



Detention and Alternatives to detention in international protection and return procedures

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Detention and Alternatives to detention in international protection and return procedures

National Contribution from Hungary

Top-line factsheet [max. 2 pages]

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The aim of this study is to present the use of detention and alternatives to the detention in international protection and return procedures in the context of the Hungarian immigration policies, following up the latest study issued in 2014.

The study provides information about the relevant legislation, the legal grounds of detention, detention of vulnerable groups, the prolongation of the detention, the time of detention and the conclusions on them, doing this through the examination of relevant legislation, actual statistical data and studies. The detention of third-country nationals and asylum seekers in the case of Hungary, according to the statistics, is showing a declining trend. As a consequence of the migration crisis, the number peaked in 2015, when the total number of detentions issued was 7738, and alternative of detention was ordered in 12092 cases. Following 2015 the numbers are much lower, regarding the current situation caused by the Covid- 19 pandemic, according to the statistics in 2020 detention was ordered in 427 cases, while alternatives to detention 171 times.

Hungary established a dedicated detention regime for asylum seekers that is separate from alien policing detention regime. The most important provisions of detentions in the alien policing procedure provided by the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (hereinafter: Third Country National Act) and the Government Decree No 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals and Decree 27/2007 (V. 31.) of the Minister of Justice and Law Enforcement on the Rules of Executing Detention Ordered in Immigration Proceedings. The most important provisions of asylum detention provided by Act LXXX of 2007 on Asylum (hereinafter: Asylum Act) and Government Decree No 301/2007. (XI.9.) on the implementation of the Act LXXX of 2007 on Asylum (Government Decree) and Decree 29/2013 (VI. 28) of the Minister of Interior on the Rules of Implementing Asylum Detention and Asylum Bail. The above mentioned acts and decrees are in full compliance with EU regulations.

There are three alternatives to asylum detention, which measures' purpose is securing availability: The regular reporting of the person seeking recognition before the refugee authority; The designated place of residence, which can be a private accommodation, reception centre, community shelter or the area of a designated county;¹ and lastly, asylum bail in which the refugee authority shall ex officio examine whether conditions of asylum bail prevail. If the availability of the person requesting recognition may be secured through asylum bail, the refugee authority shall make a decision on this.² The National Directorate-General for Alien Policing takes the decision on detention or alternatives, taking into account the circumstances and all relevant details, using a case by case assessment method.

¹ Section 2 (a)-(c) of the Asylum Act

² Decree 29/2013 (VI. 28) of the Minister of Interior on the Rules of Implementing Asylum Detention and Asylum Bail.

Detention and alternatives to detention in international protection and return procedures

There are also three alternatives to aliens policing detention: The seizure of money for travel document and ticket;³ the compulsory place of residence⁴; and lastly the obligation to appear at specific intervals before the authority.⁵

³ Section 54 (1) of Third Country National Act

⁴ Section 50 (2) of Third Country Nationals Act

⁵ Section 48. (2) of Third County Nationals Act

Detention and alternatives to detention in international protection and return procedures

Section 1: National policy and legal framework: development since 2015⁶

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.

Overall there were no legislative changes since 2014 regarding detention.

The most important provisions of detentions in the alien policing procedures are provided by the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (hereinafter: Third Country National Act) and the Government Decree No 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals and Decree of the Ministry of Justice 27/2007 (V. 31.).

The most important provisions of asylum detention provided by Act LXXX of 2007 on Asylum (hereinafter: Asylum Act) and Government Decree No 301/2007. (XI.9.) on the implementation of the Act LXXX of 2007 on Asylum (Government Decree) and Decree 29/2013 (VI. 28) of the Minister of Interior on the Rules of Implementing Asylum Detention and Asylum Bail.

The types of third-country nationals detention: The legislation of Hungary contains three different types of detention of third-country nationals: alien policing detention, detention prior to expulsion, asylum detention.

The Third Country National Act establishes two different types of detention measures: alien policing detention and detention prior to expulsion (third-country nationals apprehended by the National Directorate-General for Aliens Policing (hereinafter: NDGAP) or by the Hungarian Police): The Asylum Act establishes the asylum detention. (third-country nationals apprehended by the National Directorate-General for Aliens Policing)

The mentioned legislative rules are applicable regarding persons treated as **third-country nationals based on the criterias as follows:**

- a) any person who uses a valid travel document issued by a third country to verify his/her nationality, unless proven to the contrary; or
- b) any person who is unable to show proof of having the right of free movement and residence under specific other legislation.

The immigration authority may order the **detention** of the third-country national **prior to the expulsion** in order to secure the conclusion of the immigration proceedings pending, if his/her identity or the legal grounds of his/her residence is not conclusively established, or if the return of the third-country national under the bilateral readmission agreement to another Member State of the European Union is pending.⁷ Detention prior to expulsion shall be ordered by way of a formal resolution, and shall be carried out when communicated. Detention prior to expulsion may be ordered for a maximum duration of seventy-two hours, and it may be extended by the district court of jurisdiction by reference to the place of detention until the third-country national's identity or the legal grounds of his/her residence is conclusively established, or for maximum thirty days.

In order to secure the deportation of a third-country national the immigration authority shall have powers to detain the person in question if:

⁶ 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

⁷ Section 55 of Third Country Nationals Act

Detention and alternatives to detention in international protection and return procedures

- a) he/she is hiding from the authorities or is obstructing the enforcement of the deportation in some other way;
- b) he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion, or there is a risk of absconding of the third-country national;
- c) he/she has seriously or repeatedly violated the code of conduct of the place of compulsory confinement;
- d) he/she has failed to appear before the authority as ordered despite of being so advised, by means of which to forestall conclusion of the pending immigration proceeding; or
- e) he/she is released from imprisonment as sentenced for a deliberate crime.⁸

Detention under immigration laws may be ordered for a maximum duration of seventy-two hours, and it may be extended by the district court of jurisdiction by reference to the place of detention until the third-country national's deportation, not exceeding sixty days at a time.

