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

2020/5

EMN STUDY

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VILNIUS, 2020

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SUMMARY

Context. During the period 2015-2019, on average 2 500 foreigners violated annually the procedure for entry into, stay or residence in, transit through and departure from the Republic of Lithuania. During the same period, on average approximately 200 foreigners were detained annually for a period exceeding 48 hours for unlawful entry into and/or illegal stay in the territory of Lithuania. Each year, on average 90 foreigners were provided with alternatives to detention.

Legal regulation of detention of foreigners. In its ruling of 5 February 1999, the Constitutional Court of the Republic of Lithuania interpreted that detention of a person is an ultima ratio measure (measure of last resort) and may be applied only in cases where the objectives set by laws cannot be attained by other means. Chapter VII of the Law of the Republic of Lithuania on the Legal Status of Foreigners (the 'Law') regulates detention of foreigners, grounds for such detention, alternatives to detention, the taking of and appeal against decisions to detain or provision of an alternative to detention.

Grounds and application of detention. A foreigner may be detained by a written decision of an officer of a law enforcement institution for a period not exceeding 48 hours. Detention of the foreigner for a period exceeding 48 hours may be decided only by a court, i.e. only the court has the discretion to decide whether there exist grounds for detaining the foreigner for a period in excess of 48 hours on the grounds laid down in the Law. Article 113 of the Law lists the grounds on which a person may be detained. This list is exhaustive. In taking its decision, the court conducts assessment on a case-by-case basis and decides having regard to the specific situation and all the relevant circumstances.

Detention of vulnerable persons. Vulnerable persons (such as a minor, a disabled person, a person over the age of 75, a pregnant woman, single parents with minor children, a person suffering from mental and behavioural disorders, a victim of trafficking in human beings) and families with minor foreigners may be detained only in exceptional cases having regard to the best interests of the child and the vulnerable persons.

Alternatives to detention and their provision. In Lithuania, a decision on the provision of an alternative to detention may be taken only by a court. The court may provide an alternative to detention to a foreigner when the conditions provided for in Article 115(1) of the Law are met: 1) the foreigner's identity has been determined, 2) the foreigner represents no threat to national security and public policy, 3) the foreigner assists the court, the State Border Guard Service or the Migration Department in determining his legal status in the Republic of Lithuania, as well as taking into account

other circumstances.

Detention facilities and time limits. A foreigner detained by a court decision for a period exceeding 48 hours is placed at the Foreigners' Registration Centre of the State Border Guard Service. In the Centre, there are two separate sections: foreigners who are detained by a court decision are accommodated in a restricted-access section, whereas asylum applicants to whom an alternative to detention¹ has been provided are accommodated in an open-access section. A foreigner may not be detained for a period in excess of 6 months, with the exception of the cases when the foreigner does not cooperate in the process of his/her removal from the Republic of Lithuania or the documents required to carry out removal of such a foreigner from the State's territory are not received. In such cases, the period of detention may be extended for an additional period not exceeding 12 months.

The State Border Guard Service refers, periodically but at least once every 3 months, to a court in accordance with the procedure laid down in Article 118 of this Law with a request to review the decision to detain the foreigner.

In the event of disappearance of the grounds for the foreigner's detention, the foreigner has the right, and the institution which initiated the foreigner's detention must refer without delay to a court with a request to review the decision to detain the foreigner. If the foreigner who has been detained lodges an application for asylum, the State Border Guard Service must refer without delay to the court with a request to review the decision to detain the asylum applicant.

If, for legal or other objective reasons, there no longer exists any reasonable likelihood of the foreigner's removal from the Republic of Lithuania, the institution which initiated the foreigner's detention must refer to a court with a request to review the decision to detain the foreigner.

Appeal against decisions. A foreigner has the right to appeal to the Supreme Administrative Court of Lithuania against a decision of a district court to detain him or to extend the detention period or to provide an alternative to detention to the foreigner. The Supreme Administrative Court of Lithuania examines the foreigner's appeal and takes a decision not later than within 10 days from the acceptance of the appeal.

