

Detention and Alternatives to detention in international protection and return procedures

EMN Cyprus¹

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1 BACKGROUND AND RATIONALE FOR THE STUDY

In the context of migration, detention is a *non-punitive administrative measure applied by the state to restrict the movement through the confinement of an individual for another immigration procedure to be implemented*.² EU legislation regulates in detail the detention of migrants within the context of international protection and return procedures, setting the grounds on which an individual can be deprived of liberty and the relevant principles governing the matter. At both European and International levels, legal sources agree on the fact that detention should be used as a "last resort" and encourages the use of alternatives to detention, as an application of the principles of necessity and proportionality in order to avoid arbitrary deprivation of liberty.³

Although there is no common legal definition of alternatives to detention, they can be defined as *non-custodial measures used to monitor and/or limit the movement of third-country nationals during the period needed to resolve migration/asylum status and/or while awaiting removal from the territory*.⁴ These measures, having an impact on the person's rights,⁵ are subject to human rights standards and have to be imposed, on a case-by-case basis, by taking into consideration individual factors. Examples of such alternative measures include the obligation of regular reporting to the authorities, the deposit of an adequate financial guarantee, an

¹The collection of information consisted primarily of desk research (use of data already available or published, including national statistics, legal texts, reports etc.), complemented, when necessary, by interviews conducted with different stakeholders in the field of migration, asylum and integration, depending on the topical issues aroused of the respective publications.

² EMN Glossary

³ Articles 6, 52(3) and 53 of the EU Charter. Articles 8 and 11 of the Reception Directive (recast). Recital 16 and Article 8(1) Return Directive.

⁴ EMN Glossary

⁵ These rights include: the right to family life (Article 2 ECHR; Article 9 CFREU; Article 12(2) 1951 Refugee Convention), the right to privacy (Article 8 ECHR), prohibition of torture (Article 3 ECHR) the prohibition on inhuman or degrading treatment (Article 3 ECHR).

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obligation to stay at an assigned place, etc.⁶ Alternatives to detention measures could entail duties that imply different levels of coerciveness, and they are mainly aimed at mitigating the risk factors identified by the authorities who considered that the particular individual was liable to detention.⁷ As a general principle, it is essential to clarify that the consideration of alternatives is only relevant and legal when there are legitimate grounds to detain.

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

The principles of **necessity** and **proportionality** should be observed as a core part of the decision to detain a third-country national under EU law. Nevertheless, it should be noted that the principle of necessity, while applying in EU law in relation to the grounds for detention that must be justified, is not taken into consideration by the ECHR. Also, the principles of **non-arbitrariness** and legality provide that detention should be based on grounds for detention established by law.⁸ Moreover, as the European Court of Human Rights has underscored in several judgments (see section 5 below), in practice, domestic authorities shall **effectively verify** and provide with **evidence** whether an alternative measure less coercive than detention is possible.⁹ In this sense, the administrative detention of individuals can take place only in those cases where there are no alternatives.

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

⁶ Article 8(4) of the Reception conditions directive (recast)

⁷ Detention of applicants for international protection in the context of the Common European Asylum System, EASO 2019

⁸ The use of detention and alternatives to detention in the context of immigration policies, EMN 2014.

The principles of non-arbitrariness and legality are laid down in the following international law instruments: Art. 9 Universal Declaration of Human Rights (1948), Art. 9 (1) International Covenant on Civil and Political Rights (1966), Art 16(4) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, (1990), Council of Europe (PACE), Resolution 1707(2010), 10 Guiding Principles on detention of asylum seekers and irregular migrants, §9.1.5.

⁹ A.B. and Others v. France, No. 11593/12, 12 July 2016, § 124

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Europe,¹⁰ the UN¹¹ and the EU¹² – while confirming this trend, identified different reasons for this.

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

2 STUDY AIMS AND OBJECTIVES

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

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

- Provide a comparative overview of the scale of detention and available alternatives to detention in each Member State in the context of international protection and return procedures and challenges Member States face to implement the alternatives to detention in practice;
- Give a comparative overview of the process and criteria used by national authorities to assess whether placing a third-country national in detention or instead applying an alternative to detention, in the context of international protection and return procedures;
- Assess the impact of placing third-country nationals in detention or in alternatives to detention on the effectiveness of Member States' international protection and return procedures. This impact is assessed against three key indicators, namely the extent to which measures: i) ensure compliance with migration procedures (including prompt and fair case resolution, facilitating voluntary and forced returns, reducing absconding); ii) uphold fundamental rights; iii) improve the cost-effectiveness of migration management.¹³

¹⁰ Legal and practical aspects of effective alternatives to detention in the context of migration, *Analysis of the Steering Committee for Human Rights (CDDH)*, 7 December 2017; Commissioner for Human Rights, Human Rights Comment, High time for states to invest in alternatives to migrant detention, 31/01/2017; Parliamentary Assembly, Resolution 2020 (2014), § 8.

¹¹ Special Rapporteur on the human rights of migrants, François Crépeau, Regional study: management of the external borders of the European Union and its impact on the human rights of migrants, A/HRC/23/46, 24 April 2013, § 48.

¹² European Commission, Communication from the Commission to the Council and the European Parliament on EU Return Policy, COM(2014) 199 final, Brussels, 28.3.2014, p. 15.