Detention ordered under immigration laws shall be terminated:

- a) when the conditions for carrying out the expulsion are provided for;
- b) when it becomes evident that the expulsion cannot be executed;
- c) after six months from the date when ordered, or twelve months under the conditions referred to in Subsection (5);
- d) the third-country national is entitled to reside in the territory of Hungary in accordance with the relevant legislation based on his/her application for international protection; or
- e) detention of the third-country national is ordered in asylum proceedings.

Families with minors shall only be detained as a measure of last resort and for not more than thirty days where the best interests of the child shall be a primary consideration, if the immigration authority is of the opinion that the objective of detention cannot be ensured by less strict measures.

The competent public prosecutor shall oversee the execution of the detention in accordance with the relevant regulations.

Legal grounds for the alternatives to the detention:

Alien policing detention:

There are three alternatives to detention:

1. Seizure of money for travel document and ticket. In order to secure the costs of departure, the competent authority may seize the travel ticket if the third-country national in question has one, or - if sufficient financial means cannot be ensured otherwise - may confiscate his money in the amount as is required to purchase the ticket and to obtain a travel document.⁹

In order to secure the enforcement of an expulsion measure the immigration authority shall be authorized to confiscate the travel document of the third-country national affected.¹⁰

2. Compulsory place of residence: The immigration authority shall have powers to order the confinement of a thirdcountry national in a designated place, if the third-country national in question 1. cannot be returned or expelled due to commitments of Hungary conferred upon it in international treaties and conventions 2. is a minor who should be placed under detention;3. should be placed under detention, in consequence of which his/her minor child residing in the territory of Hungary would be left unattended if he/she was to be detained;4. is released from detention, however, there are still grounds for his/her detention;5. has a residence permit granted on humanitarian grounds;6. has been expelled, and is lacking adequate financial resources to support

⁸ Section 54 (1) of Third Country National Act

⁹ Section 50 (2) of Third Country Nationals Act

¹⁰ Section 48. (2) of Third Country Nationals Act

Detention and alternatives to detention in international protection and return procedures

himself and/or does not have adequate dwelling. should be placed under detention under immigration, and detention would result in a disproportionate punishment taking into account the state of health and age of the third-country national concerned.¹¹

3. Obligation to appear at specific intervals before the authority.¹²

Before ordering the detention, the immigration authority shall consider whether the execution of the deportation can be ensured with the application of the above mentioned alternatives.¹³

Asylum detention:

There are three alternatives to detention, measures securing availability:

1. The regular reporting of the person seeking recognition before the refugee authority.

2. Designated place of residence: private accommodation, reception centre, community shelter or the area of a designated county.¹⁴

3. Asylum bail: The refugee authority shall ex officio examine whether conditions of asylum bail prevail. If the availability of the person requesting recognition may be secured through asylum bail, the refugee authority shall make a decision on this. Following the deposit of asylum bail, the asylum authority shall designate a place of residence for the person seeking recognition, and shall inform him/her about his/her obligations relevant to availability, the non-compliance of which obligation shall result in the person seeking recognition losing the right to claim back the deposited asylum bail.¹⁵

The alternatives to detention –if they are applicable- can be used at the same time.

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)

No legislative changes have been made.

Q3. Please complete the table below with regard to the **categories of third-country nationals that can be detained** in your (Member) State. You can refer to the same information reported in the 2014 EMN study on Detention and Alternatives. Please highlight any changes since then.

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

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

¹¹ Section 62 (1) Third Country National Act

¹² Section 62 (2) c) of Third Country Nationals Act

¹³ Section 54 (2) of Third Country Nationals Act

¹⁴ Section 2 1a-1c) of the Asylum Act

¹⁵ Sections 31/H 1); 3) and 2 1c) of the Asylum Act

Detention and alternatives to detention in international protection and return procedures

	Categories of third-country nationals	Can third-country nationals under this category be detained? Yes/No	If yes, what is the legal basis for detention? <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 collected in section 2.</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?
International Protection	Applicants for international protection in ordinary procedures	Yes	<p>The asylum authority may order asylum detention if:</p> <ul style="list-style-type: none"> - the identity or nationality of the person who applied for acceptance is not clear, in order to establish this; - expulsion proceedings are pending, on the basis of objective criteria it can be demonstrated-including the possibility that the applicant would have previously been able to lodge an application for international protection-or there are reasonable grounds for believing that the applicant is seeking international protection solely to delay or frustrate enforcement of an expulsion decision, - the facts and circumstances on which the application for asylum is based cannot be determined; - the detention of the person seeking recognition is necessary for the protection of national security or public order; - the application was made during airport proceedings, or - necessary to ensure Dublin transfer procedures and there is a serious risk of absconding.¹⁶ 	<p>A measure taken by the asylum authority can be:</p> <ul style="list-style-type: none"> - ordering the refugee the obligation of regular reporting to the asylum authority, - ordering the obligation to stay at an assigned place, such as a private accommodation, reception center, community hostel or the administrative area of a specific county, or - ordering the deposit of asylum bail;¹⁷ 	<p>The asylum authority or court is involved in the decision about placing the person in detention or using an alternative to detention instead.</p>

¹⁶ Section 31/A. (1) of Asylum Act

¹⁷ Section 31/H. (1) of Asylum Act

Detention and alternatives to detention in international protection and return procedures

