



**Detention and Alternatives to Detention in
International Protection and Return Procedures -
contribution of the Slovak Republic**

EMN Study – Questionnaire Form
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Except for the questionnaire specification, the text of the study is an unofficial translation prepared by IOM Bratislava as the coordinator of the EMN National Contact Point for the Slovak Republic provided for reference only. In the event of any ambiguity about the meaning of certain translated terms or of any discrepancy between the Slovak version and the translation, the Slovak version shall prevail. Users are advised to consult the original Slovak language version of the study.

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Preface

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

Categories of third-country nationals considered in the study include international protection applicants and individuals who have been issued a return decision. The study focuses on detention for asylum/return purposes only and does not include in its scope detention of third-country nationals who have committed a criminal offence.

In terms of the methodological approach, the study is mostly based on the research and analysis of the documents and publications related to this topic. The primary sources of information were the legislation of the Slovak Republic (SR) and the relevant EU legal norms and acts governing detention and alternatives to detention. The study was also prepared by using the internal rules of the Bureau of Border and Foreign Police of the Police Force Presidium (BBFP PFP), such as methodical guidelines, instructions and internal orders of the Police Detention Centres for Foreigners. Interviews with relevant divisions of the BBFP PFP concerning the topic were also an important source of information and statistical data. Questionnaires were used to collect information and statistical data from relevant state authorities as well as non-governmental and international organizations, such as the Migration Office of the Ministry of Interior of the SR (MO MoI SR), the Ministry of Justice of the Slovak Republic, the Centre for Legal Aid (CLA), the Office of the Public Defender of Rights, the NGOs Human Rights League (HRL) and the Slovak Humanitarian Council (SHC), as well as the International Organization for Migration (IOM). The websites of various relevant institutions were also a valuable source of information. The 2014 EMN study on this topic, *The Use of Detention and Alternatives to Detention in the Context of the Migration Policy of the Slovak Republic*¹ also served as an important basis for the preparation of this study.

Based on the questionnaires from each EU Member State and Norway, the European Commission prepares a synthesis report covering the main findings. The questionnaire form of the study from the Slovak Republic in Slovak and English language and the synthesis report are available on the Slovak EMN National Contact Point website www.emn.sk.

¹ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014. Available at <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WYJ6YWIzdGVuaWUiXQ==>

List of abbreviations

AE – administrative expulsion

CLA – Centre for Legal Aid

EC – European Commission

EMN – European Migration Network

EU – European Union

HRL – Human Rights League

IOM – International Organization for Migration

MoI SR – Ministry of Interior of the Slovak Republic

SHC – Slovak Humanitarian Council

SR – Slovak Republic

TCN(s) – third-country national(s)

BBFP PFP – Bureau of Border and Foreign Police of the Police Force Presidium

PDCF(s) – Police Detention Centre(s) for Foreigners

Coll. – Collection of laws of the SR

Summary

The “Detention and Alternatives to Detention in International Protection and Return Procedures” study by the European Migration Network (EMN) was chosen by the EMN Steering Board as a part of the 2020 working programme. Each EU Member State and Norway will draft their own study based on a common specification – the questions presented below.

The study consists of 4 chapters, which are briefly summarized below.

Chapter 1 concerns the legislative framework of detention and alternatives to detention. No significant changes have occurred at the national level since the drafting of the latest EMN study in this field in 2014.² In terms of content, however, we thought it necessary to summarize the legal framework pertaining to detention and alternatives to detention in the Slovak Republic in general. Chapter 1 also focuses on vulnerable groups and the lawful possibilities of their detention. The situation brought about by the Coronavirus pandemic also led to minor changes to legislation which were adopted to mitigate the negative impacts of the crisis and to address various situations that the foreigners could find themselves in during their stay in the territory of the SR, including situations involving detention and release from detention. These are mainly the amendments introduced in Section 131i of the Act on Residence of Foreigners which have the form of transitional provisions related to the crisis situation caused by COVID-19. We believe the topic of detention and alternatives to detention was elaborated well in the 2014 EMN study; hence, we make reference to this study in some parts herein.

The Slovak legislative framework applicable to the imposition of alternatives to detention, their practical application, including competent authorities and the conditions a third-country national is obliged to comply with in case of the relevant alternative, are described in Chapter 2. This part specifically discusses two types of alternatives to detention that can be imposed pursuant to Slovak legislation. These alternatives to detention include the obligation to report a place of stay and the obligation to surrender a financial guarantee. A better and more detailed overview of their practical usage is provided for both alternatives. In the SR, the alternative of reporting a place of stay is used more in practice, as it is the easier variant in terms of compliance with the conditions of the imposed alternative. A person is obliged to specify the address where they will be staying and to report to the Police Force department at regular intervals.

Chapter 3 explains the practical application of the assessment procedures and criteria used to decide on the placement of third-country nationals in detention or alternatives to detention. Apart from the provision of information and specification as to which authorities are responsible for the decision, the decision-making process is described in more detail. In terms of national legislation, it is always necessary to examine the possibility of using an alternative to detention. Each case shall be assessed on an individual basis with the aim of using the less serious means to achieve the purpose of detention. Criteria and considerations used to decide whether a person shall be placed in a Police Detention Facility³ or whether they meet the conditions for an alternative to detention to be imposed are analysed and presented in a clearly arranged table. Specifically, a person’s vulnerability is assessed. As for the vulnerable groups, unaccompanied minors may not be detained under any circumstances. Detention is possible in the case of other vulnerable persons, but only if necessary and for the shortest possible period of time. Legal remedies applicable under Slovak legislation and the possibilities of accessing support by third-country nationals detained in respective facilities or by those on whom an alternative to detention was imposed are outlined in the final part of this chapter. Each decision can be examined by a court and third-country nationals can reach out to non-governmental organisations providing counselling services in this field. Moreover, the SR offers free legal aid, provided through the Centre for Legal Aid (CLA), which can be approached by a foreigner, in relation to filing a general administrative appeal against the decision on detention and representation before national courts in this matter.

Chapter 4 concludes the study by assessing the impacts of detention and alternatives to detention on the

² Ibid.

³ In the text of this study, Police Detention Centres are also referred to as detention facilities or “facilities”. Therefore, for the purpose of this study, these are understood as synonyms.

effectiveness of return and international protection procedures. With regard to the fact that no studies or assessments were prepared on this topic at the national level, it is particularly difficult to assess individual aspects, as required in this section. Moreover, in terms of statistical data collection, some data cannot be stated, as they are not collected in the required form in the Slovak Republic. However, information on the upholding of fundamental rights of the third-country nationals on whom detention or alternative to detention was imposed is included in a well-arranged table. Third-country nationals have access to free legal aid regardless of their migration status. Third-country nationals have the right to file complaints and to turn to the Public Defender of Rights, if necessary. This applies both to detained TCNs and to TCNs on whom an alternative to detention was imposed. In terms of healthcare, detained persons are considered to be covered by public health insurance. Within the scope of a project of the Slovak Humanitarian Council, a non-governmental organisation, detained persons are provided supplementary healthcare. Moreover, medical aids which are not paid for by public health insurance but which are necessary for TCNs, such as dentures etc., are provided, too. This does not apply to persons on whom an alternative to detention was imposed. These TCNs, however, are provided urgent medical help, if needed. At the same time, they can obtain commercial health insurance. In terms of additional safeguards, TCNs have access to education. At the same time, the Slovak Humanitarian Council is implementing a project aimed at providing social and psychological counselling to detained persons and organizing leisure-time activities and other services for them.

A Statistical Annex includes all the data relevant for detention and alternatives to detention. With regard to the average length of time in detention, only the average length of time in detention concerning all categories of TCNs could be given. It is not possible to obtain data concerning the average length of time in detention specified by different categories of TCNs from the systems of MoI SR.

Section 1: National policy and legal framework: development since 2015⁴

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.

Legal provisions pertaining to the detention of third-country nationals in the Slovak Republic are laid down in Act No. 404/2011 of 21 October 2011 on Residence of Foreigners and on changes and amendments to certain acts, as subsequently amended (hereinafter referred to as the "Act on Residence of Foreigners"), more precisely in Sections 88 – 100. These provisions pertain to the reasons for the detention of third-country nationals (hereinafter referred to as "TCN(s)"),⁵ in particular the reasons for the detention of asylum seekers,⁶ define the conditions under which alternatives to detention may be imposed,⁷ define the obligations of Police Force departments and Police Detention Centres,⁸ as well as the rights and obligations of TCNs placed in such facilities.⁹ The provisions also provide for the conditions and separate regime in the facility where the TCN is placed based on the decision on detention,¹⁰ the placement of detained TCNs,¹¹ the conditions for the examination of detained TCNs¹² and the provision of food and healthcare to detained TCNs.^{13, 14, 15}

⁴ 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

⁵ Section 88 of the Act on Residence of Foreigners.

⁶ Section 88a of the Act on Residence of Foreigners.

⁷ Section 89 of the Act on Residence of Foreigners.

⁸ Section 90 of the Act on Residence of Foreigners.

⁹ Sections 96-99 of the Act on Residence of Foreigners.

¹⁰ Sections 92 and 93 of the Act on Residence of Foreigners.

¹¹ Section 94 of the Act on Residence of Foreigners.

¹² Section 100 of the Act on Residence of Foreigners.

Legal reasons, based on which is the police officer authorised to detain the TCN are explicitly stipulated in Section 88 of the Act on Residence of Foreigners. Based on these provisions, a police officer is entitled to detain a third-country national:

- a) subject to an administrative expulsion procedure¹⁶ in order to ensure his/her departure to the country of origin, country of transit or any third country the third-country national voluntarily decides to return to and which would receive him/her, or to the territory of a Member State in which he/she has been granted the right of residence or international protection, if
 - 1) there is a risk of absconding, or if
 - 2) the third-country national avoids or hampers the preparation of execution of his/her administrative expulsion,
- b) for the purpose of executing an administrative expulsion or punishment of expulsion,
- c) for the purpose of preparing or executing his/her transfer under a special regulation,¹⁷ if there is a significant risk of absconding, or
- d) for the purpose of his/her return under an international treaty (readmission agreement), if he/she has illegally crossed an external border or is residing illegally in the territory of the Slovak Republic.¹⁸

A third-country national may be detained for as reasonable a time as necessary, yet not exceeding six months. The Police Force department may use the 6-month period of detention of any third-country national as a whole, or it may split this period of time into several shorter periods of detention, whereby the sum of such shorter periods of detention must not exceed 6 months. If it can be anticipated that despite the necessary steps taken to ensure execution of the administrative expulsion or punishment of expulsion of the third-country national the execution will be prolonged due to poor cooperation of the third-country national or because the representation office fails to issue an emergency travel document within the period of 6 months, the Police Force department is entitled to decide, repeatedly, to extend the period of detention, whereby the entire extended period of detention must not exceed 12 months. The Police Force department may also use this 12-month period of detention as a whole, or it may split this period of time into several shorter periods of detention, whereby the sum of such shorter periods of detention must not exceed 12 months. Whether the Police Force department uses the period of detention as a whole or splits it into several shorter periods depends on the individual assessment of the specific case of detention of a third-country national, with an emphasis on the due justification of the purpose of the period of detention. The period of detention may not be extended if it concerns families with children or vulnerable persons.^{19,20}

In connection with the detention of asylum seekers, under the Act on Residence of Foreigners a police officer is authorized to detain an applicant for asylum, provided that the purpose of detention cannot be achieved by any less severe means:

¹³ Section 91 of the Act on Residence of Foreigners.