¹³ Effective Alternatives to the Detention of Migrants, International Conference organised jointly by the Council of Europe, the European Commission and the European Migration Network, 2019. Cost-effectiveness is intended as the financial costs of alternatives to detention as compared with the costs of detention, taking into consideration their outcomes (effects). For instance, reducing the length of time a migrant is detained is a factor that might reduce the costs associated with detention.

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

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

3 OVERVIEW OF THE EU ACQUIS

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

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

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

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

Moreover, according to Article 18 of the Asylum Procedures Directive,¹⁶ it is not lawful to detain a person solely for the reason that s/he has lodged an asylum application.

To guarantee the **non-arbitrariness** of detention and the respect of fundamental rights of applicants for international protection, the the list above is exhaustive. (Article 8). Several procedural guarantees were also put in place, such as the principles of brevity, due diligence and judicial review (Article 9). Further, the recast of the Directive regulates the conditions in detention facilities, such as access to fresh air and communication with lawyers, NGOs and

¹⁴ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection

¹⁵ Article 8(2) of the Reception conditions directive (recast)

¹⁶ COUNCIL DIRECTIVE 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status and its recast Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection

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family members (Article 10). Furthermore, according to the Dublin Regulation (Article 28),¹⁷ "when there is a significant risk of absconding, Member States may detain the person concerned to secure transfer procedures following this Regulation, based on an individual assessment and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively."

Detention and alternatives to detention in the context of return proceedings

The Return Directive¹⁸ allows Member States to detain a migrant only to **prepare his/her return** and/or carry out the **removal process** if the application of less coercive measures is not sufficient. Article 15(4) specifies that detention is only justified as long as there is a **reasonable prospect for removal**. Furthermore, according to Article 15(5), each Member State shall set a limited period of detention, which may not exceed **six months**. Article 15(6) also allows Member States to **extend detention** for an additional 12 months based on either a lack of cooperation by the person concerned or difficulties in obtaining documents from a third country.

Recital 16 of the Return Directive states that: "detention for the purpose of removal should be limited and subject to the principle of proportionality concerning the means used and objectives pursued. Detention is justified only [...] if the application of less coercive measures would not be sufficient".¹⁹

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

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

Obligation to consider alternatives to detention

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

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.

¹⁸ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

¹⁹ C-61/11 relates to the interpretation of Articles 15 and 16 of Directive 2008/115. The court specifically concluded that such Articles must be interpreted as precluding a Member State's legislation which provides for a sentence of imprisonment to be imposed on an illegally staying third-country national on the sole ground that he remains, without valid grounds, on the territory of that State, contrary to an order to leave that territory within a given period.

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Risk of absconding

Case C-528/15 **Al Chodor** relates to the interpretation of Article 28 of the Dublin III Regulation on the conditions of the detention of asylum seekers pending a transfer to another Member State. The Court affirmed that, some of the provisions of this Regulation necessitate the adoption of measures by national authorities for their implementation. In that sense, Article 2(n) of the Dublin III Regulation requires the criteria to establish a 'risk of absconding' to be 'defined by law'. The CJEU concluded that Article 2(n) and Article 28(2) of the Dublin III Regulation must be interpreted as requiring Member States to establish, in a binding provision of general application, **objective criteria** underlying the reasons for believing that an applicant who is subject to a transfer procedure may abscond. In the absence of that, Article 28(2) is inapplicable, and detention on this ground is unlawful. The Court also noted that the meaning of Article 6 of the Charter of Fundamental Rights should be defined in light of the established case-law of the ECtHR, which requires any measure on deprivation of liberty to be accessible, precise and foreseeable.

5 DEFINITIONS

The following key terms are used in the Common Template. The definitions are taken from the EMN Glossary v6.0²⁰ unless specified otherwise in footnotes.

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

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

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

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

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

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

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

'Degrading treatment or punishment' refers to treatment that humiliates or debases an individual, showing a lack of respect for, or diminishing, their human dignity, or when it arouses

²⁰ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/docs/interactive_glossary_6.0_final_version.pdf

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feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance.

'Detention' is defined as a non-punitive administrative measure ordered by an administrative or judicial authority(ies) in order to restrict the liberty of a person through confinement so that another procedure may be implemented (Source: EMN Glossary 3.0).²¹

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

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

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

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

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

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

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

'Irregular migrant' in the global context, refers to a person who, owing to irregular entry, breach of a condition of entry or the expiry of their legal basis for entering and residing, lacks legal status in a transit or host country. In the EU context, a third-country national present on the territory of a Schengen State who does not fulfil, or no longer fulfils, the conditions of entry as set out in the Regulation (EU) 2016/399 (Schengen Borders Code), or other conditions for entry.

'Procedure for international protection': Set of measures described in the Directive 2013/32/EU (Recast Asylum Procedures Directive) which encompasses all necessary steps for

²¹ For the purpose of this study, the criminal detention, which is the deprivation of liberty which applies to a citizen or non-citizen due to criminal charges or convictions, is excluded. The administrative detention which is here considered is an administrative or civil decision taken by (usually) immigration authorities that operates separately to the powers given to the police and criminal courts.

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granting and withdrawing international protection starting with making an application for international protection to the final decision in appeals procedures.