	Applicants for international protection in border procedures	Yes	See above	See above	The asylum authority or court is involved in the decision about placing the person in detention or instead using an alternative to detention.
Return procedures	Irregular migrants detected in the territory	Yes	<p>In order to secure the deportation of a third-country national the immigration authority shall have powers to detain the person in question if:</p> <ul style="list-style-type: none"> - he/she is hiding from the authorities or is obstructing the enforcement of the removal in some other way; - he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion, and there is a risk of absconding of the third-country national; - he/she has seriously or repeatedly violated the code of conduct of the place of the compulsory residence; - he/she has failed to appear before the authority as ordered despite of being summoned, and thereby impedes the conduct of the immigration procedure <p>- he/she is released from imprisonment as sentenced for a deliberate crime.¹⁸</p>	<p>The immigration authority shall have powers to order the confinement of a third-country national in a designated place, if the third-country national in question:</p> <ul style="list-style-type: none"> - cannot be returned or expelled due to commitments of Hungary conferred upon it in international treaties and conventions; - is a minor who should be placed under detention; - should be placed under detention, in consequence of which his/her minor child residing in the territory of Hungary would be left unattended if he/she was to be detained; - is released from detention, however, there are still grounds for his/her detention; - has a residence permit granted on humanitarian grounds; - has been expelled, and is lacking adequate financial resources to support himself and/or does not have adequate dwelling; - should be placed 	<p><u>Detention under immigration laws</u> may be ordered by the aliens policing authority for a maximum duration of seventy-two hours, and it may be extended by the district court of jurisdiction.²⁰</p> <p>Detention prior to expulsion may be ordered for a maximum duration of seventy-two hours, and it may be extended by the district court of jurisdiction.²¹</p> <p><u>The competent public prosecutor</u> shall oversee the execution of the detention in accordance with the relevant regulations.</p> <p>A third-country national <u>placed under compulsory confinement</u> may lodge a complaint - as a form of remedy, on the grounds of an infringement of the law - against the resolution ordering his/her confinement. Decisions on complaints shall be taken by the district court of jurisdiction.²²</p>
	Persons who have been issued a return decision	Yes			
	Irregular migrants detected at the border	Yes			

¹⁸ Section 54. (1) of Third Country Nationals Act

Detention and alternatives to detention in international protection and return procedures

				<p>under detention under immigration laws and detention would result in a disproportionate punishment taking into account the state of health and age of the third-country national concerned.</p> <p>- is undergoing immigration proceedings.¹⁹</p>	
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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

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

	International protection 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>	Return procedures <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	The detention of unaccompanied minor third-country national may not be ordered. ²³
Disabled people	Yes, detention alternatives provided	Disabled person can be detained with respect to persons eligible for special treatment, taking due account of their special needs arising from their specific situation.
Elderly people	Yes, detention alternatives provided	Elderly person can be detained with respect to persons eligible for special treatment, taking due account of their special needs arising from their

²⁰ Section 58. (2) of Third Country Nationals Act

²¹ Section 55. (3) of Third Country Nationals Act

²² Section 62. (9) of Third Country Nationals Act

¹⁹ Section 62. (1) of Third Country Nationals Act

²³ Section 56. (2) of Third Country Nationals Act

Detention and alternatives to detention in international protection and return procedures

		specific situation.
Families with children and single parents with minor	Yes, Families with minors shall only be detained as a measure of last resort and for not more than thirty days where the best interests of the child shall be a primary consideration ²⁴ detention alternatives provided (not used since 2017)	Families with minors shall only be detained as a measure of last resort and for not more than thirty days where the best interests of the child shall be a primary consideration. ²⁵
Persons with serious illnesses and persons with mental disorders	Yes, detention alternatives provided	Person can be detained with respect to persons eligible for special treatment, taking due account of their special needs arising from their specific situation.
victims of human trafficking	Yes, detention alternatives provided	Person can be detained with respect to persons eligible for special treatment, taking due account of their special needs arising from their specific situation.
Pregnant women	Yes, detention alternatives provided	Person can be detained with respect to persons eligible for special treatment, taking due account of their special needs arising from their specific situation.
Other vulnerable persons	Yes, detention alternatives provided	Person can be detained with respect to persons eligible for special treatment, taking due account of their special needs arising from their specific situation. ²⁶

²⁴ Section 31/A. (8) point a) and 31/F. (2) of Asylum Act

²⁵ Section 56. (3) of Third Country Nationals Act

²⁶ Section 3 of Decree 27/2007 (V. 31.) of the Minister of Justice and Law

Detention and alternatives to detention in international protection and return procedures

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. A certificate of temporary residence shall be issued by the National Directorate-General for Alien Policing to any third-country national: - who is subject to any immigration related proceeding for unlawful entry and residence pending (for maximum 3 months and shall be extended) - who is subject to an order of compulsory confinement (for maximum 6 months and shall be extended)
A2	Obligation to surrender a passport, travel document or identity document	Yes. In order to secure the enforcement of an expulsion measure the immigration authority shall be authorized to confiscate the travel document of the third-country national affected. ²⁷
A3	Requirement to communicate the address to authorities (including requesting permission for absences/changing the address)	Yes. The third-country national is obliged to report the address of his/her accommodation to the aliens policing authority, including the start and expected end date of the stay. ²⁸
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.	Yes. It can be a private accommodation, a reception centre, a community shelter or the area of a designated county. ²⁹
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</i>	Yes. The refugee authority shall ex officio examine whether conditions of asylum bail prevail. If the availability of the person requesting recognition may be secured through asylum bail, the refugee authority shall make a decision

²⁷ Section 48. (2) of Third Country Nationals Act

²⁸ Section 73. (1) of Third Country Nationals Act

²⁹ Section 2 Ia-Ic) of the Asylum Act

Detention and alternatives to detention in international protection and return procedures

	<i>returned</i>	<p>on this.</p> <p>Following the deposit of asylum bail, the asylum authority shall designate a place of residence for the person seeking recognition, and shall inform him/her about his/her obligations relevant to availability, the non-compliance of which obligation shall result the person seeking recognition losing the right to claim back the deposited asylum bail. The refugee authority determines the amount of the asylum bail (hereinafter: the bail), taking into consideration the personal and financial circumstances of the person seeking recognition. The amount of the bail shall not be less than EUR 500 and it shall not exceed EUR 5,000 If the asylum detention of the person seeking recognition has been ordered before bail is deposited but later the refugee authority finds that the availability of the person seeking recognition can be ensured by giving bail and it orders for bail to be deposited, asylum detention shall be terminated with no delay upon depositing bail. There are no regulations for the guarantor.³⁰</p>
A6	Electronic monitoring (e.g. tagging)	No
A7	<i>Release to a guardian/guarantor 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	Yes. Yes, the seizure of money for

³⁰ Sections 30-36 of Decree 29/2013 (VI. 28) of the Minister of Interior

Detention and alternatives to detention in international protection and return procedures

	(Member) State. Please specify.	travel document and ticket. In order to secure the costs of departure, the competent authority may seize the travel ticket if the third-country national in question has one, or - if sufficient financial means cannot be ensured otherwise - may confiscate his money in the amount as is required to purchase the ticket and to obtain a travel document. ³¹
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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

No information available.