¹⁴ Section 95 of the Act on Residence of Foreigners.

¹⁵ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014. (Section 1.1), available at <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WyJ6YWlzdGVuaWUiXQ==>, consulted on 13/02/2021

¹⁶ In this context, it needs to be said that based on the Act on Residence of Foreigners, the term "return decision" (as stated in the specification of this study) is not used in the SR. A "decision on administrative expulsion" is used instead. Therefore, for the purpose of this study, in compliance with the Act on Residence of Foreigners, we will use the term "a decision on administrative expulsion" as a synonym of the "return decision".

¹⁷ Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Official Journal L 180 of 29.6.2013).

¹⁸ Section 88 par. 1 of the Act on Residence of Foreigners.

¹⁹ Section 88 par. 4 of the Act on Residence of Foreigners.

²⁰ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014. (Section 1.1), available at <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WyJ6YWlzdGVuaWUiXQ==>, consulted on 13/02/2021

- a) for the purpose of determining or verifying his/her identity or nationality;
- b) for the purpose of determining the facts that constitute the basis of his/her application for asylum, which could not be obtained without detention, especially if there is a risk of absconding;
- c) if it concerns a third-country national detained in an administrative expulsion (AE) procedure with the aim of ensuring his/her departure to the country, if there is a risk of absconding or a risk of avoiding or hampering the preparation of execution of his/her AE; or in the case of a third-country national who applied for asylum detained for the purpose of executing his/her administrative expulsion or punishment of expulsion, if a reasonable suspicion exists that he/she only applied for asylum in order to delay or frustrate his/her administrative expulsion;
- d) if it is necessary due to a threat to national security or public order; or
- e) for the purpose of ensuring the preparation or execution of his/her transfer under a special regulation,²¹ if there is a significant risk of absconding.²²

From 2015 to December 2020,²³ several partial legislative amendments related to the provisions of the Act on Residence of Foreigners pertaining to the detention of TCNs were adopted, as described below:

Amendment to the Act on Residence of Foreigners No. 82/2017 of 2017, under the grounds for releasing a detainee, added a provision stipulating that the facility in which a TCN was placed shall be obliged to release the TCN detained if, based on a decision of the Police Force department, he/she surrendered a financial guarantee to the account of the Police Force department or if the Police Force department decided to impose the obligation to report the place of stay (only the second part of the sentence was added) or if the Police Force department which decided on the detention issues an order for release.²⁴

Transitional provisions introduced in relation to the COVID-19 related crisis situation also concern this area. A number of transitional provisions were introduced under Section 131i of the Act on Residence of Foreigners. In Par. 9 of the above-mentioned Section the following was added: "Execution of an administrative expulsion decision shall be postponed for the duration of the crisis situation. This postponement shall not form the grounds for release from detention, if the purpose of detention has ceased to exist".²⁵

Further to the other parts of the Act governing detention, in particular the rights and obligations of Police Force departments or the rights and obligations of TCNs detained in facilities, the conditions and separate regime of police detention, the placement of detained TCNs, the conditions for the examination of detained TCNs and the provision of food and healthcare to detained TCNs, the following legislative changes took effect:

The part regulating the provision of food for detained TCNs was amended to the effect that minors are provided food five times a day, usually in a way that the first food is provided after the time when the detention exceeds three hours.²⁶

In relation to the rights and obligations of TCNs placed in a detention facility, the rights of TCNs younger than 18 years of age were amended in the Act. These TCNs shall be entitled to three walks per day, one in the morning and two in the afternoon. A TCN younger than 18 years of age shall also be entitled to have access to education within three months after his/her detention and to leisure-time activities, including games and recreational activities appropriate to his/her age.

²¹ Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Official Journal L 180 of 29.6.2013).

²² Section 88 par. 1 of the Act on Residence of Foreigners.

²³ The reference period defined by the specification of this study asking for changes and amendments adopted since the publication of the previous EMN study: Detention and Alternatives to Detention (2014).

²⁴ Section 90 par. 1 (b) of the Act on Residence of Foreigners. Amended by Amendment No. 82/2017 due to the extension of the grounds for release.

²⁵ Section 131i par. 9 of the Act on Residence of Foreigners.

²⁶ Section 91 par. 1 of the Act on Residence of Foreigners. Added by Amendment No. 82/2017.

Vulnerable persons and families with children shall have access to psychological and social services, guidance and crisis intervention.²⁷ These amendments were adopted to ensure the best conditions possible for detained persons younger than 18 years of age who are placed in a detention facility for foreigners together with their parents.

As concerns detention of asylum seekers, in this respect the Act on Residence of Foreigners was amended in 2015²⁸ and in 2017.²⁹ Based on these amendments an asylum seeker shall be entitled to:

- a) communication with representatives of the Office of the United Nations High Commissioner for Refugees, family members and persons providing legal assistance to the asylum seeker;
- b) visits of representatives of the Office of the United Nations High Commissioner for Refugees, family members and persons providing legal assistance to the asylum seeker under conditions that respect privacy.³⁰

The above-mentioned amendments were proposed in order to align national legislation with EU legislation, as well as to make it possible for a detained third-country national to receive visitors in a facility more often and under conditions that respect privacy.

Access of family members of the asylum seeker and of persons providing legal assistance to the asylum seeker may be limited on the grounds of threat to national security and public order, or on the basis of a decision of the facility director, provided it does not considerably limit or prevent the access of these persons to the asylum seeker.³¹

Details of the procedure applied in case of detention of a TCN are also governed by the internal regulations of the Ministry of Interior of the SR (MoI SR). With the aim of complying with legislative acts and due to practical application, these internal management rules have also been amended since 2015. In 2019 new Guidelines of the Bureau of Border and Foreign Police (BBFP PFP) for procedures concerning the administrative expulsion of foreigners, the staying of a third-country national in the territory of the SR, assisted voluntary returns and detention of third-country nationals was published in 2019. At the same time, a new internal regulation was issued – Ordinance of the Minister of Interior of the Slovak Republic No. 98/2018 on procedures concerning the execution of acts involving detained TCNs placed in Police Detention Centres for Foreigners.

No further changes have occurred in this field since 2015. The Slovak Republic still operates two detention facilities: PDCF Sečovce – catering also for families, and PDCF Medveďov.^{32,33}

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 Slovak Republic continues to apply two types of alternatives to detention. Alternatives to detention are provided for in Section 89 of the Act on Residence of Foreigners. They are:

- a) Reporting of a place of stay, or
- b) Surrender of a financial guarantee.³⁴

²⁷ Section 96 of the Act on Residence of Foreigners. Added by Amendment No. 82/2017.

²⁸ Amendment No. 131/2015.

²⁹ Amendment No. 82/2017.

³⁰ Section 98 par.3 of the Act on Residence of Foreigners.

³¹ Section 98 par. 4 of the Act on Residence of Foreigners.

³² The term "Police Detention Centre for Foreigners" is used in the SR. This term is equivalent to the term "Detention Facility for Third-Country Nationals".

³³ Described in more detail in Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014. (Section 1.1), available at <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WyJ6YWlzdGVuaWUiXQ==>, consulted on 14/02/2021.

If the period to leave is defined in the AE procedure, the detention procedure does not occur and, thus, the imposing/failure to impose alternatives to detention is not examined either. It means that an alternative to detention can only be used in cases where the period to leave has not been defined in the AE procedure and the procedure in the matter of administrative expulsion has been initiated. However, it is not possible to impose this obligation in the case of an AE procedure on the grounds of a third-country national representing a serious threat to national security or public order, or if he/she poses a threat to national security, public order or public health.³⁵

The imposition of an alternative to detention is decided by the competent Police Force department (Foreign Police department, Border Police department, Mobile Intervention Unit³⁶ or an asylum department) acting in the AE matter. Examination of the imposition of an alternative to detention is highly individual and the Police Force department shall consider this possibility in each detention procedure. When deciding, the Police Force department shall mainly take into account the person of the third-country national, his/her background and the level of risk for the purpose of the detention,³⁷ and they shall decide on the kind of obligation and method of imposing it.³⁸

The Police Force department may impose the obligation to report the place of stay of a third-country national only if the person provides proof of accommodation for the duration of this obligation and proof of financial coverage for the stay in the officially set amount covering the cost of stay for foreigners in Slovakia, which corresponds to the current subsistence minimum amount per each month of the stay of an adult person.³⁹ Financial coverage is assessed on an individual basis, with regard to the anticipated time until the execution of the return. The third-country national upon whom this obligation has been imposed is obliged to reside at the address given, report their stay regularly in person at the Police Force department within the defined period of time and to report any changes in their place of stay.⁴⁰

In the case of failure to comply with the obligation to report a place of stay, provided no objective reasons existed which the Police Force department had been notified of in advance, or in the case of avoiding the execution of administrative expulsion, the Police Force department shall decide on detention of the third-country national. The obligation to report a place of stay may be imposed and may last until the execution of the return, provided the conditions pertaining to securing accommodation and sufficient financial coverage for the stay are complied with.

In case of the obligation to surrender a financial guarantee, the third-country national upon whom this obligation was imposed shall be obliged to pay the security in the amount and within the period of time specified by the Police Force department to the account of the Police Force. The amount of the financial guarantee shall be determined on an individual basis, depending on the person of the third-country national and their circumstances. Instead of the third-country national, the financial guarantee can be surrendered by a person close to them. The person who surrenders the financial guarantee shall be obliged to inform the Police Force department of the bank account number the guarantee should be

³⁴ Even though the provisions of Section 89 laying down the obligation to report a place of stay and the obligation to surrender a financial guarantee do not explicitly refer to "alternatives to detention", given the subject matter and the wording of the said provisions, these represent alternative measures which a Police Force department may impose instead of detention.

³⁵ Section 82 par. 2 (a) or (b) of the Act on Residence of Foreigners.

³⁶ A Mobile Intervention Unit is one of the core Police Force departments operating within their territorial scope, which carries out tasks defined in the MoI SR internal regulations – e.g. implementing tasks related to the return of foreigners, criminal proceedings and combating criminal activity, control of foreigners, etc.

³⁷ Section 89 par. 2 of the Act on Residence of Foreigners.

³⁸ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014. (Section 3.1), available at <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WyJ6YWlzdGVuaWUiXQ==>, consulted on 14/02/2021.

³⁹ Section 6 of the Act on Residence of Foreigners referring to the Section 6, par. 1 c) of the Council Regulation 2016/399 as amended.

