that this would not constitute an advantage.[283]	The Directorate of Immigration reported that this would not constitute an advantage.[284] Furthermore, the detention centre reported that this would not constitute an advantage with regard to home custody in the SHUK.[285]	The Directorate of Immigration reported that this would not constitute an advantage.[286]
Legislative obstacles	The Directorate of Immigration reported that this would not constitute an advantage.[287]	The Directorate of Immigration reported that this would not constitute an advantage.[288] Furthermore, the detention centre reported that this would not constitute an advantage with regard to home custody in the SHUK.[289]	The Directorate of Immigration reported that this would not constitute an advantage.[290]
Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support)	The Directorate of Immigration reported that this would not constitute an advantage.[291]	The Directorate of Immigration reported that this would not constitute an advantage.[292] Furthermore, the Detention Centre reported that this would not constitute an advantage with regard to home custody in the SHUK.[293]	The Directorate of Immigration reported that this would not constitute an advantage.[294]
Other advantages	N/A	N/A	N/A

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.

Q8. 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

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?*

In principle, the assessment between detention or alternatives to detention is made at the same time as when the grounds for detention are considered.[295] If the Directorate of Immigration finds that the third-country national applying for international protection falls within the scope of the Dublin III Regulation, he/she will automatically be assigned to home custody in the SHUK[296], unless there is a risk of absconding based on a set of circumstances establishing that the applicant intends to abscond from the authorities for the sole purpose of obstructing a removal order.[297]

As for irregular migrants detained in the detention centre that express the wish to apply for international protection, see 'Return procedure' below.

According to article 22 (3) of the Asylum Law, the detention decision is ordered in writing by the Minister on the basis of a case-by-case assessment, where necessary and if other less coercive measures cannot be applied in an effective manner.

ii. *In what circumstances are the grounds for detention rejected in favour of an alternative to detention?*

Grounds for detention are generally rejected in favour of an alternative to detention if the person concerned falls within the category of vulnerable groups (see Q4 for more information)[298] or, in more general terms, if less coercive measures can be applied in an effective manner.[299] However, as mentioned in Q5.1 above, alternatives to detention are only vary rarely used in the context of international protection, with the important exception of home custody in the SHUK.

All AIPs falling within the scope of the Dublin III Regulation, and therefore are likely to be transferred to another Member State, are in principle automatically assigned to the semi-open return structure SHUK since 1 April 2017 (unless they pose a threat to public order etc.), except for vulnerable groups, such as women and families with children.[300] In the event that AIPs are identified in the Eurodac system as having applied for international protection in another EU Member State, they are assigned to home custody in the SHUK.[301]

AIPs falling within the scope of the Dublin III Regulation are only placed in detention if there is a risk of absconding based on a set of circumstances establishing that the applicant intends to abscond from the authorities for the sole purpose of obstructing a removal order.[302] This can either happen upon detection in the Eurodac system or prior to their removal.[303]

The establishment of the SHUK has led to the fact that the number of AIPs in detention likely to be transferred to another Member State has decreased since (see Table 6 in Q18 for more information).

In practice, vulnerable persons are not put in detention nor in home custody in the SHUK.

In Luxembourg, persons in Dublin procedures are mostly not detained until the responsible Member State accepts to receive the person and the removal of the person can be organised. This good practice avoids an overload in the detention centre as well as an unnecessary detention of the concerned persons.

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)?*

Yes, as mentioned above, vulnerable groups are generally not placed in detention or placed in home custody in the SHUK. AIPs falling within the scope of the Dublin III Regulation are only placed in detention if there is a risk of absconding based on a set of circumstances establishing that the applicant intends to abscond from the authorities for the sole purpose of obstructing a removal order (see point ii above).[304]

In principle, the country of origin or the level of cooperation of the country of origin of the AIP does not play a role in this context.[305]

iv. *Which authorities are involved in the procedure, please specify the respective role (i.e. consultative, decision maker)?*

The placement in detention or the ordering of an alternative to detention of AIPs is ordered by the Minister in charge of Immigration and Asylum[306], through the Refugees Department of the Directorate of Immigration.

The administrative courts are not involved in the decision ordering a placement in detention or an alternative to detention,[307] but are only involved in the appeal procedure (see also Q3 for more information).[308]

Return procedure

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?*

Yes. In principle, the assessment between detention or alternatives to detention is made at the same time as when the grounds for detention are considered,[309] as long as the Directorate of Immigration has all the necessary information to decide if an alternative to detention can be ordered.[310] For example, it is possible that, in practice, an irregular migrant only provides information on a family member with a legal residence in Luxembourg after a certain period of stay in the detention centre.[311] In case the Directorate of Immigration is made aware of such information, it may assess if an alternative to detention, such as home custody or the deposition of a financial guarantee, could be ordered to the person until their removal.[312]

Furthermore, it is possible that an irregular migrant detained in the detention centre expresses the wish to apply for international protection (i.e. making an application for international protection).[313] In this case, a caseworker from the Directorate of Immigration will be sent to the detention centre to visit the person and collect all the data needed to register and lodge the asylum application.[314] Furthermore, if the Directorate of Immigration finds that the third-country national applying for international protection falls within the scope of the Dublin III Regulation, he/she will either remain in the detention centre in case there is a risk of absconding or be assigned to home custody in the SHUK.[315]

According to the Immigration Law,[316] the detention decision is ordered by the Minister on the basis of a case-by-case assessment, where necessary and if other less coercive measures cannot be applied in an effective manner.

ii. *In what circumstances are the grounds for detention rejected in favour of an alternative to detention?*

Grounds for detention are generally rejected in favour of an alternative to detention if the person concerned falls within the category of vulnerable groups (see Q4 for more information). However, in practice, this is only very rarely the case.[317]

Furthermore, if the third-country national is able to provide proof that allows to revert the presumption that there is a risk of absconding, the Minister can decide to apply an alternative to detention.[318]

In the absence of effective guarantees of representation to prevent the risk of absconding, the Minister generally does not make the decision to apply an alternative to detention.

As long as the concerned third-country national is unable to communicate an official address of stay, the competent authorities cannot rule out the existence of a risk of absconding. In the context of rejected AIPs who are cooperating with regard to a voluntary return, they may be allowed to remain in the reception facilities. This, however, is not considered an alternative to detention because the persons concerned will not be ordered home custody in this context.[319] As for irregular migrants, reception facilities are not taken into account.[320]

Furthermore, the level of cooperation of the third-country national may also be taken into consideration. For example, in case an alternative to detention was already imposed on the person and the person did not comply with the obligations, they will likely be placed in detention if they are apprehended a second time because they can no longer provide the necessary proof that there is no risk of absconding.[321]

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)?*

Yes, as mentioned above, the procedure varies for vulnerable groups, as they are generally not placed in detention despite the fact that there is no assessment procedure to determine the vulnerability of potential detainees.[322]

Although the law provides the possibility to detain families for 7 days[323], in practice, they are only very rarely detained, and if so, then only for a maximum of 48 hours prior to their departure (see also Q4).[324]

This being said, it is important to highlight that the main requirement to reject detention in favour of an alternative to detention in the context of return procedures is for the third-country national to provide proof that allows to revert the presumption that there is a risk of absconding.[325]

In principle, the country of origin or the level of cooperation of the country of origin of the AIP does not play a role in this context.[326]

iv. *Which authorities are involved in the procedure, please specify the respective role (i.e. consultative, decision maker)?*

The decision to order a placement in detention or an alternative to detention is taken by the Minister in charge of Immigration and Asylum[327], through the Returns Department of the Directorate of Immigration.

The administrative courts are not involved in the decision to order a placement in detention or an alternative to detention,[328] but are only involved in the appeal procedure (see also Q3 for more information).

Moreover, as mentioned in Q1, the law of 4 December 2019 amending the Immigration Law introduced the systematic verification by the Administrative Courts when the Minister in charge of Immigration and Asylum decides to extend the detention period beyond 4 months (after an initial detention period of 1 month, renewed three times for 1 month each).[329] In this case, the Minister must lodge a request with the President of the First instance Administrative Court within five days of the notification of the decision.[330] Within ten days of the introduction of the request, the President of the First instance Administrative Court must take a decision.[331] An appeal against the decision of the President can be filed before the Administrative Court.[332]

Other (if indicated in Table I)

N/A

Q9. 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:

In principle, the answer is yes.[333]

Details:

The Asylum Law states that the detention decision is ordered in writing by the Minister on the basis of a case-by-case assessment, where necessary and if other less coercive measures cannot be effectively applied.[334] The decision is based on elements that are contained in the administrative file of the concerned person and can only be taken in specific cases foreseen by the Asylum Law (see also Q1 and Q3).[335] The motives to place the person in detention over the ordering of an alternative to detention are specified in the decision that is notified to the person.[336]

In Luxembourg, no specific individual assessment procedure exists to determine the appropriateness of detention and alternatives to detention, as the assessment is made on a case-by-case basis.[337]

In addition to the above, AIPs who are likely to be transferred to another Member State are automatically assigned to home custody in the SHUK (see table 2.1. in Q5 above. See also Q8). Furthermore, rejected AIPs, after having been issued a return decision, may be allowed to remain in the reception facilities if they are cooperating with regard to a voluntary return. However, it is important to stress again that this is not considered as an alternative to detention, but rather an administrative practice (see table 2.1. in Q5 (A10 point 2) above).

Return procedures:

In principle, the answer is yes.[338]

Details:

The decision to place a third-country national in detention or to impose an alternative to detention is taken by the Minister in charge of Immigration and Asylum based on elements that are contained in the administrative file of the concerned person and can only be taken in specific cases foreseen by the Immigration Law (see also Q3).[339] The motives to place the person in detention over the ordering of an alternative to detention is specified in the decision that is notified to the person.[340]

According to the Immigration Law, the detention decision may be ordered by the Minister if other less coercive measures cannot be applied in an effective manner.[341] Furthermore, the law states that the Minister may take a decision to apply such a less coercive measure for a foreign national for whom compliance with the obligation to leave the territory, while remaining a reasonable prospect, is delayed only for technical reasons and who presents effective guarantees of representation to prevent the risk of absconding.[342]

The main grounds to place a person in detention are the risk of absconding and the avoidance or hindrance of the preparation of the removal process.[343]

Although detention in Luxembourg is motivated on a case-by-case basis, a quasi-automatism is applied in the placement in detention in the context of return procedures, in cases where a legal presumption of a risk of absconding exists.[344] This legal presumption of the risk of absconding exists in nearly all cases where a third-country national has no valid identity, travel or residence documents and which eventually leads to the decision of a quasi-automatic placement in detention[345] as it is mentioned in some decisions by the First instance Administrative Court.[346]

Q10. 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/No, further explain* Yes, partially[347] There is a case-by-case assessment to decide whether to place the third-country national concerned in detention or instead impose an alternative to detention. The main criteria taken into consideration is that there is no risk of absconding (see also point 'Level of risk of absconding below').[348]	*Yes/No further explain* Yes, partially[349] See left column. The main criteria taken into consideration is that there is no risk of absconding.[350]
Cost-effectiveness	*Yes/No further explain* No, cost-effectiveness is not a criteria that is taken into consideration in this context.[351]	*Yes/No further explain* No, cost-effectiveness is not a criteria that is taken into consideration in this context.[352]
Nationality or Country of origin/ return (e.g. considerations on the specific situation in the country of origin)	*Yes/No further explain* No, the nationality or country of origin is not a criteria that is taken into consideration in this context (see also Q8 above).[353]	*Yes/No further explain* No, the nationality or country of origin is not a criteria that is taken into consideration in this context (see also Q8 above).[354]
Level of the risk of absconding	*Yes/No further explain how this is assessed* Yes, this is the main criteria that is taken into consideration in this context.[355] At the same time, as mentioned in Q6, the definition of guarantees to avoid the risk of absconding[356] remains a major challenge in the field of alternatives to detention. In the absence of effective guarantees of representation to prevent the risk of absconding, the Minister generally does not make the decision to apply an alternative to detention.[357] Especially because the burden of proof for reverting the legal presumption that there is a risk of absconding lays on the third-country national. As long as the concerned third-country national is unable to indicate a fix address of stay (reception facilities are not taken into account),	*Yes/No further explain how this is assessed* Yes, in the context of return procedures, the level of the risk of absconding is the principle criteria that is assessed when the decision to order the placement in detention or an alternative to detention is taken.[358] As previously mentioned, in absence of a proof provided by the third-country national that allows to revert the presumption of the risk of absconding, the Minister generally does not make the decision to apply an alternative to detention.[359] See also answer in the left column.