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

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

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

National Contribution from the Republic of Cyprus

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

[Top-line factsheet \[max. 2 pages\]](#)

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

The last few years the Cyprus Republic has introduced a number of legislative changes concerning detention and alternative to detention of asylum seekers and TCN who are in the return procedures. Namely, the Cypriot legislative framework has been changed in 2016 according to the EU directive 2013/33/EU in order to regulate detention and alternatives to detention. The Refugee Law now provides for a series of ATD measures such as reporting to the authorities, money guarantee, obligation to stay at an assigned place, including a reception centre and probation. Currently the Cypriot authorities implement the reporting to the authorities as the alternative to detention combined with case management in some cases. Whereas the legislation concerning TCN who are under the Return Procedures does not specify potential ATDs. In practice the Cyprus Republic considers ATDs that are defined in the Refugees Law

In practice the Cyprus Republic does not detain people that belong in vulnerable groups such as (unaccompanied) minors, pregnant women, ill people or disabled individuals. Additionally, where detention is implemented, human rights such as access to health and access to legal help and NGOs, are ensured by the legislation and the practices of the competent authorities.

Whereas no qualitative or quantitative studies have been conducted concerning detention and alternatives to detention in the Cyprus Republic examining the advantages and disadvantages of alternatives to detention, the highest risk of ATDs according to the police officers is the risk of absconding. From their experience a number of TCN do not comply with the terms that have been imposed by return decision, something that eventually leads to detention. The CRMD is currently putting an effort to record relevant statistics in order to gain a clear perspective on the benefit/cost ratio.

Detention and alternatives to detention in international protection and return procedures

Section 1: National policy and legal framework: development since 2015²²

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

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

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

A. International protection:

In 2016 a number of legislations were incorporated to the Refugee Law 2000 according to the provisions of the directive 2013/33/EU of the European Parliament and the Council as following²³:

Detention (art. 9ΣΤ)

1. The detention of a person for the sole reason that he or she is an applicant as well as the detention of a minor asylum seeker is forbidden.
2. Unless it is possible to effectively apply other less coercive alternative measures, based on an individual assessment of each case, the Minister of Interior may issue a written order to detain the applicant for any of the following reasons:
 - (a) in order to determine or verify his or her identity or nationality;
 - (b) in order to determine those data on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant;
 - (c) in order to decide, in the context of a procedure, on the applicant's right to enter the territory;
 - (d) when held within the scope of the return procedure under Articles 18ΟΓ up 18ΠΘ of the Aliens and Immigration Law, in order to prepare the return and / or carry out the removal process, and the Minister substantiates on the basis of objective criteria, including the fact that the person has already had the opportunity of access to the asylum procedure, that there are reasonable grounds to believe that the person is submitting the application for international protection merely in order to delay or frustrate the enforcement of the return decision;
 - (e) where necessary to protect national security or public order;

²² 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

²³ The following outlines the changes in the legislation but does not consist official translation of any amendments

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(f) in accordance with Article 28 of the Dublin III Regulation

4(a). An applicant shall be detained only for as short a period as possible and shall be kept in detention only for as long as the grounds set out in Article 8(3) are applicable.

(b) Administrative procedures relevant to the grounds for detention set out in Article 8(3) shall be executed with due diligence. Delays in administrative procedures that cannot be attributed to the applicant shall not justify a continuation of detention.

Conditions of detention

9(a). Detention of applicants shall take place, as a rule, in specialised detention facilities. Where the Cyprus Republic cannot provide accommodation in a specialised detention facility and is obliged to resort to prison accommodation, the detained applicant shall be kept separately from ordinary prisoners and the detention conditions provided for in this Directive shall apply.

(b) As far as possible, detained applicants shall be kept separately from other third-country nationals who have not lodged an application for international protection. When applicants cannot be detained separately from other third-country nationals, the Member State concerned shall ensure that the detention conditions provided for in this Directive are applied.

10. Detained applicants shall have access to open-air spaces.

11(a). Member States shall ensure that persons representing the United Nations High Commissioner for Refugees (UNHCR) have the possibility to communicate with and visit applicants in conditions that respect privacy.

(b) That possibility shall also apply to an organisation which is working on the territory of the Member State concerned on behalf of UNHCR pursuant to an agreement with the Cyprus Republic's authorities.

12(a) Family members, legal advisers or counsellors and persons representing relevant nongovernmental organisations recognised by the Member State concerned have the possibility to communicate with and visit applicants in conditions that respect privacy.

(b) Limits to access to the detention facility may be imposed only where, by virtue of national law, they are objectively necessary for the security, public order or administrative management of the detention facility, provided that access is not thereby severely restricted or rendered impossible.

13. The police or other competent authority shall ensure that applicants in detention are systematically provided with information which explains the rules applied in the facility and sets out their rights and obligations in a language which they understand or are reasonably supposed to understand. The police or other competent authorities may derogate from this obligation in duly justified cases and for a reasonable period which shall be as short as possible, in the event that the applicant is detained at a border post or in a transit zone.

Detention of vulnerable persons and of applicants with special reception needs

14. In case of detention of vulnerable applicant and special needs applicants:

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(a) Health, including mental health, of applicants in detention who are vulnerable persons shall be of primary concern to national authorities.

(b) Where vulnerable persons are detained, the police or shall ensure regular monitoring and adequate support taking into account their particular situation, including their health.

15. Detained families shall be provided with separate accommodation guaranteeing adequate privacy.

16. Where female applicants are detained, they are accommodated separately from male applicants, unless the latter are family members and all individuals concerned consent thereto. This is not applied in common areas designed for leisure or other activities or where meals are provided.