⁴⁰ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014. (Section 3.1.1), available at <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WyJ6YWlzdGVuaWUiXQ==>, consulted on 14/02/2021.

returned to or the address where they will be staying for the purpose of returning the guarantee. Another condition stipulates that the third-country national is obliged to stay at the address they specified, report any changes to the place of stay and prove that they have sufficient financial coverage for their stay.⁴¹

The Police Force shall return the financial guarantee to the person who paid it immediately after the execution of the administrative expulsion of the third-country national, after their departure within the assisted voluntary return scheme, or if they were granted a residence permit, asylum or subsidiary protection. The costs of returning the financial guarantee shall be borne by the person who paid it. If the person fails to collect the financial guarantee they surrendered (provided they have provided an address the funds are to be returned to) within one year from the date of the decision on the return of the financial guarantee becoming effective, the financial guarantee shall be forfeited to the state. The Police Force department may decide to impose the obligation to surrender a financial guarantee even in the course of the period of detention of a third-country national, i.e. even in a procedure on extending the detention or during the entire period of detention. If the third-country national fails to report the change of their stay or avoids the execution of the administrative expulsion, the Police Force department shall decide on their detention and on the forfeiture of the financial guarantee to the state.⁴²

Apart from the above mentioned alternatives to detention, the SR does not allow any other alternatives, such as, e.g. electronic monitoring, provision of a guarantee (non-monetary) for a third-country national, release to a guardian's care or to a care plan intended for such a target group, etc. As stated above, the requirement to stay at the specified address forms a part of the conditions for the provision of the alternatives which the SR allows to be imposed. Practical organisation of both alternatives is the same for all categories of third-country nationals.⁴³

No major legislative changes have been adopted pertaining to the relevant part of the Act on Residence of Foreigners since the publication of the latest EMN study on detention and alternatives to detention in 2014. All changes were in the form of factual corrections and amendments to the text.

Q3. Please complete the table below with regard to the categories of third-country nationals that can be detained in your (Member) State.

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 (Q4) after the table.

The categories of persons who can be detained in the SR have not changed since the latest EMN study on Detention and Alternatives to Detention (2014).

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

	Categories of third-country nationals	Can third-country nationals under this category be	If yes, what is the legal basis for detention? <i>List the ground for detention</i>	Which alternatives to detention are available for this category? <i>List in bullet point the alternatives to detention available for each category. Further details on each measure will be</i>	What are the (judicial and non-judicial) authorities involved in the decision about placing the person in detention or instead using an alternative to detention?
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⁴¹ Frkáňová, A., Kubovičová, K.: Zaislenie a alternatívy k zaisleniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014. (Section 3.1.2), available at <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternatívy-k-zaisteniu?Itemid=206&highlight=WyJ6YWlzdGVuaWUiXQ==>, consulted on 14/02/2021

⁴² Section 89 par. 2 of the Act on Residence of Foreigners.

⁴³ Section 89 par. 2 of the Act on Residence of Foreigners.

		detained ? <i>Yes/No</i>		<i>collected in section 2.</i>	
International Protection	Applicants for international protection in ordinary procedures	Yes	<p>Section 88a of the Act on Residence of Foreigners</p> <p>Grounds for detention:</p> <ul style="list-style-type: none"> a) for the purpose of determining or verifying his/her identity or nationality; b) for the purpose of determining the facts that constitute the basis of his/her application for asylum, which could not be obtained without detention, especially if there is a risk of absconding; c) if it concerns a third-country national detained in an administrative expulsion (AE) procedure with the aim of ensuring his/her departure to the country, if there is a risk of absconding or a risk of avoiding or hampering the preparation of execution of his/her AE; or in the case of a third-country national who applied for asylum detained for the purpose of executing his/her administrative expulsion or punishment of expulsion, if a reasonable suspicion exists that he/she only applied for asylum in order to delay or frustrate his/her administrative expulsion; d) if it is necessary due to a threat to national security or public order; or e) for the purpose of ensuring the 	<p>Reporting of a place of stay</p> <p>Surrender of a financial guarantee</p>	<p>Detention, as well as the use of an alternative to detention, is decided by the competent Police Force department, which found reasons for such action (Foreign Police department, Border Police department, Mobile Intervention Unit or an asylum department).</p>

			preparation or execution of his/her transfer under a special regulation, ⁴⁴ if there is a significant risk of absconding. ⁴⁵		
	Applicants for international protection in border procedures	Yes ⁴⁶			
Return procedures	Irregular migrants detected in the territory	Yes	<p>Section 88 of the Act on Residence of Foreigners</p> <p>Grounds for detention:</p> <p>a) subject to an administrative expulsion procedure in order to ensure his/her departure to the country of origin, country of transit or any third country the third-country national voluntarily decides to return to and which would receive him/her, or to the territory of a Member State in which he/she has been granted the right of residence or international protection, if</p> <ol style="list-style-type: none"> 1. there is a risk of absconding, or if 2. the third-country national avoids or hampers the preparation of execution of his/her administrative expulsion, <p>b) for the purpose of executing an administrative expulsion or punishment of expulsion,</p> <p>c) for the purpose of preparing or executing</p>	<p>Reporting of a place of stay</p> <p>Surrender of a financial guarantee</p>	<p>Detention, as well as the use of an alternative to detention, is decided by the competent Police Force department, which found reasons for such action (Foreign Police department, Border Police department, Mobile Intervention Unit or an asylum department).</p>

⁴⁴ Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Official Journal L 180 of 29.6.2013).

⁴⁵ Section 88 par. 1 of the Act on Residence of Foreigners.

⁴⁶ In the SR the asylum procedure does not take place at the borders. Following the Section 12 par. 2 b) of the Act on Residence of Foreigners, to the TCN who during the border control files his/her application for asylum can not be denied access to the SR. Subsequently in case of his/her detention the regular asylum procedure would be followed (same procedure as described in the first category of this table).

			<p>his/her transfer under a special regulation,⁴⁷ if there is a significant risk of absconding, or</p> <p>d) for the purpose of his/her return under an international treaty (readmission agreement), if he/she has illegally crossed an external border or is residing illegally in the territory of the Slovak Republic.⁴⁸</p>		
	<i>Persons who have been issued a return decision</i>	Yes	<p>Section 88 of the Act on Residence of Foreigners</p> <p>Grounds for detention:</p> <p>a) subject to an administrative expulsion procedure in order to ensure his/her departure to the country of origin, country of transit or any third country the third-country national voluntarily decides to return to and which would receive him/her, or to the territory of a Member State in which he/she has been granted the right of residence or international protection, if</p> <ol style="list-style-type: none"> 1. there is a risk of absconding, or if 2. the third-country national avoids or hampers the preparation of execution of his/her administrative expulsion, <p>b) for the purpose of executing an administrative expulsion or punishment of expulsion,</p> <p>c) for the purpose of preparing or executing</p>	<p>Reporting of a place of stay</p> <p>Surrender of a financial guarantee</p>	<p>Detention, as well as the use of an alternative to detention, is decided by the competent Police Force department, which found reasons for such action (Foreign Police department, Border Police department, Mobile Intervention Unit or an asylum department).</p>

⁴⁷ Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Official Journal L 180 of 29.6.2013).

⁴⁸ Section 88 par. 1 of the Act on Residence of Foreigners.

		<p>his/her transfer under a special regulation,⁴⁹ if there is a significant risk of absconding, or</p> <p>d) for the purpose of his/her return under an international treaty (readmission agreement), if he/she has illegally crossed an external border or is residing illegally in the territory of the Slovak Republic.⁵⁰</p>		
<i>Irregular migrants detected at the border</i>	Yes	<p>Section 88 of the Act on Residence of Foreigners (This category is not explicitly listed in the Act in relation to the reasons for detention. In order to prevent his/her entry into the country, all grounds for detention applicable to third-country nationals laid down in Section 88 of the Act on Residence of Foreigners may be applied to a person detained at the border).⁵¹</p> <p>Grounds for detention:</p> <p>a) subject to an administrative expulsion procedure in order to ensure his/her departure to the country of origin, country of transit or any third country the third-country national voluntarily decides to return to and which would receive him/her, or to the territory of a Member State in which he/she has been granted the right of residence or international protection,</p>	<p>Reporting of a place of stay</p> <p>Surrender of a financial guarantee</p>	<p>Detention, as well as the use of an alternative to detention, is decided by the competent Police Force department, which found reasons for such action (Foreign Police department, Border Police department, Mobile Intervention Unit or an asylum department).</p>

⁴⁹ Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Official Journal L 180 of 29.6.2013).

⁵⁰ Section 88 par. 1 of the Act on Residence of Foreigners.

⁵¹ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014. (Table 1), available at <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WyJ6YWlzdGVuaWUjXQ==>, consulted on 14/02/2021

			<p>if</p> <ol style="list-style-type: none"> 1. there is a risk of absconding, or if 2. the third-country national avoids or hampers the preparation of execution of his/her administrative expulsion, <ol style="list-style-type: none"> b) for the purpose of executing an administrative expulsion or punishment of expulsion, c) for the purpose of preparing or executing his/her transfer under a special regulation,⁵² if there is a significant risk of absconding, or d) for the purpose of his/her return under an international treaty (readmission agreement), if he/she has illegally crossed an external border or is residing illegally in the territory of the Slovak Republic.⁵³ 	
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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. Yes/No

Yes

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

	International protection procedures	Return procedures
	<i>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</i>	<i>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</i>
Unaccompanied Minors	No, such persons may not be detained under any circumstances.	No, such persons may not be detained under any circumstances.
Disabled	Yes. Vulnerable persons may be	Yes. Vulnerable persons may be

⁵² Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Official Journal L 180 of 29.6.2013).

⁵³ Section 88 par. 1 of the Act on Residence of Foreigners.

people	<p>detained only if necessary and for the shortest period of time possible,⁵⁴ with the time period not exceeding 6 months, whereby the period of detention cannot be extended in the case of vulnerable persons.⁵⁵</p> <p>At the same time, under the legal provisions applicable to this case, both alternatives can be used – reporting of the place of stay as well as the surrender of a financial guarantee.</p>	<p>detained only if necessary and for the shortest period of time possible,⁵⁶ with the time period not exceeding 6 months, whereby the period of detention cannot be extended in case of vulnerable persons.⁵⁷</p> <p>At the same time, under the legal provisions applicable to this case, both alternatives can be used – reporting of the place of stay as well as the surrender of a financial guarantee.</p>
Elderly people		
Families with children and single parents with minor		
Persons with serious illnesses and persons with mental disorders		
Victims of human trafficking	<p>Yes. Vulnerable persons may be detained only if necessary and for the shortest period of time possible,⁵⁸ with the time period not exceeding 6 months, whereby the period of detention cannot be extended in case of vulnerable persons.⁵⁹</p> <p>At the same time, under the legal provisions applicable to this case, both alternatives can be used – reporting of the place of stay as well as the surrender of a financial guarantee.</p> <p>The detention decision shall expire in this category upon the inclusion of the person in the programme of support and protection of victims of human trafficking of the Ministry of Interior.⁶⁰</p>	<p>Yes. Vulnerable persons may be detained only if necessary and for the shortest period of time possible,⁶¹ with the time period not exceeding 6 months, whereby the period of detention cannot be extended in case of vulnerable persons.⁶²</p> <p>At the same time, under the legal provisions applicable to this case, both alternatives can be used – reporting of the place of stay as well as the surrender of a financial guarantee.</p> <p>The detention decision shall expire in this category upon the inclusion of the person in the programme of support and protection of victims of human trafficking of the Ministry of Interior.⁶³</p>
Pregnant women	<p>Yes. Vulnerable persons may be detained only if necessary and for the shortest period of time possible,⁶⁴ with the time period not exceeding 6 months, whereby the period of detention cannot be extended in case of vulnerable persons.⁶⁵</p>	<p>Yes. Vulnerable persons may be detained only if necessary and for the shortest period of time possible,⁶⁶ with the time period not exceeding 6 months, whereby the period of detention cannot be extended in case of vulnerable</p>
Other vulnerable persons		

⁵⁴ Section 88a par. 3 and Section 88 par. 8 of the Act on Residence of Foreigners.