¹ Accommodation of the foreigner at the State Border Guard Service without restricting his freedom of movement or accommodation of the foreigner at the State Border Guard Service with the right of movement only within the territory belonging to the accommodation facility.

1.

National policy and legal framework: development since 2015

Question (further – Q) 1. Please report any changes on the legal and policy framework on detention concerning both international protection and return procedures since 2015.

The principles and provisions of detention have remained largely unchanged since 2015:

- The principle of lawfulness of detention entrenched in the second paragraph of Article 20 of the Constitution of the Republic of Lithuania means that a person must not be deprived of his liberty otherwise than on the grounds and according to the procedures established by law.
- A person's freedom is one of the fundamental innate human rights and its restriction is permissible only when it is necessary and unavoidable, strictly in compliance with the requirements of law (the ruling of the Constitutional Court of the Republic of Lithuania of 5 February 1999²).
- Detention of a person is an ultima ratio measure (measure of last resort) and may be applied only in cases where the objectives set by laws cannot be attained by other means.

Article 112 of the Law provides that a foreigner's freedom of movement in the Republic of Lithuania may be restricted where it is necessary to ensure national security and public policy, to protect public health or morals, to prevent crime or to safeguard the rights and freedoms of other persons. The Law also stipulates:

- A foreigner may be detained by a written decision of an officer of a law enforcement institution for a period not exceeding 48 hours.
- The detention of a foreigner for a period exceeding 48 hours may be decided only by a court, i.e. only the court has the discretion to decide whether there are grounds for detaining the foreigner for a period exceeding 48 hours on the grounds laid down in the Law.
- Article 113 of the Law stipulates an exhaustive list of grounds for detention:

Article 113. Grounds for detention of a foreigner

1. A foreigner who is not a national of an EU Member State, his family member or another person who enjoys the right of free movement under legal acts of the European Union may be detained on the following grounds:
 - 1) in order to prevent the foreigner from entering the Republic of Lithuania without a permit;
 - 2) the foreigner has unlawfully entered the Republic of Lithuania or illegally stays in it;
 - 3) when it is attempted to return the foreigner who has been refused admission into the Republic of Lithuania to the country from which he arrived;
 - 4) when the foreigner is suspected of using counterfeit documents;
 - 5) when a decision is issued to expel the foreigner from the Republic of Lithuania or another state to which the Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals applies;
 - 6) in order to prevent the spread of dangerous or especially dangerous contagious diseases;
 - 7) when the foreigner's stay in the Republic of Lithuania represents a threat to national security, public policy or public health.

² <https://www.lrkt.lt/lt/teisimo-aktai/paieska/135/ta351/content>

2. When deciding on the return of a foreigner to a foreign state, his removal from the Republic of Lithuania, the obligation of the foreigner to leave the Republic of Lithuania or the transfer of an asylum applicant to another EU Member State responsible for examining an application for asylum, the foreigner may be detained only if detention is necessary for the issue and/or enforcement of the relevant decision (if the foreigner hampers the issue and/or enforcement of the decision and may abscond to avoid return, removal or transfer).
3. [Irrelevant in the context of the current study]
4. An asylum applicant may be detained only in the following cases:
 - 1) in order to determine and/or verify his identity and/or citizenship;
 - 2) in order to identify the grounds underlying his application for asylum (when information on the grounds could not be obtained without detaining the asylum applicant), and having regard to the circumstances referred to in points 6 to 10 of paragraph 5 of this Article there are grounds for believing that he may abscond to avoid return to a foreign state or removal from the Republic of Lithuania;
 - 3) when the foreigner detained on the ground specified in paragraph 2 of this Article, pending a decision concerning his return to a foreign state, lodges an application for asylum and there are serious grounds for believing that this application has been submitted solely for the purpose of postponing or hampering the enforcement of a decision to return to the foreign state and the foreigner has already had an opportunity to avail himself of the asylum procedure;
 - 4) pursuant to Article 28 of Regulation (EU) No 604/2013;
 - 5) when the asylum applicant represents a threat to national security or public policy.

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).