17. In duly justified cases and for a reasonable period that shall be as short as possible, Police or other authorities may derogate from paragraph 15, and paragraph 16 when the applicant is detained at a border post or in a transit zone.

19. A detainee under the escort of the police can proceed to:

(a) The administrative court in case that:

(i) The applicant handles personally and without a lawyer their appeal

(ii) The administrative court allows the applicant or order them to testify before the court as witness and

(b) The Supreme Court for detention purposes and for the issue of habeas corpus concerning their detention.

Rationale

The aforementioned changes in legislation were introduced as part of the integration of the EU directive 2013/13/EU

B. Return Procedures:

No changes in legislation were introduced concerning detention in Return Procedures since 2015

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)

A. International Protection

In 2016 the following measures were embodied to art 9ΣΤ of the Refugee Law:

- Regular reporting to the authorities;
- Deposit of a financial guarantee;

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- Obligation to stay at an assigned place, including a reception centre; and
- Probation.

B. Return Procedures

In terms of Return procedures, the Alternatives to Detention are not defined by the corresponding law.

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

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

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

	Categories of third-country nationals	Can third-country nationals under this category be detained? Yes/No	If yes, what is the legal basis for detention? <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>Article 92T of the Cyprus Refugee Law states that an applicant can be detained for the following procedures:</p> <ul style="list-style-type: none"> • In order to ascertain the information submitted to the application that would otherwise be impossible to ascertain particularly when there is a risk of absconding. • When the applicant is detained in order to be repatriated according to the Aliens and Immigration Law and the Minister evidences based on objective criteria, that the applicant applies for international protection in order to delay or 	<ul style="list-style-type: none"> • Regular visits to the Republic's authorities • Financial guarantee • Obligation to reside in a designated place including a hospitality center • Supervision by a supervisor 	Civil Registry and Migration Department

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			<p>prevent the execution of the return decision.</p> <ul style="list-style-type: none"> • When the detainee is held for national security or public order purposes • According to the Article 28 of the Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 		
	<i>Applicants for international protection in border procedures</i>	Yes	<p>Article 9ΣΤ of the Cyprus Refugee Law states that an applicant can be detained for the following procedures:</p> <p>a. In order to determine his/her identity and citizenship.</p> <p>c. In order to determine the applicant's right to enter the grounds of the Republic</p>	<ul style="list-style-type: none"> • Regular visits to the Republic's authorities • Financial guarantee • Obligation to reside in a designated place including a hospitality center • Supervision by a supervisor 	Civil Registry and Migration Department
<i>Return procedures</i>	<i>Irregular migrants detected in the territory</i>	Yes	<p>Article 18ΠΣΤ(1) of the Aliens and Immigration Law states that the Minister of Interior can detain the TCN when the following applies:</p> <ul style="list-style-type: none"> • There is a risk of absconding • The returnee avoids or obstructs the preparation of the return or removal procedure. 	<p>The alternatives to detention are not specified by the legislation. However in practice potential alternatives to detention which are:</p> <ul style="list-style-type: none"> • Regular visits to the Republic's authorities • Financial guarantee • Obligation to reside in a designated place including a hospitality center 	Civil Registry and Migration Department

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<i>Persons who have been issued a return decision</i>	Yes	<p>Article 18ΠΣΤ(1) of the Aliens and Immigration Law states that the Minister of Interior can detain the TCN when the following applies:</p> <ul style="list-style-type: none"> • There is a risk of absconding • The returnee avoids or obstructs the preparation of the return or removal procedure. 	<p>The alternatives to detention are not specified by the legislation. However in practice potential alternatives to detention which are:</p> <ul style="list-style-type: none"> • Regular visits to the Republic's authorities • Financial guarantee Obligation to reside in a designated place including a hospitality center 	Civil Registry and Migration Department
<i>Irregular migrants detected at the border</i>	Yes	<p>Article 18ΠΣΤ(1) of the Aliens and Immigration Law states that the Minister of Interior can detain the TCN when the following applies:</p> <ul style="list-style-type: none"> • There is a risk of absconding • The returnee avoids or obstructs the preparation of the return or removal procedure. • 	<p>The alternatives to detention are not specified by the legislation. However in practice potential alternatives to detention which are:</p> <ul style="list-style-type: none"> • Regular visits to the Republic's authorities • Financial guarantee Obligation to reside in a designated place including a hospitality center 	Civil Registry and Migration Department

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.