Q5.2 Please briefly describe each of the alternatives indicated above. Copy paste the table below as many times as necessary.

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

Name of alternatives (as reported in table 2 above) Obligation to stay at a designated place and deposit for financial guarantee	
<i>In what it consists, and maximum duration</i>	<ul style="list-style-type: none"> • Obligation to stay at a designated place can be ordered by the aliens policing authority until the deportation of the third country national. The third country national can be accommodated at a community accommodation centre, if he/she doesn't have adequate housing and financial conditions available. The authority's decision contains the place of compulsory residence, the rules of conduct during the stay, and if the place of residence is not community accommodation or centre, the obligation to appear periodically before the authority. • Regarding release on bail, the amount is determined by the asylum authority, taking into consideration the personal and financial circumstances of the person seeking recognition. The amount of asylum bail must be between 500 and 5000 euros. If an asylum seeker has been ordered to be in asylum custody prior to the lodging of bail, but the asylum authority subsequently considers his/her availability to be secured and orders bail, the asylum custody shall be terminated immediately after the bail is lodged. The asylum authority shall issue the bail to the person entitled to receive it, without taking a separate decision, on the basis of a final decision on the return of the security, the currency deposited by the applicant for recognition.³²
<i>Legal basis (law, soft law, other guidance). Please provide reference to the original sources</i>	<ul style="list-style-type: none"> • Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals • Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals

³¹ Section 50(2) of Third Country Nationals Act

³² Section 30 and 31 of Decree 29/2013 (VI. 28) of the Minister of Interior

Detention and alternatives to detention in international protection and return procedures

	<ul style="list-style-type: none"> • LXXX. of 2007 Act on Asylum, Paragraph 2 point la) • Decree 29/2013 (VI. 28) of the Minister of Interior on the Rules of Implementing Asylum Detention and Asylum Bail
<i>Is it used in practice? Please provide any available data for the period 2015-2020</i>	<ul style="list-style-type: none"> • The obligation to stay at an assigned place, such as a private accommodation, reception center, community hostel or the administrative area of a specific county was ordered for 12092 persons in 2015, 949 persons in 2016, 388 persons in 2017, 486 in 2018. On 2019 and 2020 there is no data available at this time. • Deposit for financial guarantee was ordered in 264 cases in 2015, 284 cases in 2016, 2 cases in 2017. There was no deposit ordered in the period of 2018-2020 in asylum cases.
<i>National authorities responsible to administer the alternative</i>	The Hungarian Police; the National Directorate-General for Aliens Policing; and the Asylum Authority
<i>Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)</i>	The Hungarian Maltese, Red Cross, other charity organisations
<i>Obligations attached to the granting of the alternative (if relevant)</i>	<ul style="list-style-type: none"> - Regularly reporting obligation, see Table 2.1 A1 - complying with the rules of conduct <p>see table 2.1.</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>He/she is hiding from the authorities or is obstructing the enforcement of the deportation in some other way</p> <p>In order to secure the deportation of a third-country national the immigration authority shall have powers to detain the person in question if:</p> <ul style="list-style-type: none"> - he/she is hiding from the authorities or is obstructing the enforcement of the deportation in some other way; - he/she has seriously or repeatedly violated the code of conduct of the place of compulsory confinement; - he/she has failed to appear before the authority as ordered despite of being so advised, by means of which to forestall conclusion of the pending immigration proceeding; or <p>After the financial guarantee is deposited, the refugee authority shall assign place of residence for the person seeking asylum, and shall inform him/her of the obligations concerning availability, and that the financial guarantee deposit shall be considered forfeited upon any breach of such obligations.³³</p>
<i>Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)</i>	<p>The alien policing authority constantly monitors the third country national. (e.g. phone, personally)</p> <p>The immigration authority shall be entitled to carry out site inspections at the place of compulsory confinement to monitor the third country national to be there, and if the third country national complies with the code of conduct of the</p>

³³ Section 31/H. (3) of Asylum Act

Detention and alternatives to detention in international protection and return procedures

	<p>place of compulsory confinement.</p> <p>Site inspections are mostly used when the third country national did not appear at the National Directorate-General for Aliens Policing in order to extend the validity of the certificate of the temporary residence – see Table 2.1 A1</p>
<p><i>Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.</i></p>	<p>The alien policing authority constantly monitors the third country national. (e.g. phone, personally)</p> <p>The immigration authority shall be entitled to carry out site inspections at the place of compulsory confinement to monitor the third country national to be there, and if the third country national complies with the code of conduct of the place of compulsory confinement.</p> <p>Site inspections are mostly used when the third country national did not appear at the National Directorate-General for Aliens Policing in order to extend the validity of the certificate of the temporary residence – see Table 2.1 A1</p>
<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></p>	<p>No evaluation conducted.</p>

Q6. Please identify any **practical challenges associated with the implementation of each alternative** to detention available in your (Member) State, based on existing studies or evaluations or information received from competent authorities, specifically in relation to (add more column as needed). Please elaborate your answer by providing a short description. Please cover here the same alternatives reported in Q8.