Article 115 of the Law defines a list of alternatives to detention.

Article 115. Alternatives to detention

2. Alternatives to detention shall be as follows:
 - 1) the foreigner must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service;
 - 2) the foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service;
 - 3) entrusting the guardianship of the foreigner to a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania, provided that this person undertakes to take care of and support him;
 - 4) accommodation of the foreigner at the State Border Guard Service without restricting his freedom of movement.³
 - 5) accommodation of the foreigner at the State Border Guard Service with the right of movement

³ The alternative to detention concerned may be provided only to asylum applicants and foreigners in respect of whose applications for asylum a final decision has been issued and who are to be returned to a foreign state.

only within the territory belonging to the accommodation facility.⁴

It is important to note that the following changes have taken place since 2015:

- Until 2019, a foreigner was obliged to inform about his whereabouts a local police agency, and as of 1 July 2019 – the Migration Department under the Ministry of the Interior or the State Border Guard Service;
- The alternative to detention of entrusting the guardianship of an unaccompanied minor foreigner to the relevant social institution has been waived. It is important to note that unaccompanied minors are not detained but are appointed representatives and accommodated at a social institution;
- The requirement that a person who undertakes to take care of and support a foreigner for whom an alternative to detention is being considered must have family ties with the foreigner has been waived;
- In 2020, the list of alternatives to detention was supplemented by accommodation of the foreigner at the State Border Guard Service with the right of movement only within the territory belonging to the accommodation facility. This alternative to detention came into force as of 1 March 2021 and is available only for asylum applicants and foreigners in respect of whose applications for asylum a final decision has been issued and who are to be returned to a foreign state;
- As of 1 March 2021, the provision of the Law obligating the State Border Guard Service to refer to a court periodically (at least once every 3 months) with a request to review the decision to detain the foreigner came into force.

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

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?	If yes, what is the legal basis for detention?	Which alternatives to detention are available for this category?	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>Grounds for detention of asylum applicants are stipulated in Article 113(4) of the Law.</p> <p>Pursuant to Article 113(4) of the Law, an asylum applicant may be detained only in the following cases:</p> <p>1) in order to determine and/or verify his identity and/or citizenship;</p>	<p>One of the alternatives to detention referred to Article 115(2) of the Law may be provided:</p> <p>1) the foreigner must, regularly at the fixed time, report at the Migration Department or the State Border Guard Service;</p> <p>2) the foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service;</p>	<p>A foreigner may be detained by a written decision of an officer of a law enforcement institution for a period not exceeding 48 hours.</p> <p>A foreigner may be detained in excess of 48 hours only by a court decision.</p>

⁴ Ibid.

International protection			<p>2) in order to identify the grounds underlying (his application for asylum (when information on the grounds could not be obtained without detaining the asylum applicant), and having regard to the circumstances referred to in points 6 to 10 of paragraph 5 of this Article there are grounds for believing that he may abscond to avoid return to a foreign state or removal from the Republic of Lithuania;</p> <p>3) when the foreigner detained on the ground specified in paragraph 2 of this Article, pending a decision concerning his return to a foreign state, lodges an application for asylum and there are serious grounds for believing that this application has been submitted solely for the purpose of postponing or preventing the enforcement of a decision to return to the foreign state and the foreigner has already had an opportunity to avail himself of the asylum procedure;</p> <p>4) pursuant to Article 28 of Regulation (EU) No 604/2013;</p> <p>5) when the asylum applicant represents a threat to national security or public policy.</p>	<p>3) entrusting the guardianship of the foreigner to a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania, provided that this person undertakes to take care of and support the foreigner;</p> <p>4) accommodation of the foreigner at the State Border Guard Service without restricting his freedom of movement;</p> <p>5) accommodation of the foreigner at the State Border Guard Service with the right of movement only within the territory belonging to the accommodation facility.</p>	
	Applicants for international protection in border procedures	Yes	Lithuania does not have in place a separate border procedure for asylum applicants – general rules apply (see the answer above).	Lithuania does not have in place a separate border procedure for asylum applicants – general rules apply (see the answer above).	Lithuania does not have in place a separate border procedure for asylum applicants – general rules apply (see the answer above).
Return procedures	Irregular migrants detected in the territory	Yes	<p>Pursuant to Article 113(1) of the Law, irregular migrants detected in the territory may be detained in the following cases:</p> <p>1) (not applicable);</p> <p>2) when the foreigner has unlawfully entered the Republic of Lithuania or illegally stays in it;</p> <p>3) (not applicable);</p> <p>4) when the foreigner is suspected of using counterfeit documents;</p>	<p>One of the alternatives to detention referred to in Article 115(2) of the Law may be provided:</p> <p>1) the foreigner must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service;</p> <p>2) the foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service;</p>	(see the answer above)