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	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	<p>According to 18ΠΗ(1) of the Aliens and Immigration Law minors can be detained as a last solution for a minimum time period. Unaccompanied minors can be held in foundations and other facilities where their needs are taken into consideration</p> <p>According to current national policy, no unaccompanied minors can be detained.</p>
Disabled people	<p>Disabled people can be detained. According to the Cyprus Refugee Law 9ΣΤ(14) in case vulnerable people are held, their physical and mental health consists a priority for the authorities and the police or the authorities ensure their support.</p> <p>However, despite the fact that legislation allows detention, disabled people or other vulnerable individuals are not detained</p>	<p>The legislation does not distinguish between disabled or non-disabled TCN who are under return procedures.</p> <p>However in practice no disabled TCN are detained.</p>
Elderly people	<p>Elderly people can be detained. According to the Cyprus Refugee Law 9ΣΤ(14) in case vulnerable people are held, their physical and mental health consists a priority for the authorities and the police or the authorities ensure their support.</p> <p>However, despite the fact that legislation allows detention, elderly people or other vulnerable individuals are not detained in detention centers.</p>	<p>The Aliens and Immigration Law does not distinguish between elderly or any other age group besides minors TCN who are under return procedures. Thus elderly people can be detained.</p> <p>However in practice no elderly TCN are detained.</p>
Families with children and single parents with minor	Minors are not separated from their family or detained.	<p>According to 18ΠΗ(1) of the Aliens and Immigration Law families can be detained. In such cases, families are provided with special premises which respects their private life and minors are provided with access to education and leisure.</p> <p>According to current national policy, no families with children and single parents with minor can be detained.</p>
Persons with serious illnesses and persons with mental disorders	<p>People with serious illnesses can be detained. According to the Cyprus Refugee Law 9ΣΤ(14) in case such vulnerable people are held, their physical and mental health consists a priority for the authorities and the police or the authorities ensure their support.</p>	<p>The Aliens and Immigration Law does not distinguish between healthy and ill people <u>in terms of detention</u>. According to 18ΠΕ(1)(β) and (δ) of the Aliens and Immigration Law the return decision can be postponed in case a medical emergency takes place and the authorities take under consideration any special needs of vulnerable groups.</p>

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	<i>However, despite the fact that legislation allows detention, ill people or other vulnerable individuals are not detained in detention centers.</i>	<i>In practice ill people are not detained.</i>
victims of human trafficking	<i>According to the article 52 of the law on preventing and combating trafficking in human beings and protecting its victims (60(I)/2014), no repatriation measure can be implemented and no deportation/detention order can be issued against potential victims of trafficking</i>	<i>According to the article 52 of the law on preventing and combating trafficking in human beings and protecting its victims (60(I)/2014), no repatriation measure can be implemented and no deportation/detention order can be issued against potential victims of trafficking.</i>
Pregnant women	<i>Pregnant women can be detained. According to the Cyprus Refugee Law 9ΣΤ(14) in case such vulnerable people are held, their physical and mental health consists a priority for the authorities and the police or the authorities ensure their support.</i> <i>However, despite the fact that legislation allows detention, pregnant women or other vulnerable individuals are not detained in detention centers.</i>	<i>The Aliens and Immigration Law does not distinguish between pregnant women <u>in terms of detention</u>.</i> <i>In practice pregnant women are not detained.</i>
Other vulnerable persons	<i>Vulnerable people can be detained. According to the Cyprus Refugee Law 9ΣΤ(14) in case vulnerable people are held, their physical and mental health consists a priority for the authorities and the police or the authorities ensure their support.</i> <i>However, despite the fact that legislation allows detention, pregnant women or other vulnerable individuals are not detained in detention centers.</i>	<i>In general besides families and minor children, the Aliens and Immigration Law does not provide strict guidelines in terms of detention of other vulnerable persons.</i> <i>However in practice vulnerable people are not detained unless there are special circumstances where detention is unavoidable. In case such circumstances occur, then according to 18ΠΖ(3) of the Aliens and Immigration law, vulnerable people are given special attention and are provided with the necessary health care.</i> <i>In practice vulnerable persons are not detained</i>

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Section 2: Availability and practical organisation of alternatives to detention

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

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

Q5. Please indicate whether any **alternatives to detention for third-country nationals are available in your (Member) State** and provide information on the practical organisation of each alternative (including any mechanisms that exist to monitor compliance with/progress of the alternative to detention) by completing the table below.

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> People benefiting from such measures are obliged to visit 1-2 times per week to the police or Immigration Authorities.	YES
A2	Obligation to surrender a passport, travel document or identity document	YES
A3	Requirement to communicate the address to authorities (including requesting permission for absences/changing the address)	YES
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. We do not implement house arrest as an ATD measure	YES
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> The director of Civil Registry and Migration Department decides on the amount.	YES
A6	Electronic monitoring (e.g. tagging)	NO

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A7	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)	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) A local NGO (Cyprus Refugee Council) runs a case-management as an alternative to detention project.	YES
A10		
	Other alternative measure available in your (Member) State. Please specify.	

Q5.1 Amongst the alternatives above indicated, please could you indicate which ones (amongst those defined by law) are the **most used and why**? Please indicate as relevant the specific time frame

The weekly visits to the Immigration departments is the most frequently used alternatives to detention. There is no specific reason for this choice of alternative.

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): Regular reporting to the authorities;	
<i>In what it consists, and maximum duration</i>	No duration defined
<i>Legal basis (law, soft law, other guidance). Please provide reference to the original sources</i>	9ΣΤ (3) article of the Refugee Law
<i>Is it used in practice? Please provide any available data for the period 2015-2020</i>	Yes, almost in all cases. No statistics available
<i>National authorities responsible to administer the alternative</i>	Civil Registry and Migration Department (the immigration authority)
<i>Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)</i>	NGO 'Cyprus Refugee Council', only when case management as ATD is also implemented

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<i>Obligations attached to the granting of the alternative (if relevant)</i>	
<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>	Case by case basis
<i>Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)</i>	Police monitors TCN's compliance, since he/she must regularly report to a police station.
<i>Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.</i>	Not available
<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>	Not available