Criteria	International protection procedures	Return procedures
	the competent authorities cannot rule out the existence of a risk of absconding.	
Vulnerability	*Yes/No further explain* Yes.[360] Even though there is no formal assessment procedure in place to determine the vulnerability before a placement in detention (see also Q10.1. below) and the Asylum Law, in principle, does not prevent the placement of these individuals,[361] in practice, the Luxembourgish authorities generally do not place vulnerable groups (including unaccompanied minors and persons with special needs) in the detention centre. This only happened on rare occasions in the past (see also Q4 for more information). Furthermore, vulnerable AIPs, in particular women and families with children, are not assigned to home custody in the SHUK.[362]	*Yes/No further explain* Yes.[363] See also answer in the left column.[364] However, this only happened on rare occasions in the past (see also Q4 for more information).
Less-invasive legal measures impacting on human rights	*Yes/No further explain* Yes. As it was mentioned before, the detention decision is ordered by the Minister on the basis of a case-by-case assessment, where necessary and if other, less coercive measures cannot be effectively applied.[365]	*Yes/No further explain* Yes. See answer to left column.[366]
Other	*Yes/No further explain* Yes AIPs who have applied for international protection in another EU Member State, as identified in the Eurodac system, are systematically placed under house custody at the SHUK even before a Dublin decision is taken (see also Table 2.2 in Q5.2 for more information). Furthermore, in the event of failure to comply with the obligations imposed by the Minister in the framework of an alternative to detention, the measure is revoked and placement in detention is ordered (see also Table 2.2 in Q5.2 for more information).[367]	*Yes/No further explain* Yes In the event of failure to comply with the obligations imposed by the Minister in the framework of an alternative to detention, the measure is revoked and placement in detention is ordered (see also Table 2.2 in Q5.2 for more information).[368]

Q10.1. 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 the assessment?
- Procedures followed

International protection procedures

As mentioned in Q10 above, no formal vulnerability assessment is made when deciding whether AIPs are to be placed in detention or an alternative to detention may be imposed. Instead, if the AIPs fall under the category of vulnerable groups (such as unaccompanied minors, families with children, pregnant women and persons with special needs, victims of violence etc) or if they are sick, they will generally not be detained and an alternative to detention may be imposed or an alternative solution is found (see also Q8 above).[369] This only happened on rare occasions in the past (see also Q4 for more information).

In the framework of the international protection, the detection of vulnerable persons and the assessment of their specific reception needs take place, within a reasonable time and depending on the circumstances, by the director of the National Reception Office (ONA) or any other competent authority (Directorate of Immigration).[370] As a consequence and in most cases, vulnerable AIPs and their specific needs are in principle identified in the international protection procedure and before a placement in detention or an alternative to detention is made.[371]

Furthermore, vulnerable AIPs, in particular women and families with children, are not assigned to home custody in the SHUK.[372] In addition, persons assigned to the SHUK are invited to present themselves to the Health Inspection Department of the Ministry of Health[373] in order to receive a medical check.[374]

The Red Cross has a ethno-psychological team consisting of 8 professionals (psychologists, nurses, psychiatric nurses) to find out the vulnerabilities of AIPs as soon as possible, to ensure adequate care and assistance and ensure the transition to the health care system, especially to medical specialists. For this reason, some AIPs are hosted in facilities which are covered by this ethno-psychological team. For the new arrivals, the Health Inspection Department of the Ministry of Health is available and offers medical consultations with a medical team.[375]

UAMs who arrive are transferred as soon as possible to a special hosting structure for UAMs and according to their age and other characteristics are transferred to one of the reception facilities for minors after the deposit of their international protection application. It is very rare that an UAM is placed in detention.[376]

As it was mentioned above, the assessment for taking a detention decision is done on a case-by-case basis so the decision will take into consideration the vulnerability of the individual.[377]

Lastly, it should be noted that persons placed in detention are examined by a doctor within 24 hours after their arrival.[378] As a consequence, this examination could reveal that the detainee is to be considered a vulnerable person in case this information was not available before, such as an illness or signs of torture for example. In this case, the Minister may decide to revoke the detention decision and find an alternative solution.[379]

Return procedures

No formal vulnerability assessment is made when deciding whether a third-country national is to be placed in detention or an alternative to detention may be imposed.[380] Similar to the international protection procedures above, persons falling under the category of vulnerable groups (such as unaccompanied minors, families with children, pregnant women and persons with special needs, victims of violence etc) are generally not detained. See also answer to international protection procedures above.

Q11. 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:

Against the detention order or against the order for a less coercive measure, an appeal shall be made to the First instance Administrative Court, which shall rule as judge on the merits. This appeal should be filed in a deadline of three months after the notification of the decision.[381]

Against the decision of the First instance Administrative Court an appeal may be lodged with the Administrative Court. Under penalty of foreclosure, the appeal must be filed within three days from the notification of the Administrative Tribunal's decision.[382]

The Administrative Court shall rule as a matter of urgency and in any event within ten days of the filing of the petition.[383]

Where, following judicial review, the detention has been found to be unlawful as a last resort, the applicant concerned is released immediately.[384]

Return procedures:

In the case of the return procedures, the detention (or alternative to detention) decision can be appealed before the First instance Administrative Court, which rules as judge of the merits.[385] This appeal must be lodged within a period of one month from the notification.[386]

The First instance Administrative Court shall rule as a matter of urgency and in any event within ten days of the filing of the petition.[387] Against this decision an appeal may be lodged with the Administrative Court. The appeal must be filed within three days from the notification of the decision.[388]

The Administrative Court shall rule as a matter of urgency and in any event within ten days of the filing of the petition.[389]

During the time limit and the appeal instance, the execution of the judgment that annulled or reformed the contested decision will be suspended.[390]

Q12. 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:

There is not specific support foreseen for the migrants during the period when a decision is made about placing the individual in detention or to use an alternative to detention. The AIP will benefit from legal aid.[391] Also, the detainee will benefit from social and psychological support during his/her period in detention.

Return procedures:

There is no specific support foreseen in this context, but the third-country national benefits from legal aid during the detention procedure (see also above).[392]

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 (Q13, Q14) and for return (Q15, Q16) procedures. If this is not possible, please clarify and respond to Q13 and Q14 covering both procedures.

Q13. 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)[393]	2017: 211 (including 193 Dublin transfers) 2018: 105 (including 95 Dublin transfers) 2019: 59 (including 51 Dublin transfers)	2017: 0 2018: 0 2019: 0
Alternative to detention 1 Reporting obligations, which includes the obligation to surrender a passport, travel document or identity document (A1 + A2)	This alternative is only very rarely applied. There is no data available.[394]	This alternative is only very rarely applied. There is no data available.[395]
Alternative to detention 2 Home custody (A4) (+ electroning monitoring (A6), if necessary)	*Home custody in the SHUK for AIPs that are likely to be transferred to another Member*	*Number of AIPs who absconded from home custody in the SHUK:* [399] 2017: 449[400]

	State in accordance with the Dublin III Regulation: [396] 2017: 605[397] 2018: 571 2019: 423 *Home custody in other places than the SHUK:* This alternative is only very rarely applied. There is no data available.[398]	2018: 367[401] 2019: 285[402] *Number of AIPs who absconded from home custody in other places:* This alternative is only very rarely applied. There is no data available.[403]
Alternative to detention 3 Deposition of a financial guarantee (A5)	This alternative is only very rarely applied. There is no data available.[404]	This alternative is only very rarely applied. There is no data available.[405]

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.)?

No.

Q14. 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 applicant for international protection	Share of decisions which were appealed and of these, the share which overturned the initial decision
Detention (Absolute figures)	No data available.[406]	No data available.[407]
Alternative to detention 1 Reporting obligations, which includes the obligation to surrender a passport, travel document or identity document (A1 + A2)	No data available.[408]	No data available.[409]
Alternative to detention 2 Home custody (A4) (+ electroning monitoring (A6), if necessary)	No data available.[410]	No data available.[411]

Alternative to detention 3 Deposition of a financial guarantee (A5)	No data available.[412]	No data available.[413]

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.)?

No.

Q15. 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)[414]	2017: 282 2018: 271 2019: 305	Number of persons who absconded from the detention centre: 2017: 1 2018: 6 2019: 3
Alternative to detention 1 Reporting obligations, which includes the obligation to surrender a passport, travel document or identity document (A1 + A2)	This alternative is only very rarely applied. There is no data available.[415]	This alternative is only very rarely applied. There is no data available.[416]
Alternative to detention 2 Home custody (A4) (+ electroning monitoring (A6), if necessary)	This alternative is only very rarely applied. There is no data available.[417]	This alternative is only very rarely applied. There is no data available.[418]
Alternative to detention 3 Deposition of a financial guarantee (A5)	This alternative is only very rarely applied. There is no data available.[419]	This alternative is only very rarely applied. There is no data available.[420]

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.)?

No, as mentioned above, there is no data available in the context of alternatives to detention for irregular migrants because alternatives are only very rarely applied in the context due to the presumption of the risk of absconding.[421]

Q16. 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)	In general, a return decision is taken when the irregular stay is noticed, so before or on the day of the placement in detention.[422] In case of detention in the waiting zone, the maximal length of time until the person is placed in detention and the return decision is taken is 48 hours.[423]	**2017:** 40.5 days[424] (23 days for forced returns, respectively 58 days for semi-voluntary returns assisted by IOM) **2018:** 35.5 days (42 days for forced returns, respectively 29 days for semi-voluntary returns assisted by IOM) **2019:** 42 days (53 days for forced returns, respectively 31 days for semi-voluntary returns assisted by IOM)	**2017:**[425] 1 semi-voluntary return assisted by IOM **2018:** 8 semi-voluntary return assisted by IOM **2019:** 4 semi-voluntary return assisted by IOM	**2017:**[426] Of the total 229 potential returns[427], 142 persons were returned to their country of origin or provenance. The success rate of forced returns was 62.01%. **2018:** Of the total 201 potential returns, 86 persons were returned to their country of origin or provenance. The success rate of forced returns was 42.79%. **2019:** Of the total 224 potential returns, 122 persons were returned to their country of origin or provenance. The success rate of forced returns was 54.46%.
Alternative to detention 1	See answer provided for detention in the previous row.	This alternative is only very rarely applied. There is	This alternative is only very rarely applied.	This alternative is only very rarely applied. There is no data available.[430]

Reporting obligations, which includes the obligation to surrender a passport, travel document or identity document (A1 + A2)		no data available.[428]	There is no data available.[429]	
Alternative to detention 2 Home custody (A4) (+ electroning monitoring (A6), if necessary)	See answer provided for detention in the first row.	This alternative is only very rarely applied. There is no data available.[431]	This alternative is only very rarely applied. There is no data available.[432]	This alternative is only very rarely applied. There is no data available.[433]
Alternative to detention 3 Deposition of a financial guarantee (A5)	See answer provided for detention in the first row.	This alternative is only very rarely applied. There is no data available.[434]	This alternative is only very rarely applied. There is no data available.[435]	This alternative is only very rarely applied. There is no data available.[436]

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.)?

No, as mentioned above, there is no data available in the context of alternatives to detention for irregular migrants because alternatives are only very rarely applied in this context due to the presumption of the risk of absconding.[437]

Q17. 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.

No evaluations or studies have been conducted in Luxembourg in this context, neither in the context of international protection procedures nor in the context of return procedures.[438]

The following will provide a data analysis of the general figures on absconding in the context of the detention centre as well as home custody in the SHUK (alternative 2).