Challenge	Bail	Ordering a designated place of residence		
Availability of facilities related to accommodation (i.e. beds)	No, no existing studies or evaluations	No, no existing studies or evaluations		
Availability of staffing and supervision	No, no existing studies or evaluations	No, no existing studies or evaluations		
Administrative costs	No, no existing studies or evaluations	No, no existing studies or evaluations		
Mechanisms to control movements of the person	No, no existing studies or evaluations	No, no existing studies or evaluations		

Detention and alternatives to detention in international protection and return procedures

Legislative obstacles	No, no existing studies or evaluations	No, no existing studies or evaluations		
Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support)	Yes. The refugee authority determines the amount of the asylum bail, taking into consideration the personal and financial circumstances of the person seeking recognition.	Yes, If obligation to stay at designated place was ordered, it can take place at the habitual address of residence or at an accommodation centre. The third country national's circumstances are evaluated in each case, and if the adequate living conditions are not available, for the third country national an accommodation centre gets designated. There is no shortage of capacities regarding the accommodation.		
Other challenges	No, no existing studies or evaluations	No, no existing studies or evaluations		

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

Advantage	Alternative (ordering a designated place of residence)	Alternative 2(Name)	Alternative 3(Name)	Alternative 4(Name)
Availability of facilities related to accommodation (i.e. beds)	<p>If obligation to stay at a designated place was ordered it can take place at the habitual address of residence or at an accommodation centre. The third country national's circumstances are evaluated in each case, and if the adequate living conditions are not available, for the third country national an accommodation centre gets designated. The criteria for the accommodation centres are regulated by law.³⁴</p> <p>In case of A1 the third country national shall stay at private accommodation and report back to the authorities at regular intervals.</p>			

³⁴ Section 129. (1) of Government Decree No 114/2007 (V. 24.) on the Implementation of Third Country National Act

Detention and alternatives to detention in international protection and return procedures

	There is no shortage of capacities, regarding the accommodation.			
Availability of staffing and supervision	At the reception facility yes, but there is no availability of staff and supervision at private accommodation.			
Administrative costs	No studies or evaluations. However it can be remarked that if the third country national is staying at a private accommodation, the administrative costs are higher.			
Mechanisms to control movements of the person	Yes, aliens policing authority staff controls the movement of the person.			
Legislative obstacles	There are no legislative obstacles.			
Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support)	no studies or evaluations			
Other advantages	no studies or evaluations			

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?

During the immigration procedure the hearing of the third country national is conducted. After the official questions the third country national shall inform the National Directorate-General for Alien Policing about all his/her personal circumstances. The National Directorate-General for Alien Policing shall take the decision on detention or alternatives with regard of the third country national's declarations and the officially known facts.

If the third country national refuses to cooperate with the authorities - if he/she is hiding from the authorities or is obstructing the enforcement of the deportation in some other way; - he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion, or there is a risk of absconding of the third-country national; - he/she has seriously or repeatedly violated the code of conduct of the place of compulsory confinement; - he/she has failed to appear before the authority as ordered despite of being so advised, by means of which to forestall conclusion of the pending immigration proceeding; or - he/she is released from imprisonment as sentenced for a deliberate crime - detention will be ordered.

In all other cases alternatives to detention shall be ordered.

Detention and alternatives to detention in international protection and return procedures

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

See the table 1. and the answer to Q8 i.

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)?

The national alien policing procedure does not vary depending on the categories of third country nationals or their country of origin. If there are serious doubts that the return shall not be executed, decision on alternatives to detention shall be taken.

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

The Hungarian Police, and the National Directorate-General for Aliens Policing are the authorities involved in the procedure.

International protection procedure

Assessment between detention or its alternatives is made at the same time when the grounds for alternatives were considered on the basis of the facts and personal circumstances collected during the personal interview.

The procedures do not vary depending on the categories of third country nationals or their country of origin, as it would be discriminatory during asylum procedure or Dublin transfer process.

Only asylum authority is involved in the procedure as a decision maker for ordering asylum detention or the use of its alternatives.

Other actors, such as experts who conduct examinations regarding the applicants fingerprints, also take part, but strictly in a co-operative manner.

Return procedure

See the table 1 regarding the opportunities, furthermore the alien policing authority shall decide taking into account all the circumstances. See answer Q8 i

Other (if indicated on Table I)

Q9. Is the possibility to provide alternatives to detention systematically considered in your (Member) State when assessing whether to place a person in detention? Please respond separately for international protection and return procedures.

International protection procedures:

Yes/No

Details:

The asylum authority is obliged to consider whether alternative measures can secure the availability of the applicant before ordering detention.³⁵ The same applies for the ex-officio assessment of the use of bail in any stage of the procedure.³⁶

Return procedures:

³⁵ Section 31/A. (3) (4) of Act on Asylum

³⁶ Section 31/H. (1) (2) of Act on Asylum

Detention and alternatives to detention in international protection and return procedures

<p>Yes/No</p> <p>Details:</p> <p>See table 1 regarding the opportunities, furthermore the alien policing authority shall decide taking into account all the circumstances.</p>
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Q10. When there are grounds for authorising detention, which **considerations or criteria** are used to decide whether to place the third-country national concerned in detention or instead provide an alternative?

Criteria	International protection procedures	Return procedures
Suitability of the alternative to the needs of the individual case	Yes/No, further explain	Yes/No further explain
Cost-effectiveness	Yes/No further explain	Yes/No further explain
Nationality or Country of origin/ return (e.g. considerations on the specific situation in the country of origin)	Yes/No	Yes/No further explain See answer Q8 iii
Level of the risk of absconding	Yes/No further explain how this is assessed	Yes/No further explain how this is assessed See the table 1 regarding the opportunities, furthermore the alien policing authority shall decide taking into account all the circumstances. See answer Q8 i
Vulnerability	Yes/No further explain	Yes/No further explain See the table 1 regarding the opportunities, furthermore the alien policing authority shall decide taking into account all the circumstances. See answer Q8 iii
Less-invasive legal measures impacting on human rights	Yes/No	Yes/No further explain See table 1 regarding the opportunities, furthermore the alien policing authority shall decide taking into account all the circumstances. See answer Q8 iii
Other	Yes/No	Yes/No further explain Details: The alien policing authority shall decide taking into account all the circumstances.

Detention and alternatives to detention in international protection and return procedures

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

The responsible asylum authority follows the general procedural rules prescribed by law to conduct a case-by-case examination. The written order for detention is issued in the form of decision with a detailed explanation stating the legal and personal reasons in facts.