Return procedures			<p>5) when a decision is issued to expel the foreigner from the Republic of Lithuania or another state to which Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals applies;</p> <p>6) in order to prevent the spread of dangerous or especially dangerous contagious diseases;</p> <p>7) when the foreigner's stay in the Republic of Lithuania represents a threat to national security, public policy or public health.</p>	<p>3) entrusting the guardianship of the foreigner to a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania, provided that this person undertakes to take care of and support the foreigner.</p>	
	Persons who have been issued a return decision	Yes	<p>Pursuant to Article 113(1) of the Law, a foreigner who is not a national of an EU Member State, his family member or another person who enjoys the right of free movement under legal acts of the European Union may be detained on the following grounds:</p> <p>1) (not applicable);</p> <p>2) (not applicable);</p> <p>3) (not applicable);</p> <p>4) (not applicable);</p> <p>5) when a decision is issued to expel the foreigner from the Republic of Lithuania or another state to which Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals applies;</p> <p>6) in order to prevent the spread of dangerous or especially dangerous contagious diseases;</p> <p>7) when the foreigner's stay in the Republic of Lithuania represents a threat to national security, public policy or public health. Pursuant to Article 113(2) of the Law, when deciding on the return of a foreigner to a foreign state, his removal from the Republic of Lithuania, the obligation of the foreigner to leave the Republic of Lithuania or the transfer of an asylum applicant to another EU Member State responsible for examining an application for asylum, the foreigner may be detained only if detention is necessary for the issue and/ or enforcement of the relevant decision (if the foreigner hampers the issue and/ or enforcement of the decision and may abscond to avoid return, removal or transfer).</p>	<p>Identical to those available for irregular migrants detected in the territory (see the answer above).</p>	(see the answer above)

Return procedures	Irregular migrants detected at the border	Yes	Pursuant to Article 113(1) of the Law, a foreigner who is not a national of an EU Member State, his family member or another person who enjoys the right of free movement under legal acts of the European Union may be detained on the following grounds: 1) in order to prevent the foreigner from entering the Republic of Lithuania without a permit; 2) (not applicable); 3) when it is attempted to return the foreigner who has been refused admission into the Republic of Lithuania to the country from which he arrived; 4) when the foreigner is suspected of using counterfeit documents; 5) (not applicable); 6) in order to prevent the spread of dangerous or especially dangerous contagious diseases; 7) when the foreigner's stay in the Republic of Lithuania represents a threat to national security, public policy or public health.	(see the answer above)	(see the answer above)

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?

Yes.

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

Pursuant to Article 2(18²) of the Law, a **vulnerable person** means a person with special needs (such as a minor, a disabled person, a person over the age of 75, a pregnant woman, single parents with minor children, a person suffering from mental and behavioural disorders, a victim of trafficking in human beings, or a person who has been subjected to torture, rape or other serious forms of psychological, physical or sexual violence).

Pursuant to Article 114(2) of the Law, vulnerable persons and families with minor foreigners may be detained only in exceptional cases having regard to the best interests of the child and the vulnerable persons.