Name of alternatives (as reported in table 2 above): Deposit of a financial guarantee;	
<i>In what it consists, and maximum duration</i>	No duration defined
<i>Legal basis (law, soft law, other guidance). Please provide reference to the original sources</i>	9ΣΤ (3) article of the Refugee Law
<i>Is it used in practice? Please provide any available data for the period 2015-2020</i>	Yes, but rarely. No statistics available
<i>National authorities responsible to administer the alternative</i>	Civil Registry and Migration Department (the immigration authority)
<i>Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)</i>	

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<i>Obligations attached to the granting of the alternative (if relevant)</i>	
<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>	Case by case basis, although if no guarantee is paid, then the TCN remains in detention.
<i>Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)</i>	Civil Registry and Migration Department (the immigration authority) makes sure that the guarantee is paid.
<i>Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.</i>	Not available
<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>	Not available

Name of alternatives (as reported in table 2 above): Obligation to stay at an assigned place, including reception centre;	
<i>In what it consists, and maximum duration</i>	No duration defined
<i>Legal basis (law, soft law, other guidance). Please provide reference to the original sources</i>	9ΣΤ (3) article of the Refugee Law
<i>Is it used in practice? Please provide any available data for the period 2015-2020</i>	No. No statistics available
<i>National authorities responsible to administer the alternative</i>	Civil Registry and Migration Department (the immigration authority)
<i>Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)</i>	

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<i>Obligations attached to the granting of the alternative (if relevant)</i>	
<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>	Case by case basis
<i>Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)</i>	Not available, as it is not used.
<i>Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.</i>	Not available
<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>	Not available

Name of alternatives (as reported in table 2 above): Probation.	
<i>In what it consists, and maximum duration</i>	No duration defined
<i>Legal basis (law, soft law, other guidance). Please provide reference to the original sources</i>	9ΣΤ (3) article of the Refugee Law
<i>Is it used in practice? Please provide any available data for the period 2015-2020</i>	No. No statistics available
<i>National authorities responsible to administer the alternative</i>	Civil Registry and Migration Department (the immigration authority)
<i>Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)</i>	

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<i>Obligations attached to the granting of the alternative (if relevant)</i>	
<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>	Case by case basis
<i>Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)</i>	Not available, as it is not used.
<i>Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.</i>	Not available
<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>	Not available

Name of alternatives (as reported in table 2 above): Case management.	
<i>In what it consists, and maximum duration</i>	No duration defined
<i>Legal basis (law, soft law, other guidance). Please provide reference to the original sources</i>	The national immigration law does not provide specific measures as ATD. The use of case-management is based on national policy,
<i>Is it used in practice? Please provide any available data for the period 2015-2020</i>	Yes. When used, obligatory reporting to police is also used. No statistics available
<i>National authorities responsible to administer the alternative</i>	Civil Registry and Migration Department (the immigration authority)
<i>Any partner involved (i.e. NGO, social services, private entities, other governmental actors, etc.)</i>	

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<i>Obligations attached to the granting of the alternative (if relevant)</i>	
<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>	Case by case basis
<i>Mechanisms in place in order to monitor the third-country national's compliance with these conditions (if relevant)</i>	The Civil Registry and Migration Department (the immigration authority) is regular in contact with the implementing NGO.
<i>Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.</i>	Not available
<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>	Not available

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	Alternative 1 Regular reporting the authorities;	Alternative 2 Deposit of financial guarantee	Alternative 3 Obligation stay at assigned place, including reception centre;	Alternative 4 4 Probation	Alternative 5 Case Management
Availability of facilities related accommodation (i.e. beds)	N/A	N/A	YES	N/A	N/A
Availability of staffing and supervision	YES	N/A	N/A	N/A	N/A
Administrative costs	N/A	N/A	N/A	N/A	N/A

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Mechanisms to control movements of the person	N/A	N/A	YES	N/A	N/A
Legislative obstacles	N/A	N/A	N/A	N/A	N/A
Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support)	N/A	YES	N/A	N/A	N/A
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 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 Regular reporting to the authorities;	Alternative Deposit of financial guarantee	Alternative Obligation to stay at assigned place including reception centre;	Alternative Probation	Alternative 5 Case Management
Availability of facilities related accommodation (i.e. beds)	N/A	N/A	N/A	N/A	N/A
Availability of staffing and supervision	N/A	N/A	N/A	N/A	N/A
Administrative costs	N/A	N/A	N/A	N/A	N/A
Mechanisms to control movements of the person	N/A	N/A	N/A	N/A	N/A
Legislative obstacles	N/A	N/A	N/A	N/A	N/A
Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support)	N/A	N/A	N/A	N/A	N/A
Other advantages	N/A	N/A	N/A	N/A	N/A

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

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

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

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

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

Q8. Please provide an **overview of when and how the decision** about placing a person in an alternative instead of in detention is made. Please respond considering the following elements

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

International protection procedure

Q 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?

A. Yes

The decision to implement detention or alternatives to detention takes place at the same time. Particularly, the Cyprus Law states that the decision to implement detention occurs only when alternatives to detention cannot be implemented. More specifically unless it is possible to effectively apply other less coercive alternative measures, based on an individual assessment of each case, only then the Minister of Interior may issue a written order to detain the applicant for any of the following reasons:

- (a) in order to determine or verify his or her identity or nationality;
- (b) in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant;
- (c) in order to decide, in the context of a procedure, on the applicant's right to enter the territory;

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- (d) when held within the scope of the return procedure under Articles 18ΟΓ up 18ΠΘ of the Aliens and Immigration Law, in order to prepare the return and / or carry out the removal process, and the Minister substantiates on the basis of objective criteria, including the fact that the person has already had the opportunity of access to the asylum procedure, that there are reasonable grounds to believe that the person is submitting the application for international protection merely in order to delay or frustrate the enforcement of the return decision;
- (e) where necessary to protect national security or public order;
- (f) in accordance with Article 28 of the Dublin III Regulation

Besides the initial decision to detain or release applicants with ATD measures, applicants who have been detained are subjected to reevaluation of their detention status every two months.