The vulnerability assessment is conducted carefully on a case-by-case basis, based on the facts and circumstances collected during personal interview and supplementary available documents.(e.g. observations of other authorities, medical expert opinions, documents on previous/present or necessary future medical treatments, police reports)

Return procedures

The alien policing authority shall decide taking into account all the circumstances. According to the national law, the elements of vulnerability considered persons eligible for preferential treatment shall mean unaccompanied minors, or vulnerable persons such as minors, elderly people, disabled people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, if they are found to have special needs after an individual evaluation of their situation.

The National Directorate-General for Aliens Policing conducts the assessment.

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:

The asylum seeker may file a complaint against the resolution ordering the implementation of alternative measures intended to secure availability or against the order of asylum detention within three days of the date of delivery of the decision.

The local court of jurisdiction by reference to the asylum seeker's habitual residence shall adopt a decision for such complaints within eight days.

According to the court's decision, any measure that has been omitted must be carried out, and/or any infringement must be remedied.

Return procedures:

The third-country national placed under detention may lodge a complaint. See Table1

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?

Detention and alternatives to detention in international protection and return procedures

International protection procedures:

Free legal, social, psychological and medical support is available.

Return procedures:

In immigration proceedings relating to expulsion, third-country nationals shall have the opportunity to seek legal advice at their own expense, and to retain the services of legal counsel. The authority shall provide assistance in connection with legal advice, where deemed necessary, by means of providing an interpreter.

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 (Q14, Q16) procedures. If this is not possible, please clarify and respond to Q16 and Q17 covering both procedures.

Q13. Please provide **statistics** available in your country for the latest available year on the **number of asylum seekers** that were placed in detention and in alternatives to detention during the international protection procedures **who absconded**.

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

Flow number of third-country nationals in detention or in alternatives to detention in the context of international protection procedures who absconded during the year. Data expressed in absolute figures. Reference years: 2017, 2018, 2019 (Please provide data for each year)

	# People in international protection procedures (including Dublin)	# of applicants who absconded
Detention (Absolute figures)	no existing studies or evaluations	no existing studies or evaluations
Alternatives to detention 1 (Designated place to stay with reporting obligation)	no existing studies or evaluations	no existing studies or evaluations
Alternatives to detention 2 (bail)	no existing studies or evaluations	no existing studies or evaluations
Alternatives to detention 3 (NAME)	no existing studies or evaluations	no existing studies or evaluations
Alternatives to detention 4 (NAME)	no existing studies or evaluations	no existing studies or evaluations

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.)?

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

Detention and alternatives to detention in international protection and return procedures

overturned the initial decision. Those MS who do not place asylum applicants in detention, shall indicate this at the beginning of the question and skip to the next question.

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

Average length of time needed to determine the status of applicants for international protection who where detained or in alternatives. Reference years: 2017, 2018, 2019 (Please provide data for each year)

	Average length of time in determining the status of an applicant for international protection	Share of decisions which were appealed and of these, the share which overturned the initial decision
Detention (Absolute figures)	no existing studies or evaluations	no existing studies or evaluations
Alternatives to detention 1 (NAME)	no existing studies or evaluations	no existing studies or evaluations
Alternatives to detention 2 (NAME)	no existing studies or evaluations	no existing studies or evaluations
Alternatives to detention 3 (NAME)	no existing studies or evaluations	no existing studies or evaluations
Alternatives to detention 4 (NAME)	no existing studies or evaluations	no existing studies or evaluations

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.)?

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)	No data available.	No data available.
Alternatives to detention 1 (NAME)	No data available.	No data available.
Alternatives to detention 2 (NAME)	No data available.	No data available.
Alternatives to detention 3 (NAME)	No data available.	No data available.

Detention and alternatives to detention in international protection and return procedures

Alternatives to detention 4 (NAME)	No data available.	No data available.
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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.)?

As a trend we can state that 99% of third country nationals subject of a return order abscond, who have been released from immigration detention prior to the removal.

Q16. Please provide any statistics that might be available in your country on

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

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

Average length of procedures to issue a return decision, and number of voluntary return among third country nationals placed in detention or alternatives. Reference years: 2017, 2018, 2019 (Please provide data for each year)

	Average length of time from apprehending an irregular migrant to issuing a return decision	Average length of time from issuing a return decision to the execution of the return	Number of voluntary returns (persons who opted to return voluntarily) (absolute figures)	Number of effective forced departures (absolute figures)
Detention (Absolute figures)	N/A	N/A	N/A	N/A
Alternatives to detention 1 (NAME)	N/A	N/A	N/A	
Alternatives to detention 2 (NAME)	N/A	N/A	N/A	
Alternatives to detention 3 (NAME)	N/A	N/A	N/A	
Alternatives to detention 4 (NAME)	N/A	N/A	N/A	

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

Q17. 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.

Detention and alternatives to detention in international protection and return procedures

<p><u>International protection procedures</u></p> <p>Yes/No</p> <p>Key findings</p> <p>Reference</p> <p><u>Return procedures</u></p> <p>Yes/No</p> <p>Key findings</p> <p>The National Directorate-General for Aliens Policing experienced that third country nationals in detention are not showing cooperation regarding the execution of their return, including the identification procedures.</p> <p>Reference</p>
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Q18. Is there any evidence, or empirical observation on **whether detention or alternatives to detention have a greater impact on migration procedures**, (e.g. whether they make return procedure more effective), **depending on certain characteristics of migrants** and specifically country of origin, nationality, family situation, gender, age.

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

Please discuss separately for international protection and return procedures

<p><u>International protection:</u></p> <p>Detention: The asylum detentions guaranteed the availability of the asylum applicants during the asylum procedure and facilitated and accelerated the Dublin transfer procedures.</p> <p>Requirement to reside at a designated place: The alternative measure could not achieve its objective as the applicant has left the designated place to stay without authorisation. Neither preliminary nor later contacting obligation within a reasonable time was performed, so it is evaluated as a breach of the reporting duties.</p> <p>Asylum bail: No available data for asylum bail in this regard.</p> <p><u>Return procedures:</u></p> <p>Detention: The experience of the Hungarian Police is that detention has a significantly greater impact than the alternatives to detention. The National Directorate-General for Aliens Policing noticed that forced return operations are carried out more effective and successfully in the cases of third country nationals in detention.</p>
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Upholding fundamental rights

Q19. What **human rights safeguards** are available in detention and in alternatives to detention?