Data analysis

According to data provided by the Detention Centre, in the period 2017 to 2019,[439] a total of 1.233 persons were placed in the detention centre (all categories included), of which 10 persons escaped (see also Q13 and Q15).[440] This represents an absconding rate of 0.8%.

Broken down according to international protection and return procedures, the data shows that all 10 persons who escaped from the detention centre were placed there in the context of return procedures.

As for alternatives to detention, it is important to stress that only home custody in the SHUK (alternative 2, see above) allows for an analysis of the absconding rate due to the absence of data in this context.

According to data provided by the Detention Centre for the period 2017 to 2019, a total of 1.599 applicants for international protection who are likely to be transferred to another Member State were assigned to the SHUK,[441] of which 78 persons were transferred to the detention centre and 27 persons were transferred to the penitentiary centre during that period.[442] In other words, these 105 persons did not abscond from the SHUK, but were instead transferred to closed facilities.

Of the remaining 1.494 persons, a total of 1.101 persons absconded, including 47 persons who absconded before arriving at the SHUK ('no-shows'). This equals to an absconding rate of 73.69%.[443]

Q18. 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

The Directorate of Immigration reported that no such evidence or empirical observation is available with the regard to the specific aspects formulated in the question.[444]

Furthermore, according to the Returns Department of the Directorate of Immigration, the numbers of alternatives to detention imposed on third-country nationals are not considered to be significant enough in order to be able to provide evidence in this regard.[445]

General data on the impact of detention or alternatives to detention on migration procedures (data analysis)

As a consequence, there is only general evidence on whether detention or alternatives to detention have a greater impact on migration procedures without being able to link the data to certain characteristics of migrants such as country of origin, nationality, family situation, gender, age. This data, however, can be broken down according to international protection procedures (AIPs in the international protection procedure and AIPs waiting for their Dublin transfer) and return procedures (rejected AIPs and irregular migrants).

Furthermore, there is only data available with regard to persons detained in the detention centre and with regard to AIPs assigned to the SHUK. As has been reported throughout the study, other alternatives to detention are very rarely used, which is why there is no data available for these alternatives.[446]

The data below reflects the same period (2017 – 2019) as Q13-Q17 above.

Detention

Before having a closer look at the impact of detention or alternatives to detention on the migration procedures, the following table shows the distribution in percentage according to the respective migration procedure:

Table 3: Number and share of persons in detention according to migration procedure, 2017-2019

	2017		2018		2019	
Migration procedure	**Number**	**Share in %**	**Number**	**Share in %**	**Number**	**Share in %**
Return procedure	282	57.20%	271	72.07%	305	83.79%
International protection procedure	211	42.80%	105	27.93%	59	16.21%
Total	**493**	**100%**	**376**	**100%**	**364**	**100%**

Source: Information provided by the Detention Centre, Ministry of Foreign and European affairs, on 15 March 2021

Table 3 shows that third-country nationals in return procedures represented the majority of detainees in each individual year, namely 858 out of 1.233 total detainees, which equals to an overall share of 69.59%.[447]

Detention in return procedures

With regard to return procedures, a detailed look at the data from the Detention Centre reveals the following picture:

Table 4: Outcomes of detention in return procedures, number and share, 2017-2019

	2017		2018		2019	
	Number	**Share in %**	**Number**	**Share in %**	**Number**	**Share in %**
Forced return to country of origin of provenance	137	48,58%	86	31,73%	122	40.0%
Dublin transfer	71	25,18%	80	29,52%	89	29,18%
Semi-voluntary return assisted by IOM	1	0,35%	8	2,95%	4	1,31%
Release	72	25,53%	87	32,10%	86	28,20%
Transfer to the Penitentiary Centre	0	0%	4	1,48%	1	0,33%
Escape	1	0,35%	6	2,21%	3	0,98%
Total	**282**	100%	**271**	100%	**305**	100%

Source: Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021

By grouping together the categories of migrants having left the territory (i.e. forced returns, Dublin transfers and semi-voluntary returns) in one category and those who have not left the territory in a category 'other', we find the following results:

Table 5: Outcomes of detention in return procedures, number and share, 2017-2019

	2017		2018		2019	
	Number	**Share in %**	**Number**	**Share in %**	**Number**	**Share in %**
Dublin transfers and returns	209	74,11%	174	64,21%	215	70,49%
Other	73	25,89%	97	35,79%	90	29,51%
Total	**282**	100%	**271**	100%	**305**	100%

Source: Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021

Table 5 shows that the share of persons placed in detention that left the territory was between around 64% and 74% in 2017-2019.

Detention in international protection procedures

With regard to international protection procedures, the data from the Detention Centre reveals the following picture:

Table 6: Outcomes of detention in international protection procedures, number and share, 2017-2019

	2017		2018		2019	
	Number	**Share in %**	**Number**	**Share in %**	**Number**	**Share in %**
Forced return to country of origin of provenance	5	2,37%	0	0%	0	0%
Dublin transfer	193	91,47%	95	90,48%	51	86,44%
Semi-voluntary return assisted by IOM	0	0%	0	0%	0	0%
Release	12	5,69%	10	9,52%	8	13,56%
Transfer to the Penitentiary Centre	1	0,47%	0	0%	0	0%
Escape	0	0%	0	0%	0	0%
Total	**211**	100%	**105**	100%	**59**	100%

Source: Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021

The data shows that the overall number of detainees that are applicants for international protection has decreased significantly in the period 2017-2019, in particular with regard to Dublin tranfers. This can mainly be explained by the establishment of the semi-open return structure SHUK, which was opened on 1 April 2017 (see also the information below regarding the SHUK).

By again grouping together the categories of migrants having left the territory (i.e. forced returns, Dublin transfers and semi-voluntary returns) in one category and those who have not left the territory in a category 'other', we find the following results:

Table 7: Outcomes of detention in international protection procedures, number and share, 2017-2019

	2017		2018		2019	
	Number	**Share in %**	**Number**	**Share in %**	**Number**	**Share in %**
Dublin transfers or returns	198	93,84%	95	90,48%	51	84,44%
Other	13	6,16%	10	9,52%	8	13,56%
Total	211	100	105	100	59	100

Source: Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021

Table 7 shows again that the number of applicants for international protection in detention that have left the territory via a Dublin transfer or a return has decreased significantly since 2017, while the share has dropped more modestly from around 94% to around 84%.

Alternatives to detention

As mentioned at the top of this section, there is only data available with regard to home custody in the SHUK for applicants of international protection who are likely to be transferred to another Member State in accordance with the Dublin III Regulation.

Alternative 2 – Home custody in the SHUK for applicants of international protection who are likely to be transferred to another Member State

Table 8: Alternative 2 – Outcomes of home custody in the SHUK in international protection procedures, number and share, 2017-2019

	2017[448]		2018		2019	
	Number	**Share in %**	**Number**	**Share in %**	**Number**	**Share in %**
Dublin transfer	68	11,24%	79	13,84%	88	20,80%
Transfer to detention centre	35	5,79%	34	5,95%	9	2,13%
Transfer to the Penitentiary Centre	23	3,80%	4	0,70%	0	0,00%
Disappearance from the facility/departure from the facility on their own accord	408	67,44%	364	63,75%	282	66,67%
No-Show (disappearance after assignment to the SHUK)	41	6,78%	3	0,53%	3	0,71%
Release	30	4,96%	86	15,06%	38	8,98%
Voluntary return	0	0%	1	0,18%	3	0,71%
Total	**605**	100%	**571**	100%	**423**	100%

Source: Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021

Since its establishment on 1 April 2017, a total of the 1.599 applicants for international protection likely to be transferred to another Member State were assigned to home custody in the SHUK. Table 8 shows that the total number and share of Dublin transfers from the SHUK, while slightly increasing each year, remains very low in comparison to the other outcomes included in the table.

The data further reveals that rate of absconding from the SHUK (e.g. disappearances and so-called 'no-shows') is significant and accounts for over 2/3 of the total outcomes in the period 2017-2019.

This leads to the conclusion that home custody in the SHUK can hardly be considered as an effective alternative to detention.

Upholding fundamental rights

Q19. 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.	Yes.[449] The detainee shall immediately be informed, in writing and against a receipt, in a language which it is reasonable to assume that they understand, except in cases of duly established material impossibility, of their right to choose a lawyer of the Bar Association.[450] In the case of an UAM, they have the right to be appointed an ad-hoc administrator.[451] When arriving at the detention centre, each detainee receives a shortlist with lawyers who are specialised in detention matters and who are willing to take on files. This shortlist has been validated by the Bar Association and is meant as a guidance for the detainees. However, they are also free to contact lawyers from the Bar Association whose names are not on the aforementioned shortlist.[452] Detainees are allowed to receive visits from lawyers between 8 am and 6 pm, weekends and public holidays included.[453]	Same conditions described in left column with regard to the access to legal aid.[454] This also includes the provision of the shortlist with lawyers who are specialised in detention matters for persons assigned to the SHUK in the context of a probable Dublin transfer (see left column).[455] However, there is a difference with regard to visits of laywers because they are not regulated by law for alternatives to detention.[456]	There is no difference between detention and alternatives to detention[457] even though article 22 (5) of the Asylum Law and article 122 (3) of the Immigration Law only mention the detainee.[458]

Is the right to be heard ensured during detention/alternatives to detention? If so, how? Please specify.	Yes. The detainee or the third-country national who is granted an alternative to detention has the right to appeal the decision.[459] To guarantee the defense of their interests, the detainee has the right to legal aid (see previous point above) and to be assisted by an interpreter free of charge.[460] Furthermore, the detainee shall immediately be informed, in writing and against a receipt, in a language which it is reasonable to assume that they understand, except in duly ascertained cases of material impossibility, of their right to inform their family or any person of their choice. A telephone is made available free of charge for this purpose.[461]	Yes. See answer provided in the left column.	There is no difference between detention and alternatives to detention even though article 22 (5) of the Asylum Law and article 122 (3) of the Immigration Law only mention the detainee.[462]

Is the right to health (e.g. access to facilities, monitoring of health and wellbeing of the person) ensured? If so, how? Please specify.	Yes.[463] A distinction must be made between the conditions of (medical) admission to the detention centre and access to health care for detainees during their stay at the detention centre. Admission in the detention centre is refused to any person who shows clear signs of intoxication or even physical or mental disorder, unless a medical certificate attests to his or her suitability for detention without continuous medical or paramedical supervision.[464] The detention centre has a convention with the *'Centre Hospitalier de Luxembourg'* (CHL) for somatic care and with the *'Centre Hospitalier Neuro-Psychiatrique'* (CHNP) for psychiatric care.[465] The doctors working for the detention centre are civilian physicians. A doctor examines every detainee within 24 hours of their arrival at the detention centre.[466] During their stay at the detention centre, detainees have free access to medical care in the interest of their health and necessary treatment of their illnesses. Medical care is free of charge for the detainees. However, dental treatment is limited to urgent and necessary care.[467] If a detainee wants to see a doctor or a psychiatrist, he/she may register for an appointment. A nurse is present from Monday to Friday from the morning hours until around 4.30 pm, which equals to almost 8 hours a day.[468]	Yes. AIPs who are assigned to the SHUK because they are likely to be transferred to another Member State have access to health as any other applicants for international protection.[473] In practice, a person assigned to the SHUK is directed to a doctor from the Health Inspection Department of the Ministry of Health, who either provide treatment to the detainees on site or refer them to a general practictioner, a medical specifialist, a psychologist, etc.[474]	There is a difference in this context depending on if the third-country national is an AIP, a rejected AIP or an irregular migrant. The right to health for AIPs is ensured by the material reception conditions as provided by the Reception Law.[475] Rejected AIPs who are allowed stay in the reception facilities if they agree to cooperate in a voluntary return will in principle maintain their affiliation to the National Health Fund (*'Caisse national de santé'* - CNS), as long as they present themselves monthly to the National Reception Office (*'Office national de l'accueil'* – ONA) which is in charge of the reception of AIPs.[476] As for irregular migrants, while they have in principle no right to health, they may benefit from the services offered by 'Médecins du Monde'.[477] Furthermore, there is a difference between the detention centre and alternatives to detention in general, and the SHUK in particular, because medical staff is available in the detention centre itself, allowing for the normal treatment of the detainees directly in the detention centre. This is not the case in the SHUK as persons assigned there receive medical treatment outside the facility (see also middle column).[478]