⁵⁵ Section 88 par. 4 of the Act on Residence of Foreigners.

⁵⁶ Section 88a par. 3 and Section 88 par. 8 of the Act on Residence of Foreigners.

⁵⁷ Section 88 par. 4 of the Act on Residence of Foreigners.

⁵⁸ Section 88a par. 3 and Section 88 par. 8 of the Act on Residence of Foreigners.

⁵⁹ Section 88 par. 4 of the Act on Residence of Foreigners.

⁶⁰ Section 88 par. 9 of the Act on Residence of Foreigners.

⁶¹ Section 88a par. 3 and Section 88 par. 8 of the Act on Residence of Foreigners.

⁶² Section 88 par. 4 of the Act on Residence of Foreigners.

⁶³ Section 88 par. 9 of the Act on Residence of Foreigners.

⁶⁴ Section 88a par. 3 and Section 88 par. 8 of the Act on Residence of Foreigners.

⁶⁵ Section 88 par. 4 of the Act on Residence of Foreigners.

⁶⁶ Section 88a par. 3 and Section 88 par. 8 of the Act on Residence of Foreigners.

	At the same time, under the legal provisions applicable to this case, both alternatives can be used – reporting of the place of stay as well as the surrender of a financial guarantee.	persons. ⁶⁷ At the same time, under the legal provisions applicable to this case, both alternatives can be used – reporting of the place of stay as well as the surrender of a financial guarantee.
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Section 2: Availability and practical organisation of alternatives to detention

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.

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) <i>Please provide information on how often and to which authority persons subject to this measure should report</i>	Yes. In the SR, the Act on Residence of Foreigners does not recognize the “reporting obligation” type of alternative. In the SR, this obligation is connected with the obligation to report a place of stay (i.e. A1+A3 according to Table 2.1). The combination of the A1 +A3 alternative is described jointly in questions Q5.1 and is deemed to be a single alternative. For information on the frequency of reporting and competent authorities, please refer to Table 2.2
A2	Obligation to surrender a passport, travel document or identity document	No ⁶⁸
A3	Requirement to communicate the address to authorities (including requesting permission for absences/changing the address)	Yes In the SR, the Act on Residence of Foreigners does not recognize the “reporting obligation” type of alternative. In the SR, this obligation is connected with the obligation to

⁶⁷ Section 88 par. 4 of the Act on Residence of Foreigners.

⁶⁸ According to Slovak national legislation (Act on Residence of Foreigners), these are not defined as alternatives to detention. Practical experience of Police Force departments shows, however, that a person on whom an alternative to detention was imposed does not hold a travel document. If a person holds a travel document and the period of time for voluntary departure can be determined, this possibility is preferred to detention.

		report a place of stay (i.e. A1+A3 according to Table 2.1). The combination of the A1 +A3 alternative is described jointly in questions Q5.1 and is deemed to be a single alternative.
A4	Requirement to reside at a designated place (e.g. a facility or specific region). Please specify if you also consider house arrest as an ATD.	No
A5	Release on bail (with or without sureties) <i>Please provide information on how the amount is determined; whether this can be paid by a third person/entity r (e.g. family member, NGO or community group); and at what point the money is returned</i>	Yes ⁶⁹ For information on determining the sum of the financial guarantee, who can pay the financial guarantee and on its return, please refer to Table 2.2
A6	Electronic monitoring (e.g. tagging)	No
A7	Release to a guardian/guarantor <i>Please provide information on who could be appointed as a guarantor/guardian (e.g. family member, NGO or community group)</i>	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.	No

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.

⁶⁹ Surrender of a financial guarantee as an alternative to detention is also connected with the obligation to stay at the address the TCN specified and to report any change of the place of stay.

As results from the statistics provided in the Statistical Annex (Table 1), of the two types of alternatives to detention, the alternative of reporting a place of stay (A1+A3) was used in the period from 2014 – 2020. In terms of practicality, this alternative is probably easier to implement than the surrender of a financial guarantee. It also depends on the TCN's status and on which of the alternatives they can prove/provide evidence for. Practical experience of the Police Force department shows that the reporting of a place of stay is easier both from the point of view of the TCN and from the Police Force department's perspective.

Q5.2 Please briefly describe each of the alternatives indicated above.

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

Name of alternatives (as reported in table 2.1 above) – Reporting of a place of stay (A1+A3, according to Table 2.1)	
<i>In what it consists, and maximum duration</i>	<p>This type of alternative to detention mainly concerns the TCN's obligation to stay at the specified address and to report regularly in person to the Police Force department within the defined period of time.⁷⁰</p> <p>Neither the Act on Residence of Foreigners nor its Guidelines explicitly define the frequency of reporting a place of stay. This decision is left to be individually considered by the relevant Police Force department deciding on the imposition of the alternative to detention, though, in practice, reporting a place of stay usually happens twice a week. The Police Force department makes an official record of each such reporting, which is then filed.⁷¹</p> <p>The Act does not specify the (maximum) duration of the alternative to detention imposed.</p> <p>The obligation to report a place of stay may be imposed and may last until the execution of the return, provided the conditions pertaining to securing accommodation and sufficient financial coverage for the stay are complied with.</p>
<i>Legal basis (law, soft law, other guidance). Please provide reference to the original sources</i>	<p>Alternatives to detention are provided for in Section 89 of the Act on Residence of Foreigners. The application aspects of alternatives to detention are governed by an internal regulation.⁷²</p>

⁷⁰ Section 89 par. 4 of the Act on Residence of Foreigners.

⁷¹ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014. (Section 3.1.1), available at <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WYJ6YWlzdGVuaWUiXQ==>, consulted on 14/02/2021.

⁷² Guidelines of the Bureau of Border and Foreign Police of the Police Force Presidium for procedures concerning administrative expulsion of foreigners, the staying of third-country nationals in the territory of the SR, assisted voluntary returns and detention of third-country nationals (2019).

<p><i>Is it used in practice? Please provide any available data for the period 2016-2020</i></p>	<p>In general, alternatives to detention are not widely used in the SR. From the point of view of the Police Force department acting in the matter of an administrative expulsion or in the matter of detention, most persons on whom an administrative expulsion was imposed are also given a period of time to voluntarily leave the country (period to leave). If a period to voluntary leave cannot be imposed, primarily the possibility to impose an alternative to detention is examined and only if the TCN is unable to fulfil the legal obligations of an alternative to detention, he/she is detained. Each case shall be reviewed on an individual basis.</p> <p>Concrete statistical data are available in the Statistical Annex of this study.</p>
<p><i>National authorities responsible to administer the alternative</i></p>	<p>The Bureau of Border and Foreign Police of the Police Force Presidium departments (Foreign Police departments, Border Police departments, Mobile Intervention Unit or an asylum department).</p>
<p><i>Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)</i></p>	<p>A TCN is entitled to approach non-governmental organisations or the Centre for Legal Aid (CLA)⁷³ throughout the entire administrative expulsion proceeding or detention proceeding.</p>
<p><i>Obligations attached to the granting of the alternative (if relevant)</i></p>	<p>In this case the obligation to have accommodation secured – to have a specified address – and the obligation to report in person to the Police Force department at certain time intervals are combined. At the same time, the obligation to have financial resources secured to cover the relevant costs throughout the duration of the alternative also applies.⁷⁴</p>
<p><i>Consequences of non-compliance with the alternative (i.e. does non-compliance with an ATD automatically leads to detention, or is this determined on a case-by-case basis?)</i></p>	<p>In case of failure to comply with the obligation to report a place of stay, provided no objective reasons existed which the Police Force department had been notified of in advance, or in case of avoiding the execution of administrative expulsion, the Police Force department shall decide on detention of the third-country national.⁷⁵</p>
<p><i>Mechanisms in place in order to monitor the third-country</i></p>	<p>A TCN is obliged to report in person to the competent Police Force department. This obligation itself represents the actual control</p>

⁷³ The Centre for Legal Aid is a state budgetary organisation established by the Ministry of Justice of the SR. The mission of the Centre is to provide legal aid to persons who, due to a lack of financial means, are unable to use other legal services. TCNs irregularly staying in the territory of the SR are also entitled to access free legal aid provided by the CLA. They can access legal aid in asylum matters, in administrative expulsion procedure and in detention procedure (in these matters also in the course of proceedings before a court in administrative proceedings) and can access legal aid in the course of proceedings before Slovak courts provided they are in the territory of the SR, in civil law matters, commercial law matters, labour law matters, family law matters, in the administrative judiciary and in these matters also in the course of proceedings before the Constitutional Court of the SR (in these matters legal aid in the course of proceedings before a court is provided to all natural persons within the territory of the SR). Source: Pracros Girmanová, A., Ulrichová, N.: Opatrenia pre neregulárnych migrantov dlhodobo zotrvávajúcich v krajine: prax a výzvy – príspevok SR, Európska migračná sieť, 2020 [Responses to Long-Term Irregularly Staying Migrants: practices and challenges – Contribution from the SR, European Migration Network, 2020], and <https://www.centrumpravnejpomoci.sk/>, consulted on 24/03/2021

⁷⁴ Pursuant to Section 6 of the Act on Residence of Foreigners, with reference to Art. 6 par. 1 (c) of Regulation (EU) 2016/399, as currently applicable.

⁷⁵ Section 89 par. 6 of the Act on Residence of Foreigners.

<i>national's compliance with these conditions (if relevant)</i>	mechanism for checking the compliance with the alternative to detention conditions. This, however, does not prevent random checks from being carried out by the Police Force department at the address specified by the TCN.
<i>Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.</i>	In the case that a TCN disagrees with the position of imposing an alternative to detention, they can file a general administrative appeal with the competent court. ⁷⁶ At the same time, they can file a complaint or turn to the Public Defender of Rights.
<i>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</i>	N/A

Name of alternatives (as reported in table 2.1 above) - Depositing a financial guarantee (A5 according to the Table 2.1)

<i>In what it consists, and maximum duration</i>	<p>A TCN with an imposed obligation to deposit to the account of the Police Force a financial guarantee in the amount and within the period of time specified by the Police Force department is obliged to stay in the place they specified and report any changes in their place of stay. Instead of the TCN, the financial guarantee may also be paid by a person close to them. The person who surrenders the financial guarantee shall be obliged to inform the Police Force department of the bank account number where the guarantee should be returned, or the address where they will be staying for the purpose of returning the guarantee.⁷⁷</p> <p>The Act does not stipulate the duration of the imposed alternative to detention.</p> <p>If the third-country national does not report a change of the place of stay or if they avoid administrative expulsion, the Police Force department shall decide on their detention and the guarantee is forfeited in favour of the State.⁷⁸</p>
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⁷⁶ This concerns a general administrative appeal pursuant to the Administrative Procedure Code. A plaintiff can file an administrative appeal to seek protection of their subjective rights and appeal the decision of a public authority or the measure of a public authority.