Safeguar	Detention	Alternatives to detention	Comparison between safeguards provided in detention and in the alternatives to detention

Detention and alternatives to detention in international protection and return procedures

<p>Is access to legal aid ensured? If so, how? Please specify.</p>	<p>Yes, access to legal aid is ensured.</p> <p>Upon arrival and admittance to the facility, the detainee shall be informed of their rights and obligations in their mother tongue or in a language he/she understands.³⁷ The information shall either be provided in writing (by handing over an information note on their rights and obligations, the coercive measures that may be used against him/her and the available legal remedies) or verbally. The detainee shall sign the minutes in person to provide proof that he/she received the information note or the receipt of the information verbally. If the detainee is illiterate, he/she shall mark the minutes in confirmation of the receipt of the information. The information may only be given to an illiterate detainee orally in the presence of two witnesses. The witnesses shall sign the minutes in person.³⁸</p> <p>Legal advisers, human rights organisations, international organisations, NGOs are entitled to enter the detention facilities without permission at any time, with constant supervision by the state prosecutor.</p>	<p>Yes, All applicants are informed duly about their rights including the use of free legal assistance and possibility to contact any international organizations, NGOs. Third-country nationals placed in community or privat accommodation have access to legal representative, humanitarian organisations, etc.</p>	
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³⁷ Section 60 (1) of Third Country Nationals Act

³⁸ Section 4 of Decree 27/2007 (V. 31.) of the Minister of Justice and Law

Detention and alternatives to detention in international protection and return procedures

<p>Is the right to be heard ensured during detention/alternatives to detention? If so, how? Please specify.</p>	<p>Yes, their right to be heard is ensured.</p> <p>Details:</p> <p>The detainee may keep contact with the following persons without supervision/inspection (only subject to security surveillance):</p> <ul style="list-style-type: none"> - with their legal representative holding power of attorney, or appointed guardian ad litem, - with a person providing legal aid, - with the representative of a non-governmental organization or a foundation, the statute of which includes the objective of human rights protection, - with any member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, or of any organization of the United Nations or the Council of Europe authorized to protect human rights if the member is specifically assigned to this task, - with a member of an organization authorized by Hungarian law to protect human rights or an authority granted the power by Hungarian law to check the execution of detention, - with a diplomatic representative or consular official accredited to Hungary of their home country; if no such person is available, to the representative of a country that protects the detainee's interests, - for the purpose of practicing his/her religion, a representative of the church (denomination). <p>On issues directly related to the detention, the detainee may contact the prosecutor overseeing the lawful operation of the detention facility and request a hearing from the prosecutor.³⁹</p>	<p>Third-country nationals placed in community or private accommodation have the right to make oral or written statements any time they like to. During the immigration procedure hearings are organized.</p> <p>Right to be heard is guaranteed without any legal or practical limitations.</p> <p>Free interpretation is provided in each case. Any written request for hearing is transferred to the competent authority/organisation without delay. All documents, suggestions are translated and managed accordingly.</p>	
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³⁹ Section 10 of Decree 29/2013 (VI. 28) of the Minister of Interior

Detention and alternatives to detention in international protection and return procedures

<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>	<p>Yes. If the detainee requires special treatment due to torture, rape or other forms of violence in the country of origin or elsewhere, on the basis of the opinion of the doctor carrying out the admission examination, the detainee shall be provided with the specialist assistance required for the treatment of the injuries caused by such forms of violence.</p> <p>If the detainee has been a victim of torture, rape or some other form of psychological, physical or sexual violence, for the purpose of allowing this person to receive rehabilitation treatment, mental health treatment or consultancy, the head of the detention facility shall notify the competent health institution of this on the written recommendation of the psychiatrist or doctor providing health services at the detention facility.</p> <p>In Hungary, in every detention centre can be found medical room and medical staff for the detainees. Medical care shall be provided to third-country nationals placed under detention in the hostel of restricted access at all times.</p> <p>Any third-country national who is detained or placed in a community hostel or transit zone, if not covered by any social security scheme, shall be provided free of charge the health care services specified in Subsection (2) of Section 142 and in Paragraphs <i>e)</i> and <i>i)</i> of Subsection (3) of Section 142 of Act CLIV of 1997 on Health Care.</p> <p>After placement, the third-country national shall be entitled to receive the vaccinations specified in specific other legislation. General medical care shall be provided to third-country nationals in the hostel of restricted access, in community hostels. Special medical care shall be provided by the health care provider responsible for the region in question.</p> <p>The authority operating the alien accommodations center shall cover the full costs of medical aids and pharmaceuticals provided by prescription and issued by a doctor who has an official stamp for authorization as laid out in specific other legislation, to prescribe medicinal products.</p>	<p>Yes. Medical care shall be provided to third-country nationals placed under detention in the hostel of restricted access at all times. Any third-country national who is detained or placed in a community hostel or transit zone, if not covered by any social security scheme, shall be provided the health care services specified in Subsection (2) of Section 142 and in Paragraphs <i>e)</i> and <i>i)</i> of Subsection (3) of Section 142 of Act CLIV of 1997 on Health Care free of charge.⁴⁰</p> <p>After placement, the third-country national shall be entitled to receive the vaccinations specified in specific other legislation.</p> <p>General medical care shall be provided to third-country nationals in the hostel of restricted access, in community hostels.</p> <p>Special medical care shall be provided by the health care provider responsible for the region in question.</p> <p>The authority operating the alien accommodations center shall cover the full costs of medical aids and pharmaceuticals provided by prescription and issued by a doctor who has an official stamp for authorization as laid out in specific other legislation, to prescribe medicinal products.</p>	
<p>⁴⁰ Section 138 of</p>			

Detention and alternatives to detention in international protection and return procedures

Please add any additional safeguard			
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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)?