	The Director of the Detention Centre can have a detainee to be examined by medical staff if it is in their interest or in the interest of the other detainees or staff members. The doctor decides on the treatment of the detainee and can have them transferred to a hospital if necessary.[469] In general, detainees are allowed to manage their prescribed medication, however, the doctor can request that the medical staff distributes the medications.[470] Detainees are not allowed to keep the medication they have with them on arrival at the detention centre, but medication is newly prescribed by the doctor of the detention centre.[471] The information concerning the health of a person is registered in an individual medical file, which is managed by the doctor in collaboration with the medical staff. At departure, detainees receives a copy of their medical file.[472]		

Please add any additional safeguard	In addition to the above, there are several additional safeguards in place that are available to detainees: <u>Right to visit</u> In addition to the visits by lawyers mentioned above, detainees generally have the right to receive visits. The arrangements for these visits are determined by Grand-Ducal Regulation.[479] The visits are simplified as much as possible: any person legally staying in the territory and possessing an official identity document with a photo is eligible for a visit for the benefit of a detainee.[480] There are several representatives of organisations active in the field of guidance and support of detainees, which are approved by the Minister in charge of Immigration and Asylum, who have access to the centre within the limits and under the conditions prescribed by the director.[481] Furthermore, detainees may, upon request and as far as possible, speak to a minister of their faith, freely and without witnesses.[482] <u>Communication with the outside world</u> Detainees are allowed to communicate freely via written mail, phone, fax or email, with the costs of communication being borne by the detention centre.[483] In case of serious risk of presence of dangerous or unlawful objects, risk of absconding or danger for the security of the centre, the use	These additional safeguards do not apply to alternatives to detention because persons that were awarded an alternative are not restricted in receiving visits or communicating with the outside word.[492] In other words, they are not regulated by law for alternatives to detention. Home custody in the SHUK, however, presents an exception in this context. Personal visits to the SHUK are not allowed. However, they can take place outside during the day when the person is allowed to leave the facility (see above).[493] However, the same approved representatives of organisations active in the field of guidance and support of detainees referred to in the left column are allowed to visit persons inside the SHUK under the same conditions as in the detention centre.[494] In addition to the above, persons assigned to the SHUK are not restricted with regard to communication with the outside world, as they can continue to use their personal electronic devices.[495]	Yes, there is a difference in the sense that these additional safeguards do not apply because they are not regulated by law for alternatives to detention.[496]

	of means of communication can be banned, except for the communication with lawyers and doctors.[484] The director can limit communication to reasonable amounts, can limit or forbid the use of means of communication if they are being abused, and can allow, under conditions that s/he lays down, the detainees to use cellphones if these have no camera.[485] There are six phones per unit and they all allow to receive incoming calls. One phone is programmed for national outgoing calls in order to call lawyers, the Ombudsman, etc. (free of charge) and the remaining five phones are programmed for outgoing calls.[486] Each detainee receives 10€ credit per week to make calls, and has the possibility to acquire additional cards on a daily basis by using their daily allowance of 3€.[487] In practice, detainees are not allowed to use mobile phone. This is because, on the one hand, most current phones allow to take pictures and record audio, and, on the other hand, in the interests of fairness because the phone reception is not the same throughout the centre.[488] Furthermore, the detainees have access to a computer room which contains 16 computers. Detainees from one unit at a time have access to the computer room in order to provide equal time to everyone. The centre also provides paper, pens, envelops and stamps.[489] In 2021, upon recommendation from the Ombudsman, the Detention Centre is implementing a system that will allow		

	detainees to communicate to the outside world via Skype or via other audiovisual means.[490] <u>Respect of privacy</u> Since February 2021, the units in the detention centre for single persons are no longer equipped with double rooms. Before that, the centre was equipped with such rooms in these units, but they were never used as such in practice (see also Q20 below for more information).[491]		

Q20. 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)?

The answer to this question is 'No' with regard to the specific aspects formulated in the question. In other words, no dedicated evaluations or studies have been conducted on the impact of detention and alternatives to detention on the fundamental rights of the third-country nationals with regard to the number of complaints of detainees or persons provided alternatives to detention, of mental and physical health, etc.[497]

However, it should be noted that the detention centre is subject to regular monitoring by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (CPT) of the Council of Europe[498] and the Ombudsman's External Monitoring of Places of Detention (*'Service du contrôle externe des lieux privatifs de liberté'* - CELPL).[499]

The following will provide an overview of the key findings of the latest monitoring missings as regards fundamental rights, respectively.

CELPL monitoring mission in 2013

The CELPL carried out a monitoring mission to the detention centre in May 2013 and published a report of the mission in 2014.[500] In its report, the CELPL analyses the compliance of national acts with international standards and gives its recommendations based on an on-site inspection carried out within the detention centre on the arrangements and conditions.

The CELPL concluded in its report that the general conditions under which detainees are staying at the detention centre are very satisfying, applying both to the infrastructural conditions and to the commitment of all staff to make the stay of the detainees as convenient as possible. The organisation of services within the detention centre and the human nature of the relationship between all staff and the detainees were particularly emphasised.[501]

At the same time, the CELPL formulated a number of observations and recommendations regarding, among others, the autonomy with regard to choice of doctor, regarding individual liberties, such as better legal supervision of searches and duration of confinement, and regarding the medical service.[502]

Furthermore, the CELPL conducted a follow-up mission during the period from 28 November to 10 December 2019. As of publication of this study, the report of this visit was not yet publically available.

CPT monitoring mission in 2015

The CPT carried out an in-depth examination of the situation of detainees at the detention centre during its fifth visit to Luxembourg from 28 January to 2 February 2015. The report of the mission was published in September 2015.[503]

In its report, the CPT also highlighted the very satisfying services and activities offered to the detainees. They also provided some recommendations to the Luxembourgish authorities, such as the encouragement to accommodate only one person in the double rooms and the recommendation to ensure that all medical examinations are carried out outside the listening room.[504] Regarding usage of the double rooms in the units for single persons, it should be reiterated that these rooms were never used as double rooms in practice, but only as single rooms. Furthermore, since February 2021, these units are no longer equipped with double rooms (see also Q19 – 'Additional safeguards – respect of privacy).[505]

In addition to the above, one should note that the First evaluation on the functioning of the detention centre was presented on 20 November 2017.[506] While it does not specifically assess the impact of detention on fundamental rights of third-country nationals concerned, it does summarise the findings of the two aforementioned monitoring missions as well as the actions taken by the Detention Centre regarding these recommendations. Furthermore, it provides an in-depth overview of the functioning of the detention centre, the staff, the services provided, the rights and duties of the detainees and statistical data, covering the period from its creation in September 2011 to 1 July 2017.

Furthermore, it should be noted that no specific evaluation or study has been conducted with regard to alternatives to detention in Luxembourg.[507]

Q21. Please provide any statistics available in your country on the **number of complaints regarding violations of human rights**[2] 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 possible, distinguish between the different types of alternatives to detention that are available in your country.

There are no statistics available in this regard.[508] Furthermore, the Detention Centre reported that no allegiations or complaints of mistreatment have ever been filed.[509]

This being said, it should be noted that detainees may at any time ask for an interview with the Director of the Detention Centre, as well as make a complaint regarding their detention conditions or restrictive measures againt them.[510]

Furthermore, as reported in Q20 above, the missions of the CELPL in 2013 and the CPT in 2015 did not include any references to complaints regarding violations of human rights, but attested overall very good conditions in the detention centre and a respectful treatment of the detainees.

Improving the cost-effectiveness of migration management.

Q22. 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.[511]

Q23. **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.[512]

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

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.)

i. *To what extent are alternatives to detention applied in practice in your country?*

The Directorate of Immigration reported that, in practice, the three alternatives to detention foreseen by the Asylum Law and the Immigration Law (namely reporting obligations, home custody and the deposition of a financial guarantee) are only rarely used in Luxembourg because there are some significant challenges related to them (see ii. below).

One important exception is the usage of home custody in the semi-open return structure SHUK for applicants for international protection who are likely to be transferred to another Member State in accordance with the Dublin III Regulation (see Q13 and Q18 for more information).

ii. *What are the challenges in the implementation and use of alternatives to detention?*

The main challenge in the implementation and use of alternatives to detention in Luxembourg relates to the fact that the effective guarantees of representation to prevent the risk of absconding is not defined by the law (see Q6 above). This is particularly challenging in the context of return procedures, where there is a legal presumption of the existence of a risk of absconding in nearly all cases where a third-country national has no valid identity, travel or residence documents. In the absence of such effective guarantees of representation, the Minister in charge of Immigration and Asylum generally does not make the decision to apply an alternative to detention. As a consequence, a quasi-automatic placement in detention is ordered in these cases.

Furthermore, in most cases, potential candidates for alternatives to detention do not have an official address in Luxembourg. An official address is a prerequisite in order to be awarded an alternative to detention as it is one of the criteria that is taken into consideration when determining if there is a risk of absconding or not.

iii. *What are the concerns regarding the use of alternatives (if any) compared to detention in international protection and return procedures?*

1) *Compliance with migration procedures including reduce the risk of absconding?*

As described above, the level of the risk of absconding is the main criteria that is taken into consideration when deciding whether to place a third-country national in detention or instead impose an alternative to detention.

2) *Maximising cost-effectiveness?*

No, the maximization of cost-effectiveness is not taken into consideration in this context.

3) *Ensuring respect for fundamental rights?*

The detention decision is ordered by the Minister in charge of Immigration and Asylum on the basis of a case-by-case assessment, where necessary and if other, less coercive measures cannot be effectively applied.

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.)?*

As mentioned in the previous question, cost-effectiveness is not taken into consideration when deciding whether a third-country national is to be placed in detention or whether an alternative to detention can be imposed instead.

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.