⁷⁷ Sec. 89 Par. 5 of the Act on Residence of Foreigners.

⁷⁸ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014, (Part 3.1.2), Available at: <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternatívy-k-zaisteniu?Itemid=206&highlight=WYJ6YWlzdGVuaWUiXQ==>, consulted on 14/02/2021

<p><i>Legal basis (law, soft law, other guidance). Please provide reference to the original sources</i></p>	<p>Alternatives to detention are provided for in Section 89 of the Act on Residence of Foreigners. The application aspects of alternatives to detention are governed by an internal regulation.⁷⁹</p>
<p><i>Is it used in practice? Please provide any available data for the period 2016-2020</i></p>	<p>In general, alternatives to detention are not widely used in the SR. From the point of view of the Police Force department acting in the matter of an administrative expulsion or in the matter of detention, most persons on whom an administrative expulsion was imposed are also given a period of time to voluntarily leave the country (period to leave). If a period to voluntary leave cannot be imposed, primarily the possibility to impose an alternative to detention is examined and only if the TCN is unable to fulfil the legal obligations of an alternative to detention, he/she is detained. Each case shall be reviewed on an individual basis.</p> <p>Concrete statistical data are available in the Statistical Annex of this study.</p>
<p><i>National authorities responsible to administer the alternative</i></p>	<p>The Bureau of Border and Foreign Police of the Police Force Presidium departments (Foreign Police departments, Border Police departments, Mobile Intervention Unit or an asylum department).</p>
<p><i>Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)</i></p>	<p>A TCN is entitled to approach non-governmental organisations or the Centre for Legal Aid (CLA)⁸⁰ throughout the entire administrative expulsion proceeding or detention proceeding.</p>
<p><i>Obligations attached to the granting of the alternative (if relevant)</i></p>	<p>This alternative to detention includes the obligation to deposit a financial guarantee to the account of the Police Force as well as the obligation to state the address of the place where the TCN will stay. If a change of address occurs, they are obliged to inform about it.</p>
<p><i>Consequences of non-compliance with the alternative (i.e. does non-compliance with an ATD automatically leads to detention, or is this determined on a case-by-case basis?)</i></p>	<p>If a TCN breaches the obligations stemming from the imposed alternative to detention or avoids the execution of the administrative expulsion, the Police Force department shall decide on their detention and at the same time on the forfeiture of the guarantee.⁸¹</p>

⁷⁹ Guidelines of the Bureau of Border and Foreign Police of the Police Force Presidium for procedures concerning administrative expulsion of foreigners, the staying of third-country nationals in the territory of the SR, assisted voluntary returns and detention of third-country nationals (2019).

⁸⁰ The Centre for Legal Aid is a state budgetary organisation established by the Ministry of Justice of the SR. The mission of the Centre is to provide legal aid to persons who, due to a lack of financial means, are unable to use other legal services. TCNs irregularly staying in the territory of the SR are also entitled to access free legal aid provided by the CLA. They can access legal aid in asylum matters, in administrative expulsion procedure and in detention procedure (in these matters also in the course of proceedings before a court in administrative proceedings) and can access legal aid in the course of proceedings before Slovak courts provided they are in the territory of the SR, in civil law matters, commercial law matters, labour law matters, family law matters, in the administrative judiciary and in these matters also in the course of proceedings before the Constitutional Court of the SR (in these matters legal aid in the course of proceedings before a court is provided to all natural persons within the territory of the SR). Source: Pracros Girmanová, A., Ulrichová, N.: Opatrenia pre neregulárnych migrantov dlhodobo zotrŕvávajúcich v krajine: prax a výzvy – príspevok SR, Európska migračná sieť, 2020 [Responses to Long-Term Irregularly Staying Migrants: practices and challenges – Contribution from the SR, European Migration Network, 2020], and <https://www.centrumpravnejpomoci.sk/>, consulted on 24/03/2021

⁸¹ Sec. 89 Par. 6 of the Act on Residence of Foreigners.

<i>Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)</i>	<p>Keeping financial means is a form of controlling whether a TCN adheres to obligations.</p> <p>The Police Force department shall return the guarantee to the person who paid it immediately after the execution of the administrative expulsion of the third-country national, after their departure within assisted voluntary returns or if they were granted a residence permit, asylum or provided subsidiary protection. The costs of returning the guarantee shall be borne by the person who paid it. If the person fails to collect the guarantee that they paid within one year after the date when the decision on returning the guarantee became final, the guarantee shall be forfeited to the state.⁸²</p>
<i>Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.</i>	<p>In the case that a TCN disagrees with the position of imposing an alternative to detention, they can file a general administrative appeal with the competent court.⁸³</p> <p>At the same time, they can file a complaint or turn to the Public Defender of Rights.</p>
<i>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</i>	N/A

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. Please elaborate your answer by providing a short description. Please cover here the same alternatives reported in Q7.

No study or evaluation was conducted in the SR which would be concerned with the assessment of the use of alternatives to detention in the SR.

Challenge	Alternative 1 Reporting the Place of Stay	Alternative 2 Depositing a financial guarantee
Availability of facilities related to accommodation (i.e. beds)	The state does not provide accommodation in this case. TCNs are therefore obliged to find accommodation themselves, which can be	The state does not provide accommodation in this case. TCNs are therefore obliged to find accommodation themselves, which can be a problem – especially in

⁸² Sec. 89 Par. 7 of the Act on Residence of Foreigners.

⁸³ This concerns a general administrative appeal pursuant to the Administrative Procedure Code. A plaintiff can file an administrative appeal to seek protection of their subjective rights and appeal the decision of a public authority or the measure of a public authority.

	a problem – especially in situations when they do not have a valid travel document. ⁸⁴	situations when they do not have a valid travel document. ⁸⁵
Availability of staffing and supervision	N/A	N/A
Administrative costs	N/A	N/A
Mechanisms to control movements of the person	N/A	N/A
Legislative obstacles	N/A	N/A
Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support)	<ol style="list-style-type: none"> 1. Difficulties finding accommodation due to not having valid documents.⁸⁶ 2. Difficulties providing proof of financial coverage for the stay set by the law^{87, 88} 	<ol style="list-style-type: none"> 1. Problems finding accommodation due to not having valid documents.⁸⁹ 2. Lack of financial resources on the part of TCNs. 3. Difficulties providing proof of financial coverage for the stay set by the law^{90, 91}
Other challenges		

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. Please elaborate your answer by providing a short description. Please cover here the same alternatives reported in Q6:

No study or evaluation was conducted in the SR which would be concerned with the assessment of the use of alternatives to detention in the SR.

Advantage	Alternative 1 Reporting the Place of Stay	Alternative 2 Depositing a financial guarantee
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⁸⁴Interview with the HRL from 22 February 2021.

⁸⁵Interview with the HRL from 22 February 2021.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Financial coverage of stay is based on the Sec. 89 par. 3 first sentence of the Act on Residence of Foreigners proved in the same amount as in case of the applicants for visa (sum is defined in the Ordinance No. 499/2011 Coll. on setting the financial means to cover the expenses of the TCN related to his/her stay in the SR – 56 EUR/day of stay).

⁸⁹ Interview with the HRL from 22 February 2021.

⁹⁰ Ibid.

⁹¹ Financial coverage of stay is based on the Sec. 89 par. 3 first sentence of the Act on Residence of Foreigners proved in the same amount as in case of the applicants for visa (sum is defined in the Ordinance No. 499/2011 Coll. on setting the financial means to cover the expenses of the TCN related to his/her stay in the SR – 56 EUR/day of stay).

Availability of facilities related to accommodation (i.e. beds)	From the perspective of state authorities, it is advantageous that the state does not have to provide accommodation and basic necessities of life for this category of persons, which might influence mainly the financial aspect.	From the perspective of state authorities, it is advantageous that the state does not have to provide accommodation and basic necessities of life for this category of persons, which might influence mainly the financial aspect.
Availability of staffing and supervision	There are no police officers specifically designated to check alternatives to detention; therefore, there is no need to increase personal capacity within the state authorities.	There are no police officers specifically designated to check alternatives to detention; therefore, there is no need to increase personal capacity within the state authorities.
Administrative costs	Implementing an alternative to detention is less costly for police departments than detaining someone.	Implementing an alternative to detention is less costly for police departments than detaining someone.
Mechanisms to control movements of the person	Advantage – TCNs come to present themselves at a check point (even though the police can check them on a random basis, too).	Keeping financial means is a “form of control”, meaning less work for Police Force departments.
Legislative obstacles		
Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support)		Another person can deposit a financial guarantee in place of the original person. ⁹²
Other advantages	Not limiting personal freedom (e.g. the right to respect of private and family life) ⁹³	Not limiting personal freedom (e.g. the right to respect of private and family life) ⁹⁴

⁹² 89 Par. 5 of the Act on Residence of Foreigners.

⁹³ Interview with the HRL from 22 February 2021.

⁹⁴ Ibid.

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

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

If legal reasons for detention exist, the Police Force department first reviews the option of imposing an alternative to detention. After assessing each case individually and determining if the TCN meets the criteria for having an alternative to detention imposed on them, the department shall decide if the alternative will be imposed or the applicant detained. The priority is that less severe means are used to achieve the effectiveness of detention, if possible.⁹⁵

As part of the detention procedure, the police department is obliged to examine whether the detention of a third-country national will fulfil the reason arising from the relevant legal provisions and whether the decision on detention does not unduly interfere with their rights stemming from other legislation. However, detention of a third-country national must be preceded by a determination that this step is really effective.⁹⁶ When evaluating the effectiveness of detention, the Police Force department examines particularly if – in the case of a person detained in the Police Detention Centre for Foreigners (PDCF) – there is a real possibility of implementing the expulsion of that person from the territory of the SR within the maximum legal detention period.⁹⁷

The administrative authority acting on the matter shall first question the third-country national and take minutes⁹⁸ reflecting the view of participants to the procedure. The third-country national has the right to comment on all documents and evidence as well as to supplement their statement before the decision on the matter is issued.⁹⁹ If the Police Force department ascertains that the detention of the third-country national is justified and effective, they will immediately issue a written decision on this under the Administrative Code and on the TCN's placement in a PDCF.¹⁰⁰

The procedure does not differ based on the country of origin or the nationality of the TCN.

The entire detention procedure or administrative expulsion procedure is carried out by the respective department of the Bureau of Border and Foreign Police of the PFP. In any phase of the procedure the TCN can reach out to non-governmental organisations or the Centre for Legal Aid (CLA), about which they are duly informed.

The TCNs via CLA have access to legal aid in asylum matters, in administrative expulsion procedure and in

⁹⁵ Methodical guidelines of the Bureau of Border and Foreign Police of the Police Force Presidium for procedures concerning administrative expulsion of foreigners, remaining of third-country nationals in the territory of the Slovak Republic, assisted voluntary returns and detention of third-country nationals from 2019.