Q. 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)?

A. No

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

A. Civil Registry and Migration Department as the competent authority decides the implementation of detention or ATD whereas the Cyprus Police executes the decision.

Return procedure

Q. 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?

And

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

A. Yes. According to the Aliens and Immigration Law Cap 105 18ΠΣΤ.-(1) Unless it is possible to effectively apply other less coercive alternative measures, the Minister of Interior may issue a written order to detain the TCN subjected to return procedures, only for the preparation of the return and or for the materialization of the return procedures, particularly when:

- (a) There is risk of absconding, or
- (b) The particular TCN avoids or obstructs the return preparation or the removal procedure.

Q. 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)?

A. No.

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

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A. Civil Registry and Migration Department as the decision maker authority

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

Details: According to the law, the detention of international protection applicants is evaluated every two months or whenever necessary through a personalized evaluation report by a CRMD officer and ATDs implementation is examined. In practice, all detention orders are reevaluated monthly

Return procedures:

Yes

Details: According to the law, the detention of international protection applicants is evaluated every two months or whenever necessary through a personalized evaluation report by a CRMD officer and ATDs implementation is examined. In practice, all detention orders are reevaluated monthly

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	Yes
Cost-effectiveness	No	No
Nationality or Country of origin/ return (e.g. considerations on the specific situation in the country of origin)	No	No
Level of the risk of absconding	Yes For the detention of refugee applicants to take place a number of factors concerning the risk of absconding takes place. The risk of absconding is	Yes For the detention of TCN to take place a number of factors concerning the risk of absconding takes place. The risk of

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Criteria	International protection procedures	Return procedures
	determined in the corresponding legislation.	absconding is determined in the corresponding legislation.
Vulnerability	Yes Vulnerable people are not detained	Yes Vulnerable people are not detained
Less-invasive legal measures impacting on human rights	Yes <i>The general rule according to the legislation is that detention is enforced only when less restraining alternative measures are implemented.</i>	Yes <i>The general rule according to the legislation is that detention is enforced only when less restraining alternative measures are implemented.</i>
Other	Yes/No further explain <i>Details:</i>	Yes/No further explain <i>Details:</i>

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

Vulnerable people such as unaccompanied minors, families with children, pregnant women and persons with special needs, victims of violence are not detained. However if during the reevaluation procedures that occur monthly such cases appear and vulnerability is evidenced such as the existence of family, pregnant women etcetera, then a personalized interview is conducted by a designated employee of the CRMD and ATD measures are implemented.

When necessary, a dedicated report by Social Welfare Services and/or Health Services is prepared

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Return procedures

Vulnerable people such as unaccompanied minors, families with children, pregnant women and persons with special needs, victims of violence are not detained. However if during the reevaluation procedures that occur monthly such cases appear and vulnerability is evidenced such as the existence of family, pregnant women etcetera, then a personalized interview is conducted by a designated employee of the CRMD and ATD measures are implemented.

When necessary, a dedicated report by Social Welfare Services and/or Health Services is prepared

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:

According to the Refugee Law after the detention order is issued, the detainee has the right to appeal the decision to the Administrative Court of International Protection within 15 days.

Return procedures:

According to the Aliens and Immigration Law after the detention order is issued, the detainee has the right to appeal the decision to the Administrative Court within 75 days.

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:

During the period that an asylum seeker is detained until his/her case is evaluated for alternative to detention measures, there are doctors of all residences accessible to the detainee. More specifically besides the medical services provided in 'Menoyeia' detention center, detainees also have the right to visit the hospital upon request. The detainees also have the right to receive visits from family members, NGOs and their lawyers on an everyday basis.

Return procedures:

During the period that a TCN is detained until his/her case is evaluated for alternative to detention measures, there are doctors of all residences available. there are doctors of all residences accessible to the detainee. More specifically besides the medical services provided in 'Menoyeia' detention center, detainees also have the right to visit the hospital upon request. The detainees also have the right to receive visits from family members, NGOs and their lawyers on an everyday basis.

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

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

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

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

Ensuring compliance with migration procedures

Note: If it is possible please provide separately data related to international protection (Q13, Q14) and for return (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)	N/A	N/A
Alternatives to detention 1 REGULAR REPORTING TO THE AUTHORITIES	N/A	N/A
Alternatives to detention 2 DEPOSIT OF FINANCIAL GUARANTEE	N/A	N/A

Detention and alternatives to detention in international protection and return procedures

Alternatives to detention 3 OBLIGATION TO STAY AT AN ASSIGNED PLACE, INCLUDING A RECEPTION CENTRE	N/A	N/A
Alternatives to detention 4 PROBATION	N/A	N/A
Alternatives to detention 5 CASE MANAGEMENT	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.)?