	2015	2016	2017	2018	2019	2020	Source / further information
Statistics on number of third-country nationals in detention per category							
Total number of third-country nationals in detention	**364**	**360**	**493**	**376**	**364**	**200** **(including 27 persons still present at the detention centre on 31 December 2020)**	The data corresponds to the number of entries in that year. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021 and on 2 April 2021.
Number of applicants for international protection in ordinary procedures in detention (including Dublin)	**76**	**79**	**211**	**105**	**59**	**36** **(including 2 persons still present at the detention**	The data corresponds to the number of entries in that year.

						centre on 31 December 2020)	Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021 and on 2 April 2021.
Number of persons detained to prevent illegal entry at borders	**1**	**2**	**1**	**1**	**3**	**1**	This information is only on persons detained in the waiting are at Luxembourg Airport for a maximum 48 hours. Information provided by the Airport Police Unit of the Grand-Ducal Police on 8 April 2021.
Number of person detained during return procedures (including pre-removal)	**288**	**281**	**282**	**271**	**305**	**164** **(including 25 persons still present at the detention centre on 31 December 2020)**	The data corresponds to the number of entries in that year. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March

							2021 and on 2 April 2021.
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**	Detention was only used on very rare occasions in the past. No data is available in this context, except for unaccompanied minors (which are not detained in Luxembourg) and families or adults with children, see below). Information provided by the Directorate of Immigration on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.
Vulnerable persons specified - unaccompanied minors	**0**	**0**	**0**	**0**	**0**	**0**	Information provided by the Directorate of Immigration on 4 March 2021. Information provided by the

							Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.
Vulnerable persons specified – Families with children and single parents with minors	**33 families representing a total of 117 persons**	**20 families representing a total of 80 persons**	**28 families representing a total of 101 persons**	**4 families representing a total of 10 persons**	**10 families representing a total of 35 persons**	**2 families representing a total of 7 persons**	Directorate of Immigration, Ministry of Foreign and European Affairs.[513]
Number of other third-country nationals placed in immigration detention	**247**	**280**	**392**	**366**	**329**	**193**	The data corresponds to the number of entries in that year. Total number of third-country nationals in detention, minus families with children and single parents with minors. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021 and on 2 April 2021. Directorate of Immigration,

							Ministry of Foreign and European Affairs.[514]
Statistics on number of third-country nationals provided alternatives to detention							
Total number of third-country nationals in alternatives to detention	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	The total number of third-country nationals in alternatives to detention is not available in Luxembourg. There is only data available for alternative 2 – Home custody in the semi-open return structure SHUK.
Number of applicants for international protection in ordinary procedures in Alternatives to detention (including Dublin)	**The SHUK did not exist yet in 2015**	**The SHUK did not exist yet in 2015**	**605** **(as of 1 April 2017)**	**571**	**423**	**197** **(including 52 persons still present at the SHUK on 31 December 2020)**	This row only includes data on alternative 2 – home custody in the semi-open return structure SHUK, established on 1 April 2017. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March

							2021 and on 2 April 2021.
Number of persons given alternatives to detention to prevent illegal entry at borders	**Non-applicable**	**Non-applicable**	**Non-applicable**	**Non-applicable**	**Non-applicable**	**Non-applicable**	No alternatives to detention are imposed in this context. Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 15 April 2021.
Number of person in alternatives to detention during return procedures (including pre-removal)	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	This row only includes data on alternative 2 – home custody in the semi-open return structure SHUK, established on 1 April 2017.
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**	This row only includes data on alternative 2 – home custody in the semi-open return structure SHUK, established on 1 April 2017. Vulnerable groups are not assigned to home

							custody in the semi-open return structure SHUK. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.
Vulnerable persons specified – unaccompanied minors	**0**	**0**	**0**	**0**	**0**	**0**	This row only includes data on alternative 2 – home custody in the semi-open return structure SHUK, established on 1 April 2017. Not assigned to home custody in the semi-open return structure SHUK. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.
Vulnerable persons specified – Families with children and single parents with minors	**0**	**0**	**0**	**0**	**0**	**0**	This row only includes data on alternative 2 – home custody in the semi-open

							return structure SHUK, established on 1 April 2017. Not assigned to home custody in the semi-open return structure SHUK. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

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	2015	2016	2017	2018	2019	2020	Source / further information
Average length of time in detention of all categories of third-country nationals in detention	**31 days**	**38 days**	**27 days**	**40 days**	**47 days**	**55 days** (including 27 persons present at the Detention Centre on 31 December 2020, with a total average length of time of 66 days)	The average length of time in detention is calculated based on the total presences in days divided by the number of detainees. The mean was used for this calculation.

							Directorate of Immigration, Ministry of Foreign and European Affairs.[515]
Average length of time in detention of applicants for international protection in ordinary procedures	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 2 April 2021.
Average length of time in detention of persons detained to prevent illegal entry	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 2 April 2021.
Average length of time in detention of persons during return procedures	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 2 April 2021.
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	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 2 April 2021.

Endnotes

[1] EMN Luxembourg, *The use of detention and alternatives to detention in the context of immigration policies*, Luxembourg 2014. URL: https://www.emnluxembourg.lu/wp-content/uploads/2015/08/EMN_study_Detention_Alternatives_to_Detention_LU-EMN-NCP-final-version.pdf.

[2] Law of 18 December 2015 on 1) international protection and temporary protection 2) modifying the amended Law of 10 August 1991 on the profession of lawyer, the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration, the Law of 28 May 2009 on the Detention Centre and 3) repealing the amended Law of 5 May 2006 on the right to asylum and complementary forms of protection, Memorial N°A255 of 28 December 2015. URL: http://legilux.public.lu/eli/etat/leg/loi/2015/12/18/n15/jo.

[3] Article 22 (3) a) of the law of 18 December 2015 on international protection and temporary protection and Article 125 (1) a) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[4] Article 22 (3) b) of the law of 18 December 2015 on international protection and temporary protection and Article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[5] Article 22 (3) c) of the law of 18 December 2015 on international protection and temporary protection and Article 125 (1) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[6] Law of 18 December 2015 on 1) international protection and temporary protection 2) modifying the amended Law of 10 August 1991 on the profession of lawyer, the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration, the Law of 28 May 2009 on the Detention Centre and 3) repealing the amended Law of 5 May 2006 on the right to asylum and complementary forms of protection, Memorial N°A255 of 28 December 2015. URL: http://legilux.public.lu/eli/etat/leg/loi/2015/12/18/n15/jo

[7] Article 22 (2) of the Law of 18 December 2015 on international protection and temporary protection. This article transposes the five grounds specified in article 8 paragraph 3 of the Reception Conditions Directive.

[8] Regulation 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 (recast).

[9] Article 22 (1) subparagraph 3 of the law of 18 December 2015 on international protection and temporary protection.

[10] Article 22 (4) of the Law of 18 December 2015 on international protection and temporary protection.

[11] Article 22 (5) and (6) of the Law of 18 December 2015 on international protection and temporary protection.

[12] Article 17 (1) of the Law of 18 December 2015 on international protection and temporary protection.

[13] Article 82 of the Law of 18 December 2015 on international protection and temporary protection amending article 6 of the amended law of 28 May 2009 on the detention centre.

[14] Article 120 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[15] Article II of the Law of 8 March 2017 amending: 1) the amended law of 29 August 2008 on the free movement of persons and immigration; 2) the amended law of 28 May 2009 on the detention centre; 3) the law of 2 September 2011 regulating access to the professions of craftsman, trader, industrialist and certain liberal professions, Memorial n°A298 of 20 March 2017. URL: http://legilux.public.lu/eli/etat/leg/loi/2017/03/08/a298/jo.

[16] Article 6 of the amended law of 28 May 2009 on the detention centre. The legislator justifies this amend on practical constraints linked to the organisation of family repatriations by charter flight. Indeed, the police are sometimes obliged to visit the homes several times to bring the people concerned to the detention centre. Furthermore, the previous deadline (72 hours) was considered to be very tight to administrative courts hear summary proceedings, with the risk of suspending the execution of the return due to lack of time to process the summary proceedings.

[17] Parliamentary document n°6992, Motion of Marc Angel, Member of Parliament, 8 February 2017. *« Bilan de fonctionnement du Centre de retention »*. URL: https://chd.lu/wps/PA_ArchiveSolR/FTSShowAttachment?mime=application%2fpdf&id=C0CF400620311CAC32457BB2EB688C

7F$A7C431CD32C29E8B0903201437E85137&fn=C0CF400620311CAC32457BB2EB688C7F$A7C431CD32C29E8B0903201437E85137.pdf.

[18] Ibid.

[19] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[20] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[21] Law of 4 December 2019 amending the amended Law of 29 August 2008 on the free movement of persons and immigration. Memorial n°A884 of 23 December 2019. URL: http://legilux.public.lu/eli/etat/leg/loi/2019/12/04/a884/jo.

[22] Article 123 (6) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[23] Parliamentary document n°7238/00 of 29 January 2018, p. 4. See https://www.chd.lu/wps/PA_RoleDesAffaires/FTSByteServingServletImpl?path=7A2C2B500A97C8565AACB25851F2EDBC46EEC92DDAA4F205A26B84AB1D1B27A502032E3112DABFDF04D2DDB790881518$9C6821374F475DD04E4226A29A8FC1BC

[24] DP, LSAP and déi gréng, *« Accord de coalition 2018-2023 »*, Luxembourg, 3 December 2018, p. 233. URL: https://gouvernement.lu/fr/publications/accord-coalition/2018-2023.html.

[25] Ibid.

[26] See Parliamentary document n°6779/00 of 19 Febuary 2015. See URL: https://chd.lu/wps/PA_RoleDesAffaires/FTSByteServingServletImpl?path=955E2EA92A9175C9B4A9248D94900DA0F0D4E74220E7F13ED3DEE64676DF3615B89544CDF32E4FAFAACD96668C8460A0$C62FDD3B64BA949EE7B24BB6EEE22872

[27] Article 22 (3) of the Law of 18 December 2015 on international protection and temporary protection.

[28] Article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[29] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[30] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[31] Article 22 (3) c) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[32] Article 22 (3) a) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) a) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[33] Article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[34] Article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[35] See Parliamentary document n°6218, Motion of Xavier Bettel, Member of Parliament, 9 June 2011. *« Rétention comme mesure de dernier ressort, mise en oeuvre d'alternatives à la rétention et étude sur l'opportunité de l'introduction d'un bracelet électronique »* . URL: https://www.chd.lu/wps/PA_RoleDesAffaires/FTSByteServingServletImpl?path=EF14B09AF9BF11D97CC4B257CCD0D55B353E504A1C023085526FD6B95E3A6BCD441A11A5BB87C6C5E31EAFDB7001FB4D$D120310BB431B3012E3FBBDE7A25200D.

[36] EMN Luxembourg, *Annual Report on Migration and Asylum 2017*, Luxembourg, 2018, p. 48. URL: http://www.emnluxembourg.lu/wp-content/uploads/2018/10/Annual-Report-on-Migration-and-Asylum_EN_final.pdf.

[37] Ibid.

[38] Ibid.

[39] DP, LSAP and déi gréng, *« Accord de coalition 2018-2023 »*, Luxembourg, 3 December 2018, p. 233. URL: https://gouvernement.lu/fr/publications/accord-coalition/2018-2023.html.

[40] Article 22 (3) paragraph 3 of the Law of 18 December 2015 on international protection and temporary protection.

[41] Article 22 (4) of the Law of 18 December 2015 on international protection and temporary protection.

[42] Article 22 (3) a) of the Law of 18 December 2015 on international protection and temporary protection.

[43] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection.

[44] Article 22 (3) c) of the Law of 18 December 2015 on international protection and temporary protection.

[45] Article 22 (3) of the Law of 18 December 2015 on international protection and temporary protection

[46] Article 22 (5) of the Law of 18 December 2015 on international protection and temporary protection in relation with Artcle 121 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[47] Article 22 (6) of the Law of 18 December 2015 on international protection and temporary protection.

[48] Luxembourg does not have external borders with the exception of the international airport. If an applicant for international protection makes his/her claim to the control service at Luxembourg Airport (Grand Ducal Airport Police, Central Unit of the Police at the Airport (UCPA)), the service will refer the applicant to the Directorate of Immigration and the person will be admitted into the territory of the Grand Duchy of Luxembourg to register and lodge the asylum application.

See EMN Luxembourg answer to EMN Lithuania AHQ Asylum applications submitted at the border or transit zones, launched on 10 April 2019. URL: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/201950_lt_ahq_on_asylum_applications_submitted_at_the_border_or_transit_zones.pdf.

[49] According to article 120 (1) in relation with articles 111 and 100 of the amended Law of 29 August 2008 on the free movement of persons and immigration, the presence of a third-country national is considered to be illegal residence in the territory giving rise to a return decision

a) who does not or no longer fulfils the conditions set out in Article 34 of the amended Law of 29 August 2008 on the free movement of persons and immigration;

b) who remains in the territory beyond the period of validity of his/her visa or, if he/she is not subject to the visa requirement, beyond the period of three months from the date of entry into the territory;

c) who is not in possession of a residence permit valid for more than three months or a work permit if the latter is required;

d) who is subject to a mutual recognition of a return decision of another Member State subject to the Return Directive.

[50] Article 111 (3) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[51] Article 34 of the amended Law of 29 August 2008 on the free movement of persons and immigration. The third-country national must have a valid travel document and, if required, a visa.

See First instance Administrative Court, 3rd Chamber, n° 45415 of 30 December 2020; First instance Administrative Court, 2nd Chamber n° 34199 of 25 March 2014.