<p>Yes/No</p> <p>Key findings</p> <p>Reference</p>
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Q21. Please provide any statistics available in your country on the **number of complaints regarding violations of human rights⁴¹** 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.

<p><u>International protection procedures</u></p> <p>No complaints were submitted in 2019 and 2020 regarding violations of human rights in detention or alternatives to detention.</p> <p><u>Return procedures</u></p> <p>Between 2017 and 2019 there were no complaints submitted regarding violations of human rights, fundamental rights in detention centres or at the alternatives of detention.</p>

[Improving the cost-effectiveness of migration management.](#)

Q22. Have any evaluations or studies in your (Member) State considered the **cost-effectiveness of using detention or alternatives to detention as part of the asylum procedure** (e.g. length of time to determine an international protection status and executing decisions, costs of procedures, etc)?

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

<p>Yes/No</p> <p>Key findings</p> <p>Reference</p>
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⁴¹ Please consider appeals to a judge but also to a specific administrative commission or ombudsman

Detention and alternatives to detention in international protection and return procedures

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,)?

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

Yes/No
Key findings
Reference

Conclusions

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

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

The alien policing authority shall decide taking into account all the circumstances. The alien policing authority thoroughly and carefully examines all information according to the national law , taking into account the elements of vulnerability, such as unaccompanied minors, or vulnerable persons such as minors, elderly people, disabled people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, if they are found to have special needs after an individual evaluation of their situation. As mentioned in the answers provided in Q8, during the immigration procedure the hearing of the third country national is conducted. After the official questions the third county national shall inform the National Directorate-General for Alien Policing about all his/her personal circumstances. The National Directorate-General for Alien Policing shall take the decision on detention or alternatives with regard of the third country national's declarations and the officially known facts.

If the third country national refuses to cooperate with the authorities - if he/she is hiding from the authorities or is obstructing the enforcement of the deportation in some other way; - he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion, or there is a risk of absconding of the third-country national; - he/she has seriously or repeatedly violated the code of conduct of the place of compulsory confinement; - he/she has failed to appear before the authority as ordered despite of being so advised, by means of which to forestall conclusion of the pending immigration proceeding; or - he/she is released from imprisonment as sentenced for a deliberate crime - detention will be ordered.

In all other cases alternatives to detention shall be ordered.

Table 1. of the Statistical Annex provides information on the extent of the application.

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

Taking into account the answers provided in Q8 and Q17, using the alternatives to detention in our experience resulted that almost all the person left the designated place and hid from the authorities. As a trend, we can state that 99% of third-country nationals subject of a return order abscond, who have been released from immigration detention prior to the removal. The National Directorate-General for Aliens Policing experienced that third-county nationals in detention are not showing cooperation regarding the execution of their return, including the identification procedures. The asylum detentions

Detention and alternatives to detention in international protection and return procedures

guaranteed the availability of the asylum applicants during the asylum procedure and facilitated and accelerated the Dublin transfer.

Regarding the alternative to detention, requirement to reside at a designated place, the alternative measure could not achieve its objective as the applicant has left the designated place to stay without authorisation. Neither preliminary nor later contacting obligation within a reasonable time was performed, so it is evaluated as a breach of the reporting duties.

- 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;

Taking into account the answers provided in Q8 and Q17, using the alternatives to detention in our experience resulted that almost all the person left the designated place and hid from the authorities. As a trend, we can state that 99% of third-country nationals subject of a return order abscond, who have been released from immigration detention prior to the removal. The National Directorate-General for Aliens Policing experienced that third-county nationals in detention are not showing cooperation regarding the execution of their return, including the identification procedures. The asylum detentions guaranteed the availability of the asylum applicants during the asylum procedure and facilitated and accelerated the Dublin transfer.

Regarding the alternative to detention, requirement to reside at a designated place, the alternative measure could not achieve its objective as the applicant has left the designated place to stay without authorisation. Neither preliminary nor later contacting obligation within a reasonable time was performed, so it is evaluated as a breach of the reporting duties.

- 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 alternatives to detention can only be cost-effective in the case of a successfully implemented alternative measure. Otherwise, if the the measure was not effective, the cost adds up due to the further necessary activities, like the following mesures taken by the authority, with the additional cost of enforcing measures and sanctions to grant the availability of the person for the pocedure.

Statistical annex

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

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

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

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

DATA NOT AVAILABLE FOR PUBLIC USE

	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	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Number of applicants for international protection in ordinary procedures in detention (including Dublin)	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Number of persons detained to prevent illegal entry at borders	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Number of person detained during return procedures (including pre-removal)	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Number of vulnerable persons part of the aforementioned categories of third-country nationals - Please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.)	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Vulnerable persons specified - minors	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Vulnerable persons specified – unaccompanied minors	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Number of other third-country nationals placed in immigration detention	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Statistics on number of third-country nationals provided alternatives to detention							
Total number of third-country nationals in alternatives to detention	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Number of applicants for international protection in ordinary procedures in Alternatives to detention (including Dublin)	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use

Detention and Alternatives to Detention

Number of persons given alternatives to detention to prevent illegal entry at borders	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Number of person in alternatives to detention during return procedures (including pre-removal)	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Number of vulnerable persons part of the aforementioned categories of third-country nationals - Please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.)	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Vulnerable persons specified - minors	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Vulnerable persons specified – unaccompanied minors	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use

Table 2: Average length of time in detention

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

Average length of time in detention	2015	2016	2017	2018	2019	2020	Source / further information
Average length of time in detention of all categories of third-country nationals in detention	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Average length of time in detention of applicants for international protection in ordinary procedures	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Average length of time in detention of persons detained to prevent illegal entry	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Average length of time in detention of persons during return procedures	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
Average length of time in detention of vulnerable persons part of the aforementioned categories of third-country nationals - Please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.) and by category	N/A	N/A	N/A	N/A	N/A	N/A	No data available for public use