N/A

Q14. Please provide any statistics available in your country on **the average length of time needed to determine the status of applicants for international protection** who are held in detention or are in an alternative to detention. Please also indicate the share of decisions which were appealed and the share of those which overturned the initial decision. Those MS who do not place asylum applicants in detention, shall indicate this at the beginning of the question and skip to the next question.

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

Average length of time needed to determine the status of applicants for international protection who were 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)	N/A	N/A
Alternatives to detention 1 REGULAR REPORTING TO THE AUTHORITIES	N/A	N/A
Alternatives to detention 2 DEPOSIT OF FINANCIAL GUARANTEE	N/A	N/A
Alternatives to detention 3 OBLIGATION TO STAY AT AN ASSIGNED PLACE, INCLUDING A RECEPTION CENTRE	N/A	N/A
Alternatives to detention 4 CASE MANAGEMENT	N/A	N/A

Detention and alternatives to detention in international protection and return procedures

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.)?

N/A

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)	N/A	N/A
Alternatives to detention 1 REGULAR REPORTING TO THE AUTHORITIES	N/A	N/A
Alternatives to detention 2 DEPOSIT OF FINANCIAL GUARANTEE	N/A	N/A
Alternatives to detention 3 OBLIGATION TO STAY AT AN ASSIGNED PLACE, INCLUDING A RECEPTION CENTRE	N/A	N/A
Alternatives to detention 4 CASE MANAGEMENT	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.)?

N/A

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.

Detention and alternatives to detention in international protection and return procedures

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)	24 HRS	N/A	0%	N/A
Alternatives to detention 1 REGULAR REPORTING TO THE AUTHORITIES	N/A	N/A	N/A	N/A
Alternatives to detention 2 DEPOSIT OF FINANCIAL GUARANTEE	N/A	N/A	N/A	N/A
Alternatives to detention 3 OBLIGATION TO STAY AT AN ASSIGNED PLACE, INCLUDING A RECEPTION CENTRE	N/A	N/A	N/A	N/A
Alternatives to detention 4 CASE MANAGEMENT	N/A	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.)?

N/A

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.

International protection procedures

NO

Return procedures

NO

Detention and alternatives to detention in international protection and return procedures

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>Answer: We do not have such evidence</p> <p>Detention:</p> <p>Alternative 1:</p> <p>Alternative 2:</p> <p>Alternative 3:</p> <p>...</p> <p><u>Return procedures</u></p> <p>Answer: We do not have such evidence</p> <p>Detention:</p> <p>Alternative 1:</p> <p>Alternative 2:</p> <p>Alternative 3:</p> <p>.....</p>
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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: Free legal aid can be provided for first instance appeals, under the provisions of the national Law on Free Legal Aid.</p> <p>Access to legal consultation is ensured. Detainees have the right to talk to their lawyer as often as they wish to.</p>	<p>Details: There are no restraints in accessing legal aid/consultation while being in a ATD program.</p>	<p>Access to legal aid is ensured both in detention and in ATD</p>

Detention and alternatives to detention in international protection and return procedures

Is the right to be heard ensured during detention/alternatives to detention? If so, how? Please specify.	Details: The right to be heard is ensured during detention. Detainee have the right to talk to NGOs, the authorities of the Republic or other agents according to their wishes.	Details: There are no restraints in talking to public or private agents while being in a ATD program.	Access to public or private agents is ensured both in detention and in ATD
Is the right to health (e.g. access to facilities, monitoring of health and wellbeing of the person) ensured? If so, how? Please specify.	Details: Detainees have the right of medical assistance in the detention center. There is medical staff working at the detention center daily.	Details: There are no restraints in accessing health centers while being in a ATD program. Access to National Health System is restricted to emergency cases only.	Access to health centers is ensured both in detention and in ATD
Please add any additional safeguard			

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)?

No

Q21. Please provide any statistics available in your country on the **number of complaints regarding violations of human rights**²⁴ 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.

N/A

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.

²⁴ 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

N/A

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

N/A

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.)

Conclusions

The legislative framework concerning both asylum seekers and TCNs considers detention as the last resort and is implemented only when other less restrictive measures can be implemented. In practice, Cyprus Republic through CRMD which is the competent authority concerning detention orders, assesses detentions and implements or withdraws ATDs to detainees with the use of a personalized assessment conducted by a CRMD officer.

Whereas there are currently no studies quantifying the use of alternatives to detention in Cyprus quantification of risks and challenges, according to the authorities the major challenges that the Republic faces is the risk of absconding and the lack of monitoring on behalf of the authorities of TCN who participate in ATD programs.

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.

	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	N/A
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	N/A
Number of persons detained to prevent illegal entry at borders	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Number of person detained during return procedures (including pre-removal)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
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	N/A
Vulnerable persons specified - minors	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Vulnerable persons specified – unaccompanied minors	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Number of other third-country nationals placed in immigration detention	N/A	N/A	N/A	N/A	N/A	N/A	N/A
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	N/A
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	N/A
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	N/A

Detention and Alternatives to Detention

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	N/A
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	Vulnerable people are not detained
Vulnerable persons specified - minors	0	0	0	0	0	0	Minors are not detained
Vulnerable persons specified – unaccompanied minors	0	0	0	0	0	0	Unaccompanied minors are not detained

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	N/A
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	N/A
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	N/A
Average length of time in detention of persons during return procedures	N/A	N/A	N/A	N/A	N/A	N/A	N/A
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	N/A