[52] See First instance Administrative Court, 3rd Chamber, n° 45415 of 30 December 2020 and First instance Administrative Court, 1st Chamber, n° 29671 of 11 January 2012. The court on 30 December 2020 states: "It follows that pursuant to Article 111(3)(c) of the Law of 29 August 2008, under which the risk of absconding is presumed, more particularly if the foreigner does not or no longer meets the conditions of Article 34 of the same law, the Minister could a priori, on the basis of the aforementioned Article 120(1) of the law of 29 August 2008, place the applicant in detention in order to organise his removal and maintain his placement…"

[53] Article 116 of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[54] Article 34 (1) 1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[55] According to Article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration. See First instance Administrative Court, 3rd Chamber, n° 45415 of 30 December 2020.

[56] A third-country national who represents a threat to national security or public order who cannot be removed without further delay, can be placed in detention in accordance with Article 111 (3) a) in relation with Article 120 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[57] In practice, this could be the case if a person hides or gives false information about his/her identity on purpose in order to hamper the return.

[58] Article 125 (1) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[59] Article 120 (3) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[60] Article 125 (1) a) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[61] Article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[62] Article 125 (1) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[63] Article 120 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration

[64] Article 121 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration

[65] Article 123 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[66] Artcle 123 (4) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[67] Luxembourg does not have external borders with the exception of the international Airport.

[68] Article 120 in relation with articles 119 (1) (2) (3) and 104 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

See also: EMN Luxembourg answer to PT EMN NCP Ad-hoc query 2019.17 entitled Border procedures - information to citizens at detention facilities, launched on 29 January 2019. URL: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/201917_portugal_border_procedures.pdf.

[69] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 15 April 2021.

[70] In accordance with article 119 (6) of the amended Law of 29 August 2008 on the free movement of persons and immigration, a report is drawn up by the agents of the control service at the airport on the holding in the waiting area. The report is addressed to the Minister in charge of Immigration and Asylum.

[71] Article 120 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[72] Artcle 123 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[73] Artcle 123 (4) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[74] Article 22 (2) of the Law of 18 December 2015 on international protection and temporary protection and Article 120 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[75] Article 22 (3) of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[76] Article 7 (2) of the amended law of 28 May 2009 on the detention centre.

[77] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[78] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[79] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[80] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

See also: Directorate of Immigration of the Ministry of Foreign and European Affairs, *Bilan de l'année 2020 en matière d'asile, d'immigration et d'accueil*, p. 28. URL: https://maee.gouvernement.lu/content/dam/gouv_maee/directions/d8/publications/statistiques-en-mati%C3%A8re-d-asyle/20210301-Bilan-2020-Asile,-immigration-et-accueil.pdf.

[81] Article 22 (1) paragraphs 3 and 4 of the Law of 18 December 2015 on international protection and temporary protection.

[82] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

The UAM will be lodged, in a first phase, in a first-arrival reception facility of the Luxembourgish Red Cross, before being transferred to a reception facility adapted to their age and needs.

[83] Article 120 (1) paragraph 2 of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[84] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[85] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[86] Article 7 (2) of the amended law of 28 May 2009 on the detention centre.

[87] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[88] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[89] Article 7 (2) of the amended law of 28 May 2009 on the detention centre.

[90] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[91] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[92] Article 7 (2) of the amended law of 28 May 2009 on the detention centre.

[93] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[94] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[95] Article 7 (2) of the amended law of 28 May 2009 on the detention centre.

[96] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021

[97] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[98] Article 6 (3) of the amended law of 28 May 2009 on the detention centre.

[99] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[100] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[101] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[102] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[103] Article 6 (3) of the amended law of 28 May 2009 on the detention centre.

[104] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[105] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[106] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[107] Article 7 (2) of the amended law of 28 May 2009 on the detention centre.

[108] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[109] Article 7 (2) of the amended law of 28 May 2009 on the detention centre.

[110] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[111] In accordance with articles 93 to 95 of the amended Law of 29 August 2008 on the free movement of persons and immigration. Upon expiration of the residence permit for victims of trafficking in human beings, they may be granted an authorisation to stay and a residence permit for private reasons based on humanitarian grounds in accordance with article 78 (3) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

See also: EMN Luxembourg, *Identifying victims of trafficking in human beings during international protection and forced return procedures*, Luxembourg 2017. URL: http://www.emnluxembourg.lu/wp-content/uploads/2017/11/Inform-Victims-of-human-trafficking_Final_web.pdf.

[112] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

In accordance with articles 93 to 95 of the amended Law of 29 August 2008 on the free movement of persons and immigration. Upon expiration of the residence permit for victims of trafficking in human beings, they may be granted an authorisation to stay and a residence permit for private reasons based on humanitarian grounds in accordance with article 78 (3) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

See also: EMN Luxembourg, *Identifying victims of trafficking in human beings during international protection and forced return procedures*, Luxembourg 2017. URL: http://www.emnluxembourg.lu/wp-content/uploads/2017/11/Inform-Victims-of-human-trafficking_Final_web.pdf.

[113] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[114] Article 7 (2) of the amended law of 28 May 2009 on the detention centre.

[115] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[116] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[117] Article 7 (2) of the amended law of 28 May 2009 on the detention centre.

[118] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[119] Article 7 (2) of the amended law of 28 May 2009 on the detention centre.

[120] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[121] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[122] Article 7 (2) of the amended law of 28 May 2009 on the detention centre.

[123] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[124] Source: Administrative Court, n° 43351C of 7 August 2019.

[125] Article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration. See also, First instance Administrative Court, 3rd Chamber n° 45404 of 30 December 2020. The court states "Article 125, paragraph (1) of the Law of 29 August 2008 provides more specifically that the Minister may take the decision to apply, either jointly or separately, the three less coercive measures listed therein in respect of a foreigner for whom the fulfilment of the obligation to leave the territory, while remaining a reasonable prospect, is postponed for technical reasons, provided that the person concerned presents effective guarantees of representation capable of preventing the risk of absconding as provided for in Article 111, paragraph (3), of the same Law. Thus, if there is a legal presumption of a risk of absconding on the part of a foreigner who is illegally present on the national territory, that presumption must be rebutted by the foreigner, in particular by providing sufficient guarantees of representation." See also First instance Administrative Court, 1st Chamber, n° 37829 of 26 April 2016.

[126] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[127] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[128] Article 22 (3) a) of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) a) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[129] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[130] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[131] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration. See First instance Administrative Court, 2nd Chamber, n° 45246 of 30 November 2020.

[132] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[133] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[134] EMN Luxembourg, *Annual Report on Migration and Asylum 2017*, Luxembourg, 2018, p. 48. URL: http://www.emnluxembourg.lu/wp-content/uploads/2018/10/Annual-Report-on-Migration-and-Asylum_EN_final.pdf.

If the Eurodac reveals that the third-country national had already filed an application in another Member State, the Minister in charge of Immigration and Asylum will order the placement in the SHUK. See also, First instance Administrative Court, n° 45440 of 30 December 2020.

[135] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[136] Article 22 (3) c) of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[137] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[138] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[139] Article 22 (3) c) of the Law of 18 December 2015 on international protection and temporary protection.

[140] Article 125 (1) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[141] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[142] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[143] Article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[144] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[145] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[146] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[147] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[148] See also, First instance Administrative Court, 3rd Chamber n° 45404 of 30 December 2020.

[149] 26,63% in 2016; 38,13% in 2017; 33,32% in 2018; 29,00% in 2019; 14,45% in 2020, where one also needs to take the Covid-19 pandemic into account.

Source: Directorate of Immigration of the Ministry of Foreign and European Affairs, *Bilan de l'année 2020 en matière d'asile, d'immigration et d'accueil*, p. 4. URL: https://maee.gouvernement.lu/content/dam/gouv_maee/directions/d8/publications/statistiques-en-mati%C3%A8re-d-asyle/20210301-Bilan-2020-Asile,-immigration-et-accueil.pdf.

[150] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[151] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[152] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[153] Article 111 (2) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[154] Information provided by the Returns Department of the Directorate of Immigration on 4 March 2021.

[155] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[156] Concerning the international protection procedure, one should note that article 7 (2) indirectly foresees reporting obligations for the AIPs as they have to renew every month their certificate attesting to the application until the end of the procedure. The certificate's renewal is to be requested in person at the desk of the Refugees Department at the Directorate of Immigration at the very latest on the day the certificate expires (see also URL:

https://guichet.public.lu/en/citoyens/immigration/cas-specifiques/protection-internationale/demande-protection-internationale.html.

Furthermore, in accordance with article 7 (2) subparagraph 2 of the Law of 18 December 2015 on international protection and temporary protection., The certificate is not issued to the applicant who is held in detention. If the holder is under house arrest, the document attests to this fact.

[157] Article 22 (3) a) of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) a) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[158] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[159] Article 22 (3) a) in accordance with article 12 (1) of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) a) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[160] Article 12 (1) of the Law of 18 December 2015 on international protection and temporary protection.

[161] Article 12 (1) subparagraph 2 of the Law of 18 December 2015 on international protection and temporary protection.

See also URL: https://guichet.public.lu/en/citoyens/immigration/cas-specifiques/protection-internationale/demande-protection-internationale.html.

[162] Article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[163] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[164] Article 22 (3) c) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[165] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[166] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[167] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[168] Article 111 (1) and (2) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[169] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[170] Article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[171] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[172] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[173] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[174] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[175] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[176] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection.

[177] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[178] Article 22 (4) of the Law of 18 December 2015 on international protection and temporary protection.

[179] Article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[180] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[181] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[182] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[183] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[184] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[185] Article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[186] See article 111 (3) c) 1 to 6 of the amended Law of 29 August 2008 on the free movement of persons and immigration.

Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[187] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021.

[188] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[189] Article 22 (3) b) and article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) and Article 125 (1) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration. See also: First instance Administrative Court, 3rd Chamber n° 45404 of 30 December 2020.

[190] Article 12 (2) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[191] Article 12 (1) of the Law of 18 December 2015 on international protection and temporary protection.

[192] Article 111 (1) and (2) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[193] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[194] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[195] Article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[196] Article 22 (3) a) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) a) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[197] Article 22 (3) c) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[198] Article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[199] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[200] Article 133 (1) in accordance with article 134 of the amended Law of 29 August 2008 on the free movement of persons and immigration.

Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[201] Article 134 of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[202] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[203] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[204] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[205] Article 22 (3) c) of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[206] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[207] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[208] Article 22 (3) c) of the Law of 18 December 2015 on international protection and temporary protection.

[209] Article 125 (1) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[210] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[211] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[212] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[213] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[214] Article 22 (3) c) of the Law of 18 December 2015 on international protection and temporary protection and 125 a) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[215] Article 111 (1) and (2) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[216] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[217] Article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection and article 125 (1) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[218] Article 22 (3) a) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) a) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[219] Article 22 (3) b) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) b) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[220] Article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[221] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[222] Article 22 (3) c) of the Law of 18 December 2015 on international protection and temporary protection and 125 a) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[223] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 9 April 2021. Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 15 April 2021.

[224] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[225] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[226] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[227] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[228] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[229] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[230] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[231] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[232] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[233] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[234] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[235] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[236] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

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[240] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[241] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[242] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[243] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[244] Article 133 (1) in accordance with article 134 of the amended Law of 29 August 2008 on the free movement of persons and immigration.

Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[245] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[246] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[247] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[248] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[249] Article 22 (2) b) and d) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) in relation with Article 111 (3) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[250] According to Article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[251] Article 111 (3) c) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[252] First instance Administrative Court, 3rd Chamber n° 45404 of 30 December 2020. Also, First instance Administrative Court, 3rd Chamber, n° 30713 of 29 June 2012.

[253] Ibid.

[254] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[255] Article 111 (3) c) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[256] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[257] Administrative Court, n° 29628 of 23 December 2011.