⁹⁶ Methodical guidelines of the Bureau of Border and Foreign Police of the Police Force Presidium for procedures concerning administrative expulsion of foreigners, remaining of third-country nationals in the territory of the Slovak Republic, assisted voluntary returns and detention of third-country nationals from 2019.

⁹⁷ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014, (Part 1.5), Available at: <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WYJ6YWlzdGVuaWUixQ==>, consulted on 14/02/2021

⁹⁸ Art. 22 of Act No. 71/1967 Coll. on Administrative Procedure (hereinafter the "Administrative Code")

⁹⁹ Sec. 33 Par. 2 of the Administrative Code.

¹⁰⁰ Sec. 88 par. 5 of the Act on Residence of Foreigners.

detention procedure (in these matters also in the course of proceedings before a court in administrative proceedings) and can access legal aid in the course of proceedings before Slovak courts provided they are in the territory of the SR, in civil law matters, commercial law matters, labour law matters, family law matters, in the administrative judiciary and in these matters also in the course of proceedings before the Constitutional Court of the SR (in these matters legal aid in the course of proceedings before a court is provided to all natural persons within the territory of the SR).¹⁰¹

Return procedure

In the conditions of the SR administrative expulsion procedures start with deciding if it is possible to set a deadline for leaving the country. If it is not possible and there are legal reasons for detention, it is decided if an alternative to detention or detention itself will be imposed on the TCN. Firstly, whether or not the person meets the criteria for imposing an alternative to detention is examined. If not – and this is a last resort measure – detention is imposed. The priority is that less severe means are used to achieve the effectiveness of detention, if possible.¹⁰²

The above is decided by the respective Police Force department in a single coherent administrative procedure. The primary rule is that each case is evaluated individually and an alternative to detention is imposed, if possible.

As part of the detention procedure, the administrative authority is obliged to examine whether the detention of the third-country national will fulfil the reason arising from the relevant legal provisions and whether the decision on detention does not unduly interfere with the person's rights stemming from other legislation. However, detention of a third-country national must be preceded by the determination that this step is effective. When evaluating the effectiveness of detention, the Police Force department examines particularly if – in the case of a person detained in a PDCF – there is a real possibility of implementing the expulsion of that person from the territory of the SR within the maximum legal detention period.¹⁰³

The administrative authority acting on the matter shall first question the third-country national and take minutes¹⁰⁴ reflecting the view of participants to the procedure. The third-country national has the right to comment on all documents and evidence as well as to supplement their statement before the decision on the matter is issued.¹⁰⁵ If the Police Force department ascertains that the detention of the third-country national is justified and effective, they will immediately issue a written decision on this under the Administrative Code and on the TCN's placement in a PDCF.¹⁰⁶

The procedure does not differ based on the country of origin or nationality of TCN.

The entire detention procedure or administrative expulsion procedure is carried out by the respective department of the Bureau of Border and Foreign Police of the PFP. In any phase of the procedure the TCN can reach out to non-governmental organisations or the Centre for Legal Aid (CLA), about which they are duly informed.

The TCNs via CLA have access to legal aid in asylum matters, in administrative expulsion procedure and in detention procedure (in these matters also in the course of proceedings before a court in administrative proceedings) and can access legal aid in the course of proceedings before Slovak courts provided they are in the territory of the SR, in civil law matters, commercial law matters, labour law matters, family law matters, in

¹⁰¹ Pracros Girmanová, A., Ulrichová, N.: Opatrenia pre neregulárnych migrantov dlhodobo zotrvávajúcich v krajine: prax a výzvy – príspevok SR, Európska migračná sieť, 2020 [Responses to Long-Term Irregularly Staying Migrants: Practices and Challenges – contribution of the SR, European Migration Network, 2020].

¹⁰² Methodical guidelines of the Bureau of Border and Foreign Police of the Police Force Presidium for procedures concerning administrative expulsion of foreigners, remaining of third-country nationals in the territory of the Slovak Republic, assisted voluntary returns and detention of third-country nationals from 2019.

¹⁰³ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014, (Part 1.5), Available at: <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WyJ6YWlzdGVuaWUiXQ==>, consulted on 14/02/2021

¹⁰⁴ Art. 22 of Act No. 71/1967 Coll. on Administrative Procedure (hereinafter the "Administrative Code")

¹⁰⁵ Sec. 33 Par. 2 of the Administrative Code.

¹⁰⁶ Sec. 88 par. 5 of the Act on Residence of Foreigners.

the administrative judiciary and in these matters also in the course of proceedings before the Constitutional Court of the SR (in these matters legal aid in the course of proceedings before a court is provided to all natural persons within the territory of the SR).¹⁰⁷

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. Yes/No

International protection procedures/Return procedures:

Yes

Details: Yes, the Police Force department is obliged to evaluate if the detention is still effective during the entire duration of the detention.¹⁰⁸ At the same time, the Police Force department can decide on imposing an alternative to detention during the detention of a TCN.¹⁰⁹ This means that the department systematically examines the reasons for detention as well as the option of imposing an alternative to detention.

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, it is individually assessed in each case.	Yes, it is individually assessed in each case.
Cost-effectiveness	No. When deciding, the effectiveness and necessity of the given method is important, not the financial aspect.	No. When deciding, the effectiveness and necessity of the given method is important, not the financial aspect.
Nationality or Country of origin/ return (e.g. considerations on the specific situation in the country of origin)	No. The procedure does not differ based on the country of origin or nationality of the TCN.	No. The procedure does not differ based on the country of origin or nationality of the TCN.
Level of the risk of absconding	Yes. This is one of the main criteria. If the Police Force department ascertains that there is a risk of	Yes. This is one of the main criteria. If the Police Force department ascertains that there is a

¹⁰⁷ Pracros Girmanová, A., Ulrichová, N.: Opatrenia pre neregulárnych migrantov dlhodobo zotrúvajúcích v krajine: prax a výzvy – príspevok SR, Európska migračná sieť, 2020 [Responses to Long-Term Irregularly Staying Migrants: Practices and Challenges – contribution of the SR, European Migration Network, 2020].

¹⁰⁸ Sec. 90 Par. 1 Letter a) of the Act on Residence of Foreigners.

¹⁰⁹ Sec. 89 Par. 3 of the Act on Residence of Foreigners.

Criteria	International protection procedures	Return procedures
	absconding, this is one of the reasons for detention under national legislation. ¹¹⁰	risk of absconding, this is one of the reasons for detention under national legislation. ¹¹¹
Vulnerability	Yes. This is one of the deciding criteria.	Yes. This is one of the deciding criteria.
Less-invasive legal measures impacting on human rights	Yes. This is one of the deciding criteria.	Yes. This is one of the deciding criteria.
Other	Yes/No further explain Details:	Yes/No further explain Details:

Q.10.1. 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/Return procedures

Unaccompanied children cannot be detained at all under national legislation.¹¹² The decision process therefore does not apply to this category at all.

In all other categories, an individual approach is used (not structured according to the “Elements of vulnerability”). Vulnerability is evaluated within the administrative procedure. Such an evaluation can be supported by e.g. the submission of documents (such as medical confirmation).

Police Force departments – basic departments of the Bureau of Border and Foreign Police PFP are competent to decide.

Further information regarding processes can be found in Q8 of this study

¹¹⁰ Sec. 88a Par. 1 Letter a) of the Act on Residence of Foreigners.

¹¹¹ Ibid.

¹¹² Sec. 88 Par. 8 of the Act on Residence of Foreigners.

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:

General provisions related to detention¹¹³ also apply to a suitable extent to the detention procedure of an asylum seeker. This means that it is not possible to lodge an appeal against a decision on detention, a decision on detention extension and a decision on extending the detention period.¹¹⁴ This applies to administrative procedure.

The above also applies when imposing an alternative to detention. No appeal may be lodged against a decision to impose an obligation (an alternative to detention) in administrative procedure.¹¹⁵

In the above cases it is possible to file an administrative appeal directly to a court authority under Title IV, Part 2 of Act No. 162/2015 Coll. the Administrative Procedure Code, as amended.¹¹⁶

The appeal is decided on by the competent administrative court and the plaintiff may, by administrative appeal, seek the annulment of a decision on detention, the extension of detention, the extension of the period of detention or the determination of such a decision as unlawful, if the plaintiff has been released from detention.¹¹⁷

Judicial authorities in the SR do not have decision-making power in the matter of imposing an alternative to detention, nor do they make recommendations to the relevant Police Force department that decides on the matter. The law does not allow a third-country national to appeal against a decision to impose an obligation to report the place of stay or deposit a financial guarantee. However, if a third-country national wishes to appeal against a decision on detention, which includes stating the reasons why an alternative to detention has not been imposed on them, they may do so by filing a legal remedy against the detention decision or against the decision to extend the detention period.¹¹⁸

If a TCN does not agree with the imposed alternative to detention, they can file a general administrative appeal to the competent administrative court.

Return procedures:

No appeal can be lodged against a detention decision, against a decision on extending the detention and against a decision on extending the detention period.¹¹⁹ This applies to administrative procedure.

The above also applies when imposing an alternative to detention. No appeal may be lodged against a decision on the imposition of an obligation (an alternative to detention) in administrative procedure.¹²⁰

In the above cases it is possible to file an administrative appeal directly to a court authority under Title IV, Part 2 of the Administrative Procedure Code, as amended.¹²¹

The appeal is decided on by the competent administrative court and the plaintiff may, by administrative appeal, seek the annulment of a decision on detention, the extension of detention, the extension of the period of detention or the determination of such a decision as unlawful, if the plaintiff has been released from detention.¹²²

¹¹³ Sec. 88a Par. 3 of the Act on Residence of Foreigners.

¹¹⁴ Sec. 88 Par. 7 of the Act on Residence of Foreigners.

¹¹⁵ Sec. 89 Par. 3 of the Act on Residence of Foreigners.

¹¹⁶ <https://www.zakonypreludi.sk/zz/2015-162#cast3-hlava4>.

¹¹⁷ Sec. 221 Par. 1 of Act No. 162/2015 Coll. on Administrative Procedure (hereinafter the "Administrative Procedure Code")

¹¹⁸ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014, (Part 3.3), Available at: <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WyJ6YWlzdGVuaWUiXQ==>, consulted on 14/02/2021

¹¹⁹ Sec. 88 Par. 7 of the Act on Residence of Foreigners.

¹²⁰ Sec. 89 Par. 3 of the Act on Residence of Foreigners.

¹²¹ <https://www.zakonypreludi.sk/zz/2015-162#cast3-hlava4>.

¹²² Sec. 221 Par. 1 of the Administrative Procedure Code

Judicial authorities in the SR do not have decision-making power in the matter of imposing an alternative to detention, nor do they make recommendations to the relevant Police Force department that decides on the matter. The law does not allow a third-country national to appeal against a decision to impose an obligation to report the place of stay or deposit a financial guarantee. However, if a third-country national wishes to appeal against a decision on detention, which includes stating the reasons why an alternative to detention has not been imposed on them, they may do so by filing a legal remedy against the detention decision or against the decision to extend the detention period.¹²³

If a TCN does not agree with the imposed alternative to detention, they can file a general administrative appeal to the competent administrative court.