	International protection procedures	Return procedure
Unaccompanied minors	Unaccompanied minors are considered to be vulnerable persons. The Law provides that vulnerable persons and families with minor foreigners may be detained only in exceptional cases having regard to the best interests of the child and the vulnerable persons. However, it should be noted that unaccompanied minors (regardless of whether or not they apply for asylum) are not detained. The legal status of unaccompanied minors in Lithuania is regulated by Article 32 of the Law, which provides that unaccompanied minor foreigners, regardless of the legitimacy of their stay in the territory of the Republic of Lithuania, are immediately appointed a representative in accordance with the procedure laid down by legal acts of the Republic of Lithuania for the period of their stay in the territory of the Republic of Lithuania and, by a decision of the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour, are provided with accommodation at the Refugee Reception Centre, which is a social institution.	
Disabled people	Vulnerable persons and families with minor foreigners may be detained only in exceptional cases having regard to the best interests of the child and the vulnerable persons. A foreigner may be detained by a written decision of an officer of a law enforcement institution for a period not exceeding 48 hours. A decision to detain the foreigner for a period in excess of 48 hours may be taken only by a court. The court conducts assessment on a case-by-case and takes its decision having regard to the specific situation and all the relevant circumstances.	
Elderly people	Based on the case-law of the Supreme Administrative Court of Lithuania, children and other vulnerable persons in particular have the right to effective protection and the safeguarding of their interests must be given priority over other legal values (see, for example, the ruling of the Supreme Administrative Court of Lithuania of 12 July 2018 in administrative case No A-4853-442/2018).	
Families with children and single parents with minor	The trend of giving priority to the interests of vulnerable persons is observed also in other administrative cases concerning foreigners' detention. For example, in its decision of 4 October 2018 in administrative case No A-5350-662/2018, the Supreme Administrative Court of Lithuania emphasised that although the foreigners' conduct could be regarded as misuse of the asylum procedure, assessing the circumstances of the specific situation and taking into account the fact that his identity and citizenship have been determined and that the person has been included in the list of vulnerable persons, there are grounds for providing to the foreigner an alternative to detention. In administrative case No A-5072-520/2018, the Supreme Administrative Court of Lithuania, having established that the applicants and 4 minor children (asylum applicants) had been included in the list of vulnerable persons, there were no doubts concerning their identity, there was no data that they would pose a threat to public policy or public security or that they had violated the internal rules of the Foreigners' Registration Centre, stated that the application of alternatives to detention was not appropriate and proportionate to the conduct of the family, did not meet the needs of this vulnerable family and its minor children, therefore the sanctions against the family of the applicants could be completely lifted. Even more attention was devoted to the interests of minor children in administrative case No A-5717-492/2018, where the Court interpreted that even if there exists a sufficiently high risk that foreigners will repeat their attempt to leave the Republic of Lithuania, their detention could not be recognised as a proportionate measure, since proper safeguarding of the interests and needs of children is a far more important objective. ⁵	
Persons with serious illnesses and persons with mental disorders	The Supreme Administrative Court of Lithuania also relies on the Convention for the Protection of Human Rights and Fundamental Freedoms, which proclaims that everyone has the right to respect for his personal and family life; there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others (Article 8).	
Victims of human trafficking	In administrative case No A-1798-624/2015, the Supreme Administrative Court of Lithuania stated that although the asylum applicant, while grossly ignoring explicit prohibitions, attempted to leave the Republic of Lithuania without being in possession of a valid travel document, and this could be a reason to restrict his freedom of movement in the Republic of Lithuania as well as to impose detention, such a measure may be imposed upon a person who must take care of minor children residing together with him, where their living conditions would be significantly affected by the imposition of such a measure upon the person who must take care of them, only in exceptional cases, i.e. when both the ground for imposition of detention is exceptional (a threat to national security, etc.) and there exists no other alternative (the person has violated the alternative to detention provided to him, etc.). The court provided to the asylum applicant the alternative to detention of accommodation at the Foreigners' Registration Centre without restricting his freedom of movement. ⁶	
Pregnant women		
Other vulnerable persons		

⁵ <https://www.lvat.lt/doclib/sxqi7o7klukprujhd9157r2f7rz65y5r>

⁶ <http://liteko.teismai.lt/viesasprendimupaiska/tekstas.aspx?id=045aaeb6-bc42-4f70-af41-dda690be4e41> - similar decisions have been taken also in cases No A-3714-662/2015 and A-1798-624/2015.