[258] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[259] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[260] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[261] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[262] First instance Administrative Court, 3rd Chamber n° 45404 of 30 December 2020. The Court states: “Indeed, the claimant, who has no legal domicile in Luxembourg, has resided illegally in Luxembourg for several years. It is also clear from the information in the file that in 2015 and 2016 the applicant evaded a deportation order for having disappeared. Although he is currently applying to be placed under house arrest with his friend, Mr ..., who lives in L-..., he does not however mention any particular ties binding him to him. Indeed, it appears from the file submitted to the court that until the road accident of 18 November 2020, the claimant did not reside with Mister ..., but in a studio in ..., which was made available to him by another friend called ….. No other element in the file shows any particular link with Mr. ..., respectively an undertaking by the latter to provide a

financial guarantee of 5,000.-euros. His only wish to be assigned to the home of this friend and the accommodation certificate filled out by that friend cannot therefore suffice to rule out any risk of absconding on the part of the applicant".

See also: First instance Administrative Court, 3rd Chamber, n° 45359 of the 23 December 2020. The court states: "Finally, in the absence of sufficient guarantees of representation to prevent the risk of absconding, the applicant's proposal to provide a financial guarantee, moreover not accompanied by any document justifying the seriousness of this proposal, is not sufficient to conclude that the Minister should have taken a less coercive measure with respect to the applicant than a detention placement."

[263] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[264] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[265] See also: First instance Administrative Court, 3rd Chamber, n° 45359 of the 23 December 2020. See also: First instance Administrative Court, 3rd Chamber n° 45404 of 30 December 2020.

[266] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[267] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

See also: First instance Administrative Court, 3rd Chamber, n° 45359 of the 23 December 2020. See also: First instance Administrative Court, 3rd Chamber n° 45404 of 30 December 2020.

[268] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[269] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[270] DP, LSAP and déi gréng, *« Accord de coalition 2018-2023 »*, Luxembourg, 3 December 2018, p. 233. URL: https://gouvernement.lu/fr/publications/accord-coalition/2018-2023.html.

[271] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[272] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[273] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[274] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[275] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[276] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[277] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[278] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[279] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[280] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[281] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[282] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[283] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[284] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[285] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[286] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[287] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[288] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[289] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[290] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[291] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[292] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[293] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[294] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[295] Article 22 (3) of the Law of 18 December 2015 on international protection and temporary protection.

Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[296] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[297] Article 22 (2) d) of the Law of 18 December 2015 on international protection and temporary protection.

Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[298] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[299] Article 22 (3) of the Law of 18 December 2015 on international protection and temporary protection.

[300] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

See also: Directorate of Immigration, Ministry of Foreign and European Affairs, *Bilan de l'année 2020 en matière d'asile, d'immigration et d'accueil*, page 28. URL: https://maee.gouvernement.lu/content/dam/gouv_maee/directions/d8/publications/statistiques-en-mati%C3%A8re-d-asyle/20210301-Bilan-2020-Asile,-immigration-et-accueil.pdf.

[301] Directorate of Immigration, Ministry of Foreign and European Affairs, *Bilan de l'année 2017 en matière d'asile et d'immigration*, page 36. URL: https://maee.gouvernement.lu/dam-assets/directions/d8/publications/statistiques-en-mati%C3%A8re-d-asyle/bilan-de-l-annee-2017-en-matiere-d-asile-et-d-immigration.pdf.

[302] Article 22 (2) d) of the Law of 18 December 2015 on international protection and temporary protection.

Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[303] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[304] Article 22 (2) d) of the Law of 18 December 2015 on international protection and temporary protection.

Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[305] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[306] Article 22 (3) of the Law of 18 December 2015 on international protection and temporary protection.

[307] Article 22 (3) of the Law of 18 December 2015 on international protection and temporary protection.

[308] Article 22 (6) of the Law of 18 December 2015 on international protection and temporary protection.

[309] Article 120 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[310] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[311] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[312] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[313] Article 4 (1) of the Law of 18 December 2015 on international protection and temporary protection.

[314] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

See also: EMN Luxembourg, *Accurate, timely, interoperable? Data management in the asylum procedure in Luxembourg*, p. 31. Luxembourg, 2020. URL: http://www.emnluxembourg.lu/wp-content/uploads/2020/11/Data-management-in-the-asylum-procedure-in-Luxembourg_2020.pdf

[315] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration,Ministry of Foreign and European Affairs, on 26 March 2021.

[316] Article 120 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[317] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[318] Article 111 (3) c) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[319] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[320] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[321] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[322] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[323] Article 6 (3) of the amended law of 28 May 2009 on the detention centre.

[324] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[325] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[326] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[327] Article 120 (1) and article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[328] Article 120 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[329] Article 120 (3) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[330] Article 123 (6) subparagraph 1 of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[331] Article 123 (6) subparagraph 1 of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[332] Article 123 (6) subparagraph 4 of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[333] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[334] Article 22 (3) of the Law of 18 December 2015 on international protection and temporary protection.

[335] Article 22 (2) a) to e) of the Law of 18 December 2015 on international protection and temporary protection.

[336] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[337] Article 22 (3) of the Law of 18 December 2015 on international protection and temporary protection.

[338] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[339] Article 120 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[340] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[341] Article 120 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[342] Article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[343] Article 111 (3) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration in accordance with articles 120 (1) and 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[344] Article 120 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[345] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[346] First instance Administrative Court, 3rd Chamber, n° 45359 of the 23 December 2020. First instance Administrative Court Chamber 1st chamber n° 36981 of 1st October 2015. First instance Administrative Court, 1st Chamber, n° 30201 of 5 April 2012.

[347] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[348] Article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection.

[349] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[350] Article 111 (3) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration in accordance with articles 120 (1) and 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[351] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[352] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021

[353] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[354] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[355] Article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection.

Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[356] Article 22 (2) b) and d) of the Law of 18 December 2015 on international protection and temporary protection and Article 125 (1) in relation with Article 111 (3) c) of the amended Law of 29 August 2008 on the free movement of persons and immigration

[357] See also, First instance Administrative Court, 3rd Chamber, n° 45359 of the 23 December 2020.

[358] Article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021

[359] According to Article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration. See also, First instance Administrative Court, 3rd Chamber, n° 45359 of the 23 December 2020.

[360] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[361] Article 22 (2) of the Law of 18 December 2015 on international protection and temporary protection.

[362] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

See also : Directorate of Immigration of the Ministry of Foreign and European Affairs, *Bilan de l'année 2020 en matière d'asile, d'immigration et d'accueil*, p. 28. URL: https://maee.gouvernement.lu/content/dam/gouv_maee/directions/d8/publications/statistiques-en-mati%C3%A8re-d-asyle/20210301-Bilan-2020-Asile,-immigration-et-accueil.pdf.

[363] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[364] Article 120 (1) in accordance with article 125bis (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[365] Article 22 (3) of the Law of 18 December 2015 on international protection and temporary protection.

[366] Article 125 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[367] Article 22 (3) last paragraph of the Law of 18 December 2015 on international protection and temporary protection.

[368] Article 125 (1) last paragraph of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[369] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[370] Article 16 (1) of the amended law of 18 December 2015 on the reception of applicants for international protection and temporary protection.

[371] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[372] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

See also : Directorate of Immigration of the Ministry of Foreign and European Affairs, *Bilan de l'année 2020 en matière d'asile, d'immigration et d'accueil*, p. 28. URL: https://maee.gouvernement.lu/content/dam/gouv_maee/directions/d8/publications/statistiques-en-mati%C3%A8re-d-asyle/20210301-Bilan-2020-Asile,-immigration-et-accueil.pdf.

[373] Inspection Sanitaire, Ministère de la Santé.

[374] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[375] LU EMN NCP answer to BE EMN NCP Ad-hoc query on Reception of Vulnerable Applicants for International Protection with Special Reception Needs (Part I) launched on 26 March 2018 and LU EMN NCP answer to the Questionnaire on Children in Migration launched on 5 January 2020.

[376] LU EMN NCP answer to BE EMN NCP Ad-hoc query on Detention of Minors launched on 26 August 2020.

[377] Article 22 (3) of the Law of 18 December 2015 on international protection and temporary protection.

[378] Article 9 (1) of the amended law of 28 May 2009 on the on the creation and organisation of the detention centre.

[379] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[380] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[381] Article 22 (6) of the Law of 18 December 2015 on international protection and temporary protection.

[382] Article 22 (6) of the Law of 18 December 2015 on international protection and temporary protection in accordance with article 123 (4) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[383] Article 123 (5) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[384] Article 22 (6) last paragraph of the Law of 18 December 2015 on international protection and temporary protection.

[385] Article 123 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[386] Article 123 (2) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[387] Article 123 (3) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[388] Article 123 (4) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[389] Article 123 (5) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[390] Article 123 (5) of th amended Law of 29 August 2008 on the free movement of persons and immigration.

[391] Article 17 (1) of the Law of 18 December 2015 on international protection and temporary protection.

[392] Article 122 (3) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

Information provided by the Returns Department of the Directorate of Immigration on 4 March 2021.

[393] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021.

The data represents absolute figures. In other words, the data refers to all placements in detention (i.e. all entries), which means that a person is counted twice if they had been placed in detention on several occasions.

[394] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[395] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[396] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021.

The data represents absolute figures. In other words, the data refers to all placements in detention (i.e. all entries), which means that a person is counted twice if they had been placed in detention on several occasions.

[397] Data from 1 April onwards, as the SHUK was opened on that date. Includes 41 persons that were assigned to the SHUK but disappeared before arriving there (reported as 'no-show').

[398] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[399] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021.

The data represents absolute figures. In other words, the data refers to all placements in detention (i.e. all entries), which means that a person is counted twice if they had been placed in detention on several occasions.

[400] Data from 1 April onwards, as the SHUK was opened on that date. Of which: 408 disappearances from the SHUK and 41 after having been assigned to the SHUK but before arrival at the SHUK (reported as 'no-show').

[401] Includes 3 persons that were assigned to the SHUK but disappeared before arriving there (reported as 'no-show').

[402] Includes 3 persons that were assigned to the SHUK but disappeared before arriving there (reported as 'no-show').

[403] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[404] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[405] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[406] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 9 April 2021.

[407] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 9 April 2021.

[408] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 9 April 2021.

[409] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 9 April 2021.

[410] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 9 April 2021.

[411] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 9 April 2021.

[412] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 9 April 2021.

[413] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 9 April 2021.

[414] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021.

[415] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[416] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[417] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[418] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[419] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[420] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[421] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[422] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 15 April 2021.

[423] Article 119 (2) of the amended Law of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[424] This number counts only for those, who did not receive a return decision a long time before coming to the detention centre, e.g. rejected applicants for international protection in first instance, which are not placed in the detention centre immediately when receiving the return decision. For those who are staying irregularly on the territory and are placed in detention, the issuing of a return decision is generally taken the day of the placement or at least within 48 hours, the length of time that transpires from issuing a return decision to the execution of the return should then be very close to days indicated in the table for the respective year. The indicated days are calculated from the moment of entry into the detention centre until the removal of the person.

[425] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021.

[426] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021.

[427] Potential returns refer to the total placements in detention per year, minus Dublin transfers as they do not represent returns.

[428] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[429] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[430] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[431] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

According to the data provided by the detention centre, a total of 6 persons were assigned to home custody in the SHUK in accordance with the amended Law of 29 August 2008 on the free movement of persons and immigration in the period 2017-2019. However, these assignments were of exceptional nature and are therefore not included in this table.

Source: Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021.

[432] Ibid.

[433] Ibid.

[434] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[435] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[436] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[437] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[438] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 26 March 2021.

[439] Reporting period of Q13 and Q15 above.

[440] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021.

According to year: 493 in 2017, 376 in 2018 and 364 in 2019.

[441] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 15 March 2021.

According to year: 605 in 2017, 571 in 2018 and 423 in 2019.

[442] Ibid.

[443] By taking into consideration the total number of applicants for international protection (e.g. including the 105 persons transferred to the detention centre and the penitentiary centre), the absconding rate would be 68,85%.

[444] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 9 April 2021.

[445] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[446] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[447] Total: 1.233 detainees, of which 858 in return procedures (69.59%) and 375 in international protection procedures (30.41%).