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 /Return procedures:

In any phase of the procedure the TCN can reach out to non-governmental organisations or the Centre for Legal Aid (CLA), about which they are duly informed.¹²⁴

The Centre for Legal Aid provides legal aid to persons who, due to a lack of financial means, are unable to use other legal services. TCNs irregularly staying in the territory of the SR are also entitled to access free legal aid provided by the CLA. They can access legal aid in asylum matters, in administrative expulsion procedure and in detention procedure (in these matters also in the course of proceedings before a court in administrative proceedings) and can access legal aid in the course of proceedings before Slovak courts provided they are in the territory of the SR, in civil law matters, commercial law matters, labour law matters, family law matters, in the administrative judiciary and in these matters also in the course of proceedings before the Constitutional Court of the SR (in these matters legal aid in the course of proceedings before a court is provided to all natural persons within the territory of the SR).¹²⁵

In addition to legal advice, non-governmental organisations provide detained TCNs with social and psychological counselling as well as assistance with securing common needs, such as necessary medical aids (e.g. dentures, crutches, etc.), clothing or assistance with finding accommodation if an alternative to detention is imposed. In detention, they also provide Slovak language courses and leisure-time activities.

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

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.

¹²³ Frkáňová, A., Kubovičová, K.: Zaistenie a alternatívy k zaisteniu v kontexte migračnej politiky Slovenskej republiky [Detention and Alternatives to Detention in the Context of Migration Policy of the Slovak Republic], European Migration Network, 2014, (Part 3.3), Available at: <https://www.emn.sk/en/component/k2/item/268-zaistenie-a-alternativy-k-zaisteniu?Itemid=206&highlight=WYJ6YWlzdGVuaWUiXQ==>, consulted on 14/02/2021

¹²⁴ Regarding the procedure, the process of reaching a decision on administrative expulsion does not take long. There is an interpreter present. In the case of any health problems, healthcare is immediately provided.

¹²⁵ Pracros Girmanová, A., Ulrichová, N.: Opatrenia pre neregulárnych migrantov dlhodobo zotrúvajúčich v krajine: prax a výzvy – príspevok SR, Európska migračná sieť, 2020, Časť Q 10 [Responses to Long-Term Irregularly Staying Migrants: Practices and Challenges – contribution of the SR, European Migration Network, 2020], Part Q 10]

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)		
Alternatives to detention 1 (NAME)		
Alternatives to detention 2 (NAME)		
Alternatives to detention 3 (NAME)		
Alternatives to detention 4 (NAME)		

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.)?

It is not possible to obtain information on TCNs who absconded from detention or did not meet the obligations stemming from an imposed alternative to detention from the MoI SR information systems.¹²⁶

However, based on practice, we can say that between 2015 – 2020 there was no case of a TCN absconding from a Police Detention Centre for Foreigners.¹²⁷

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.

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)		
Alternatives to detention 1 (NAME)		
Alternatives to detention 2 (NAME)		
Alternatives to detention 3 (NAME)		
Alternatives to detention 4 (NAME)		

¹²⁶Information obtained from the BBFP PFP from 16 February 2020.

¹²⁷Information obtained from the Police Detention Centres for Foreigners from 23 February 2021.

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.)?

Table 2 of the Statistical Annex contains an average length of a detention calculated based on all detentions terminated in the given year (not the average length of the entire detention period per foreigner).

Other data are not collected in the SR.

However, from Sec. 20 Par. 1 of Act No. 480/2002 Coll. on Asylum and on changes and amendments to certain acts, it follows that the MoI SR is obliged to decide on an asylum application within 6 months following the initiation of procedure. This applies to all asylum applications and whether the persons involved are at the same time detained in a centre or not is not decisive. The deadline can also be extended for legal reasons.¹²⁸

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)		
Alternatives to detention 1 (NAME)		
Alternatives to detention 2 (NAME)		
Alternatives to detention 3 (NAME)		
Alternatives to detention 4 (NAME)		

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.)?

It is not possible to obtain information on TCNs who absconded from detention or did not meet the obligations stemming from an imposed alternative to detention from the MoI SR information systems.

However, based on practice we can say that between 2015 – 2020 there was no case of a TCN absconding from a Police Detention Centre for Foreigners.¹²⁹

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.

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)

¹²⁸ Sec. 20 Par. 1 of Act No. 480/2002 Coll. on Asylum and on changes and amendments to certain acts.

¹²⁹ Information obtained from the Police Detention Centres for Foreigners from 23 February 2021.

	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) ¹³⁰	Number of effective forced departures (absolute figures) ¹³¹
Detention (Absolute figures)			2017 - 21 2018 - 30 2019 - 25 2020 - 9	2017 - 91 2018 - 104 2019 - 66 2020 - 53
Alternatives to detention 1 (NAME)				
Alternatives to detention 2 (NAME)				
Alternatives to detention 3 (NAME)				
Alternatives to detention 4 (NAME)				

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.)?

It is not possible to obtain other type of data from the MoI SR information systems which store records on expulsions and returns.

Regarding the procedure, the process of reaching a decision on administrative expulsion does not take long. Practically speaking, the decision on expulsion is therefore issued as soon as possible.

Regarding the period between issuance of the decision and the implementation of the return, it is not possible to generalize, as it differs from case to case. The length of time is influenced by many factors (such as missing documents, degree of cooperation etc.).

However, the length of detention is defined in the Act on Residence of Foreigners (Sec. 88 Par. 4). Detailed information about the length of detention can be found in Q1.

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.

The impact of detention or alternatives to detention on the degree of cooperation of a TCN with the competent authorities was not examined in the SR. It is not possible to assess this in the SR due to the lower rate of using alternatives to detention in the SR, among other reasons.¹³²

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.

¹³⁰ In the case of all the years these are the numbers of persons who used the assisted voluntary return programme and who at the same time were detained in a Police Detention Centre. Source: IOM

¹³¹ Source (for all the stated years 2017 – 2020): BBFP PPF

¹³² Information obtained from the BBFP PPF from 16 February 2020.

Please discuss separately for international protection and return procedures

The impact of detention or alternatives to detention on migration procedures was not examined in detail in the SR. Such an assessment is not possible in the SR due to lower rate of using alternatives to detention in the SR, among other reasons.¹³³

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
<p>Is access to legal aid ensured? If so, how? Please specify.</p>	<p>Details:</p> <p>After placing a TCN in a PDCF, employees immediately inform them about the option of asking for free-of-charge legal aid. If they are interested, they fill in a separate application, which will be sent to a respective Centre for Legal Aid branch by the PDCF. More information on the services provided by the CLA can be found in Q5, Q8 and Q12.</p> <p>Free-of-charge legal aid and counselling is provided to TCNs in a PDCF mainly by the non-governmental organisation the Human Rights League. They do so within their projects, which are primarily focused on asylum</p>	<p>Details:</p> <p>TCNs who have had an alternative to detention imposed on them have the option to ask for legal aid directly from the Centre of Legal Aid. More information on the services provided by the CLA can be found in Q5, Q8 and Q12.</p> <p>TCNs using the alternative to detention in order to get basic counselling can address with their queries non-governmental organisation such as Human Rights League as well as the Migration Information Centre of the IOM.¹³⁴</p>	<p>Irregular migrants, regular migrants and citizens of the SR can access CLA services under equal conditions.</p> <p>The CLA does not require checks of migration status of applicants seeking legal aid nor of persons coming for consultations (legal counselling).¹³⁵</p>

¹³³ Information obtained from the BBFP PFP from 16 February 2020.

¹³⁴ Pracros Girmanová, A., Ulrichová, N.: Opatrenia pre neregulárnych migrantov dlhodobo zotrvávajúcich v krajine: prax a výzvy – príspevok SR, Európska migračná sieť, 2020 [Responses to Long-Term Irregularly Staying Migrants: Practices and Challenges – contribution of the SR, European Migration Network, 2020].

¹³⁵ Ibid.

	seekers placed in PDCFs or pro bono.		
Is the right to be heard ensured during detention/alternatives to detention? If so, how? Please specify.	<p>Details:</p> <p>TCNs have the right to use legal remedies, file complaints or turn to the Public Defender of Rights directly.</p>	<p>Details:</p> <p>TCNs have the right to use legal remedies, file complaints or approach Public Defender of Rights directly.</p>	<p>Regardless of their placement, the TCNs have the right to use all legal options to either file a complaint or to use legal remedies against decisions.</p> <p>In the case of other possible problems/discontent, they can approach directly the Centre in which they are detained or the police department which imposed an alternative to detention on them. Subsequently, with regard to the individual situation, their needs will be addressed.</p>
Is the right to health (e.g. access to facilities, monitoring of health and wellbeing of the person) ensured? If so, how? Please specify.	<p>TCNs detained in PDCFs have public health insurance,¹³⁶ which means that they have access to healthcare within the scope of public health insurance.¹³⁷</p> <p>Access to other healthcare is provided by the SHC non-governmental organisation within the KOMPAS III project</p>	<p>Details: TCNs who have had an alternative to detention imposed on them are not publicly health insured and if they do not obtain commercial health insurance, only urgent healthcare is provided to them, if needed. It is provided based on the Constitution of the SR,¹³⁹ which states in Article 40 that everyone shall have the right to protection of his or her health and on Act No. 576/2004 on Healthcare, where urgent healthcare is defined as healthcare provided to a person</p>	<p>Service provided through public healthcare are equal for all persons which belong to it, under equal conditions and regardless of their status.¹⁴¹</p> <p>TCNs who have had an alternative to detention imposed on them are not publicly health</p>

¹³⁶ Act No. 580/2004 Coll. on Health Insurance (Sec. 3 Par. 3f).

¹³⁷ Pracros Girmanová, A., Ulrichová, N.: Opatrenia pre neregulárnych migrantov dlhodobo zotrvávajúcich v krajine: prax a výzvy – príspevok SR, Európska migračná sieť, 2020 [Responses to Long-Term Irregularly Staying Migrants: Practices and Challenges – contribution of the SR, European Migration Network, 2020].

¹³⁹ Act No. 460/1992, Art. 40.

¹⁴¹ Pracros Girmanová, A., Ulrichová, N.: Opatrenia pre neregulárnych migrantov dlhodobo zotrvávajúcich v krajine: prax a výzvy – príspevok SR, Európska migračná sieť, 2020 [Responses to Long-Term Irregularly Staying Migrants: Practices and Challenges – contribution of the SR, European Migration Network, 2020].

	<p>funded by the EU Fund for Internal Affairs. They provide TCNs detained in PDCFs supplementary healthcare e.g. over the counter medications, vitamins, teas, powders, potions, insect repellents and compensation aids, such as glasses, hearing aids or crutches etc. (the purchase is always based on previous written recommendation of the Centre's physician). Medical aids which are not paid for by public health insurance but which are necessary for TCNs, such as dentures etc., are provided, too.¹³⁸</p>	<p>when their state of health changes suddenly and the change directly threatens their life or some of the basic vital functions, may seriously threaten their health without quick medical intervention, causes them sudden and unbearable pain or sudden changes in behaviour and acting under the influence of which they immediately threaten themselves and their surroundings. Urgent healthcare includes the medical care provided at labour and delivery. Urgent healthcare includes examination of person designated as a possible source of quickly spreading and life-threatening infection as well as the diagnosing and treatment of person who has a quickly spreading and life-threatening infection. Urgent healthcare includes the urgent transport of a person to a medical facility, the urgent transport between medical facilities, the urgent transport of a human organ donor and a recipient of a human organ for transplantation, the urgent transport of healthcare professionals performing human organ procurement activities and the urgent transport of a human organ intended for transplantation. Urgent transport includes the transport of a person whose state of health requires medical care being provided to them during the transport.¹⁴⁰</p>	<p>insured, and if they do not obtain commercial health insurance, only urgent healthcare is provided to them, if needed.</p> <p>TCNs in detention, as compared to TCNs onto whom an alternative to detention was imposed, have better access to supplementary healthcare services (e.g. through the SHR non-governmental organisation project).</p>
<p>Please add any additional safeguard</p>	<p>Within their KOMPAS III project, the SHC non-governmental organisation provides TCNs in PDCFs with social and psychological counselling, apart from other supplementary services. They also organise leisure-time</p>	<p>Children of TCNs who have had an alternative to detention imposed on them are provided with education, accommodation and meals under conditions equal to those of Slovak citizens, which means that they can study free-of-charge at state (not private or church-owned) schools as well as borrow basic study literature free-</p>	<p>The above SHC project is focused on persons in detention. TCNs with an imposed alternative to detention therefore do not have access to supplementary education or</p>

¹³⁸ Ibid.

¹⁴⁰ Ibid.

	<p>activities, supplementary material aid and, if needed, translations and interpreting.</p> <p>Within the KOMPAS III project, the SHC also provides instruction of elementary Slovak language and courses on Slovakia and its culture.</p> <p>Based on Sec. 96 Par. 2 of the Act on Residence of Foreigners, a TCN younger than 18 years old detained in a PDCF shall have access to education within three months following their detention. There is in the PDCFs a qualified teacher available who regularly comes to teach. Instruction follows the curriculum under valid legislation for individual age groups.</p>	<p>of-charge. In order to remove language barriers at elementary and secondary schools, basic and intermediate Slovak language courses are organised for children of foreigners.</p>	<p>psychological and social aid, only to the compulsory school education.</p> <p>However, the SHC non-governmental organisation can provide aid to TCNs discharged from PDCFs within 60 days of their discharge – help with finding accommodation (mostly low-threshold hostels etc.), providing food, material aid, reimbursing travel costs or paying for legal costs related to legalisation of their residence in the SR. The aid is intended mainly for vulnerable persons.</p>
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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)? Yes/No

No. In the SR, there were no evaluations or studies prepared aiming to examine the impact of detention or alternatives to detention on adherence to fundamental human rights.

The Human Rights League (HRL) non-governmental organisation in 2020 published the "Analysis of the Situation and Recommendations in Relation to the Setting up of Asylum, Migration and Integration Policies of the Slovak Republic".¹⁴² In the "Irregular Migration and Detention" chapter they state that: "In practice, conditions for their (alternatives to detention) implementing are not created and these measures are therefore rarely used." The analysis was prepared within the "Migration Compass" project funded from the European Social Fund Operating Programme Effective Public Administration. The recommendations related to detention result from the long term experiences and knowledge gained from the provision of legal counselling to detained foreigners in last period financed mainly from the project "Give Refugees a Chance I-IV" supported by the Ministry of Justice of the SR.

In 2020, the HRL also published the "Náhrada škody alebo právne Ufo [Compensation for Damages or a Legal UFO?]" analysis of the application of the right to compensation for illegal detention of foreigners.¹⁴³ As a priority, they address the rigidity of the system of compensating the illegal detention of foreigners and the fact that it is very time-consuming. In the analysis, the issue of detaining children and using alternatives to detention is touched upon.¹⁴⁴

Q21. Please provide any statistics available in your country on the number of complaints regarding violations of human rights¹⁴⁵ 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.

International protection procedures /Return procedures

The SR, either the state or public administration authorities or non-governmental organisations working for a long period of time with TCNs in detention or using alternative to detention does not keep separate statistics that would demonstrate the number of complaints focused only on violations of the fundamental human rights of TCNs in detention or with an imposed alternative to detention. However, when filing an administrative appeal, it is possible to include the following aspects in the reason for filing – violation of fundamental human rights. TCNs can also turn to the Public Defender of Rights at any time. Even the Public Defender does not record many initiatives in this area. From a practical point of view, TCNs turn to the courts, which is an obstacle for the defender to investigate the complaint.¹⁴⁶

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)? Yes/No

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. In the conditions of the SR the cost-effectiveness of using detention or alternatives to detention as part of the

¹⁴² Analýza situácie a odporúčania vo vzťahu k nastaveniu azylovej, migračnej a integračnej politiky v SR [Analysis of the Situation and Recommendations in Relation to the Setting up of Asylum, Migration and Integration Policies of the Slovak Republic], available in the Slovak language at: https://www.hrl.sk/assets/files/obsah/961-Analyza_ju%CC%81n%202020.pdf, consulted on 22/02/2021

¹⁴³ Dojčinovičová, M., Zektová, S., Náhrada škody alebo právne Ufo? [Compensation for Damages or a Legal UFO?] Analysis of the application of the right to compensation for illegal detention of foreigners, Human Rights League, December 2020, available in the Slovak language at: https://www.hrl.sk/userfiles/files/Na%CC%81hrada%20s%CC%8Ckody%20alebo%20pra%CC%81vne%20ufo_.pdf, consulted on 22/02/2021

¹⁴⁴ Interview with the HRL from 22 February 2021.

¹⁴⁵ Please consider appeals to a judge but also to a specific administrative commission or ombudsman

¹⁴⁶ Questionnaire form the Office of the Public Defender of Rights from 12 February 2021.

asylum procedure was not examined.

Q23. Have any evaluations or studies in your (Member) State considered cost-effectiveness of using detention and alternatives to detention as part of the 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,)? Yes/No

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. In the conditions of the SR the cost-effectiveness of using detention or alternatives to detention as part of the return procedure was not examined.

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.)

The national part of the study presents an overall summary of the legislative and practical aspects of detention and alternatives to detention in the conditions of the Slovak Republic. Detention itself as well as alternatives to detention are regulated in national legislation in the Act on the Residence of Foreigners, which was the main source of information and a supporting pillar in the preparation of this study. Regarding the alternatives to detention itself, under national law an alternative – the obligation to report the place of stay or depositing of a financial guarantee – may be imposed instead of detention. Practical procedures for both alternatives are described in the text.

As follows from both the text part and the statistical annex, alternatives to detention were not widely used from 2015 to the end of 2020. The main challenge from the perspective of third-country nationals is the obligation to find accommodation. As TCNs often do not have identification documents, it is not possible for them. The obligation to deposit a financial guarantee was not used at all in the last five years. This may again be due to the obligation to secure accommodation, as a third-country national must, in addition to depositing a financial guarantee and stating the address where they will be present.

A positive aspect is the fact that the option of imposing an alternative to detention is assessed individually and case-by-case in each administrative expulsion, detention or detention extension procedure.

The Bureau of Border and Foreign Police of the PFP has been introducing steps to increase the use of alternatives to detention. They have gradually been choosing the imposition of an alternative to detention, namely the obligation to report the place of stay, which is also one of the steps to mitigate the negative impact of the pandemic. The BBFP PFP has been trying to solve the problem of not being able to secure accommodation mainly in close cooperation with the Migration Office of the MoI SR, and a Memorandum has already been signed on this matter. The above steps are not yet reflected in the statistics given below, as they are currently still being taken.

To conclude, it is necessary to state that there were no specific studies conducted in the Slovak Republic focusing on examining the financial effectiveness of using alternatives to detention, the rate of absconding when using alternatives to detention or other perspectives comparing detention and alternatives to detention in the SR. Given the low number of imposed alternatives to detention, we do not currently consider conducting such studies to be of key importance.

Statistical 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.

	2014	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	333	1001	397	265	172	131	494	The number of all detained third-country nationals in each year.
Number of applicants for international protection in ordinary procedures in detention (including Dublin)	212	537	295	115	74	44	198	Only detained asylum seekers and persons detained with the aim of carrying out a transfer according to a special regulation (Dublin) out of the number of all detained third-country nationals in each year from the first row are included.
Number of persons detained to prevent illegal entry at borders	49	32	17	20	2	4	84	The number of all detained third-country nationals detained when illegally crossing the state border into the SR in each year. The number is a subset of all detained from the first row.
Number of person detained during return procedures (including pre-removal)	121	464	102	150	98	87	296	The number of persons detained not including detained asylum seekers and persons detained with the aim of carrying out a transfer according to a special regulation (Dublin).
Number of vulnerable persons part of the aforementioned categories of third-country nationals - Please, where possible, disaggregate by type of	35	221	104	42	11	6	26	Statistical data on other vulnerable persons apart from minors and unaccompanied

vulnerable persons (for example, minors, persons with special needs, etc.)								minors are not recorded, i.e. the stated numbers are a total of those two categories. The statistical data on vulnerable persons are included in the overall number of detained third-country nationals in other rows.
Vulnerable persons specified – minors	35	221	104	42	11	6	26	The number of <u>accompanied</u> minors out of all detained third-country nationals in each year.
Vulnerable persons specified – unaccompanied minors	0	0	0	0	0	0	0	The number of <u>unaccompanied</u> minors out of all detained third-country nationals in each year.
Number of other third-country nationals placed in immigration detention	-	-	-	-	-	-	-	
Statistics on number of third-country nationals provided alternatives to detention								
Total number of third-country nationals in alternatives to detention	2	3	2	4	2	5	1	The number of third-country nationals who had imposed on them an <u>obligation to report the place of stay instead of detention</u> (the alternative to detention – financial guarantee was not used at all between 2015 and 2020).
Number of applicants for international protection in ordinary procedures in Alternatives to detention (including Dublin)	0	1	2	1	1	4	1	The obligation to report the place of stay – asylum seeker or Dublin
Number of persons given alternatives to detention to prevent illegal entry at borders	0	0	0	0	0	0	0	
Number of person in alternatives to detention during return procedures (including pre-removal)	2	2	0	3	1	1	0	The obligation to report the place of stay during the AE

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.)	0	0	0	0	0	0	0	
Vulnerable persons specified – minors	0	0	0	0	0	0	0	
Vulnerable persons specified – unaccompanied minors	0	0	0	0	0	0	0	

Source: BBFP PFP

Table 2: Average length of time in detention

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

Average length of time in detention	2014	2015	2016	2017	2018	2019	2020	Source / further information
Average length of time in detention of all categories of third-country nationals in detention	44.85	37.20	56.82	47.76	56.04	50.73	51.27	The average number of one detention of all the detentions concluded in the given year (not of all detained persons).
Average length of time in detention of applicants for international protection in ordinary procedures	-	-	-	-	-	-	-	It is not possible to obtain data from the system.
Average length of time in detention of persons detained to prevent illegal entry	-	-	-	-	-	-	-	It is not possible to obtain data from the system.
Average length of time in detention of persons during return procedures	-	-	-	-	-	-	-	It is not possible to obtain data from the system.
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	-	-	-	-	-	-	-	It is not possible to obtain data from the system.

Source: BBFP PFP