[448] Data from 1 April onwards as the SHUK was opened on that day.

[449] Further reference is made to the legislation in force on legal aid (amended Law of 10 August 1991 on the profession of lawyer, Law of 18 August 1995 on legal aid, amended Grand-Ducal Regulation of 18 September 1995 on legal aid).

[450] According to article 22(5) of the Law of 18 December 2015 on international protection and temporary protection and article 122 (3) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[451] Article 20 (1) of the Law of 18 December 2015 on international protection and temporary protection and article 122 (3) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[452] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[453] Visits to the Detention Centre are regulated by article 22 of the Grand-Ducal Regulation of 17 August 2011.

For more information on the visits by laywers, see: Detention Centre, Ministry of Foreign and European Affairs, *Premier bilan du fonctionnement du Centre de rétention, Luxembourg*, 2018, p. 6. URL: https://maee.gouvernement.lu/dam-assets/directions/d8/publications/premier-bilan-du-fonctionnement-du-centre-de-retention.pdf.

[454] Information provided by Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[455] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[456] Information provided by Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[457] Information provided by Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[458] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 9 April 2021.

[459] Article 22 (6) of the Law of 18 December 2015 on international protection and temporary protection and article 123 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[460] Article 22 (5) of the Law of 18 December 2015 on international protection and temporary protection and article 122 (1) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[461] Article 22 (5) of the Law of 18 December 2015 on international protection and temporary protection and Article 122 (2) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[462] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 15 April 2021.

[463] Article 9 of the amended law of 28 May 2009 on the detention centre.

[464] According to article 1 paragraph 2 of the Grand-Ducal Regulation of 17 August 2011 laying down the conditions and practical arrangements of the Detention Centre Regime, Official Journal, Memorial A, No. 180, 22.08.2011. URL: http://legilux.public.lu/eli/etat/leg/rgd/2011/08/17/n2/jo.

[465] Detention Centre, Ministry of Foreign and European Affairs, *Premier bilan du fonctionnement du Centre de rétention, Luxembourg*, 2018, p. 2. URL: https://maee.gouvernement.lu/dam-assets/directions/d8/publications/premier-bilan-du-fonctionnement-du-centre-de-retention.pdf.

[466] According to article 22 (5) paragraph 2 of the Law of 18 December 2015 on international protection and temporary protection in accordance with article 122 (3) of the amended Law of 29 August 2008 on the free movement of persons and immigration.

[467] Article 9 (3) of the amended law of 28 May 2009 on the detention centre.

[468] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[469] Article 12 of the Grand-Ducal Regulation of 17 August 2011.

[470] Article 12 of the Grand-Ducal Regulation of 17 August 2011.

[471] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 12 April 2021.

[472] Article 13 of the Grand-Ducal Regulation of 17 August 2011.

[473] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[474] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[475] Amended Law of 18 December 2015 on the reception of applicants for international protection and temporary protection and modifying the modified law of 19 August 1991 on the profession of laywer. Official Journal, Memorial A, No. 255, 28.12.2015. URL: http://legilux.public.lu/eli/etat/leg/loi/2015/12/18/n16/jo#:~:text=Art.-,1%20er.,b%C3%A9n%C3%A9ficiaires%20de%20la%20protection%20temporaire.

[476] EMN Luxembourg, *Responses to long-term irregularly staying migrants: practices and challenges in Luxembourg*, Luxembourg, 2020, p.27. URL: http://www.emnluxembourg.lu/wp-content/uploads/2020/12/Responses-to-long-term-irregularly-staying-migrants-practices-and-challenges-in-Luxembourg_2020-1.pdf.

[477] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 15 April 2021.

For more information, see: EMN Luxembourg, *Responses to long-term irregularly staying migrants: practices and challenges in Luxembourg*, Luxembourg, 2020, p.40-41. URL: http://www.emnluxembourg.lu/wp-content/uploads/2020/12/Responses-to-long-term-irregularly-staying-migrants-practices-and-challenges-in-Luxembourg_2020-1.pdf.

[478] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[479] Article 22 of the Grand-Ducal Regulation of 17 August 2011.

Detainees may receive visitors freely and without supervision from 8h00 and 12h00, as well as between 13h00 and 18h00, weekends and public holidays included. The director may however order supervision, except for visits of lawyers and doctors, in case there is a serious evidence of abuse, a risk of absconding or an endangering of the safety of the centre. For security reasons, visiters must undergo a security check; visitors who refuse this check are denied access to the centre. Lawyers and doctors do not have to undergo a security check. Normally, a visit is planned for an hour, but if the room for the visit is not needed afterwards for another person, the staff of the detention centre is flexible and lets the visitors stay longer, even past the normal visit hours.

Source: Detention Centre, Ministry of Foreign and European Affairs, *Premier bilan du fonctionnement du Centre de rétention, Luxembourg*, 2018, p. 6. URL: https://maee.gouvernement.lu/dam-assets/directions/d8/publications/premier-bilan-du-fonctionnement-du-centre-de-retention.pdf.

Furthermore, article 22 of the Grand-Ducal Regulation of 17 August 2011 stipulates that the detainee may not receive more than three adults per visit and minors have to be accompanied by an adult. The director determines schedules and duration of visits, but the frequency of visits may not be restricted to less than 2 per week and per detainee.

[480] Detention Centre, Ministry of Foreign and European Affairs, *Premier bilan du fonctionnement du Centre de rétention, Luxembourg*, 2018, p. 5. URL: https://maee.gouvernement.lu/dam-assets/directions/d8/publications/premier-bilan-du-fonctionnement-du-centre-de-retention.pdf.

[481] Article 27 of the Grand-Ducal Regulation of 17 August 2011.

Action des Chrétiens pour l'abolition de la torture (ACAT), the Red Cross, Caritas, Amnesty International, Comité de liaison des associations d'étrangers (CLAE), Association de Soutien aux Travailleurs Immigré (ASTI), Passerell asbl and the Jesuit Refugee Service (JRS) have an agreement as legal entities. Some 40 individual agreements have been granted to individual persons from these associations and organisation, allowing them to access refectories of the residence and lesure units during normal visiting hours.

Source: Detention Centre, Ministry of Foreign and European Affairs, *Premier bilan du fonctionnement du Centre de rétention, Luxembourg*, 2018, p. 6. URL: https://maee.gouvernement.lu/dam-assets/directions/d8/publications/premier-bilan-du-fonctionnement-du-centre-de-retention.pdf.

Only the JRS has no individual agreement yet because they have only recently received the agreement by the Minister of in charge of Immigration and Asylum.

Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 12 April 2021.

[482] The conditions of such visits are determined by the director, and the representatives of worship must be recognised by the competent authorities.

Source: Article 26 of the Grand-Ducal Regulation of 17 August 2011.

[483] Article 14 (1) of the amended Law of 28 may 2009 on the detention centre.

[484] Article 14 (1) of the amended law of 28 May 2009 on the detention centre.

[485] Article 24 of the Grand-Ducal Regulation of 17 August 2011.

[486] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 12 April 2021.

[487] Article 21 paragraph 1 of the Grand-Ducal Regulation of 17 August 2011.

[488] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

See also: Detention Centre, Ministry of Foreign and European Affairs, Premier bilan du fonctionnement du Centre de rétention, Luxembourg, 2018, p. 7. URL: https://maee.gouvernement.lu/dam-assets/directions/d8/publications/premier-bilan-du-fonctionnement-du-centre-de-retention.pdf.

[489] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 12 April 2021.

[490] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[491] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[492] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[493] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[494] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[495] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[496] Information provided by Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[497] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[498] Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du Conseil de l'Europe. See URL: https://www.coe.int/en/web/cpt/home.

[499] At the national level, the law of 11 April 2010 designated the Ombudsman as a preventive mechanism responsible for ensuring external monitoring of places where persons are deprived of their liberty, in particular by means of regular visits. See URL: http://www.ombudsman.lu/FR/CELPL-001.php

[500] Ombudsman, *Rapport du contrôleur externe relatif au Centre de rétention*. Luxembourg, 2014. URL: http://www.ombudsman.lu/uploads/RV/RV8%20-%20Rapport.pdf.

[501] Ombudsman, *Rapport du contrôleur externe relatif au Centre de rétention*, p. 49.

[502] Ombudsman, *Rapport du contrôleur externe relatif au Centre de rétention*, pp. 4, 8, 40-47.

[503] Conseil de l'Europe, *Rapport au Gouverment du Grand-Duché du Luxembourg relative à la visite effectuée au Luxembourg par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 28 janvier au 2 février 2015*. Strasbourg, 17 septembre 2015. URL: https://rm.coe.int/16806973da.

[504] Conseil de l'Europe, *Rapport au Gouverment du Grand-Duché du Luxembourg relative à la visite effectuée au Luxembourg par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 28 janvier au 2 février 2015*.

[505] Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 9 March 2021.

[506] Detention Centre, Ministry of Foreign and European Affairs, *Premier bilan du fonctionnement du Centre de rétention, Luxembourg*, 2018. URL: https://maee.gouvernement.lu/dam-assets/directions/d8/publications/premier-bilan-du-fonctionnement-du-centre-de-retention.pdf

[507] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021. Information provided by the Detention Centre, Ministry of Foreign and Europrean Affairs, on 9 March 2021.

[508] Information provided by the Directorate of Immigration, Ministry of Foreign and European Affairs, on 12 March 2021. Information provided by the Ombudsman of the Grand-Duchy of Luxembourg on 1 April 2020. Information provided by the Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 12 April 2021.

[509] Information provided by the Information provided by the Detention Centre, Ministry of Foreign and European Affairs, on 12 April 2021.

[510] Article 21 of the amended law of 28 May 2009.

[511] Information provided by the Directorate of Immigration of the Ministry of Foreign and European Affairs on 26 March 2021.

[512] Information provided by the Returns Department of the Directorate of Immigration, Ministry of Foreign and European Affairs, on 4 March 2021.

[513] Directorate of Immigration, Ministry of Foreign and European Affairs, *Bilan de l'année 2015 en matière d'asile et d'immigration*, page 24. URL: https://gouvernement.lu/dam-assets/fr/actualites/articles/2016/02-fevrier/04-bilan-immigration/Bilan-2015.pdf

Ministry of Foreign and European Affairs, *Rapport d'activité 2016*, page 102. URL: https://maee.gouvernement.lu/dam-assets/minist%C3%A8re/rapports-annuels/rapport-annuel-2016.pdf.

Directorate of Immigration, Ministry of Foreign and European Affairs, *Bilan de l'année 2017 en matière d'asile et d'immigration*, page 33. URL: https://maee.gouvernement.lu/dam-assets/directions/d8/publications/statistiques-en-mati%C3%A8re-d-asyle/bilan-de-l-annee-2017-en-matiere-d-asile-et-d-immigration.pdf.

Directorate of Immigration, Ministry of Foreign and European Affairs, *Bilan de l'année 2018 en matière d'asile, d'immigration et d'accueil*, page 37. URL: https://maee.gouvernement.lu/dam-assets/directions/d8/publications/statistiques-en-mati%C3%A8re-d-asyle/20190131-Bilan-2018-Asile-Immigr-Accueil-presse.pdf.

Directorate of Immigration, Ministry of Foreign and European Affairs, *Bilan de l'année 2019 en matière d'asile, d'immigration et d'accueil*, page 31. URL: https://maee.gouvernement.lu/content/dam/gouv_maee/directions/d8/publications/statistiques-en-mati%C3%A8re-d-asyle/Bilan-2019-Asile-Immigration-et-Accueil.pdf.

Directorate of Immigration, Ministry of Foreign and European Affairs, *Bilan de l'année 2020 en matière d'asile, d'immigration et d'accueil*, page 25. URL: https://maee.gouvernement.lu/dam-assets/directions/d8/publications/statistiques-en-mati%C3%A8re-d-asyle/20210301-Bilan-2020-Asile,-immigration-et-accueil.pdf.

[514] Ibid.

[515] Ibid.