2.

Availability and practical organisation of alternatives to detention

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

Table 2.1 Available alternatives to detention for third-country nationals

	Alternatives to detention	Yes/No
A1	<p>Reporting obligations (e.g. reporting to the police or immigration authorities at regular intervals).</p> <p>One of the following alternatives to detention may be provided (pursuant to points 1 and 2 of Article 113(2) of the Law):</p> <p>1) the foreigner must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service;</p> <p>2) the foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service.</p> <p>Specific conditions are laid down by a court's decision. In the case of the first alternative to detention (the foreigner must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service), the court determines the frequency (e.g. once/twice a week or once every two weeks) and the time at which the foreigner must report to the specific division of the State Border Guard Service or the Migration Department.</p> <p>In the case of the second alternative (the foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service), a court determines the frequency (e.g. twice a week) at which the foreigner must inform the Migration Department or the State Border Guard Service about his whereabouts. The following means are considered as means of electronic communications: special mobile phone applications, electronic surveillance devices, e-mail with the possibility to identify the sender, etc. If the person does not use such electronic means, it is not possible to determine the whereabouts of the person being monitored and this alternative to detention cannot be provided.</p> <p>In the event of non-compliance with the alternative to detention imposed by a court's decision, the State Border Guard Service refers to the court with a motion to detain the foreigner.</p>	Yes
A2	Obligation to surrender a passport, travel document or identity document.	No
A3	Requirement to communicate the address to authorities (including No requesting permission for absences/changing the address).	No
A4	<p>Requirement to reside at a designated place (e.g. a facility or specific region).</p> <p>The following alternatives to detention may be provided (pursuant to points 4 and 5 of Article 113(2) of the Law):</p> <ul style="list-style-type: none"> Accommodation of the foreigner at the State Border Guard Service without restricting his freedom of movement. Accommodation of the foreigner at the State Border Guard Service with the right of movement only within the territory belonging to the accommodation facility. <p>These two alternatives to detention may be provided only to asylum applicants and foreigners in respect of whose applications for asylum a final decision has been issued and who are to be returned to a foreign state. In this case, the foreigner is accommodated at the Foreigners' Registration Centre of the State Border Guard Service. The foreigner must comply with the internal rules of the Foreigners' Registration Centre and may not leave the territory of the Republic of Lithuania.</p> <p>In the event of non-compliance with the alternative to detention imposed by a court's decision, the State Border Guard Service refers to the court with a motion to detain the foreigner.</p>	Yes
A5	Release on bail (with or without sureties).	No
A6	Electronic monitoring (e.g. tagging).	No

A7	Release to a guardian/guarantor. The following alternative to detention may be provided (pursuant to Article 113(2)(3) of the Law): • Entrusting the guardianship of the foreigner to a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania, provided that this person undertakes to take care of and support the foreigner. If a court imposes this alternative to detention, a citizen of the Republic of Lithuania or a foreigner lawfully residing in it undertakes to take care of the foreigner and support him. In the event of non-compliance with the alternative to detention imposed by the court's decision, the State Border Guard Service refers to the court with a motion to detain the foreigner.	Yes
A8	Release to care worker or under a care plan.	No
A9	Community management programme (i.e. programmes where No 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).	Yes
A10	Other alternative measure available in your (Member) State. Not applicable.	No

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

During the period 2015-2020, courts provided alternatives to detention to 714 foreigners. The vast majority of foreigners (459 or 68 %) were provided the alternative to detention of accommodation at the State Border Guard Service without restricting their freedom of movement. It is important to note that this alternative to detention was previously provided only to asylum applicants. As of 1 March 2021, this measure is available to asylum applicants and foreigners in respect of whose applications for asylum a final decision has been issued and who are to be returned to a foreign state.

A court may provide to a foreigner an alternative to detention where the conditions provided for in Article 115(1) of the Law are met: 1) the foreigner's identity has been determined, 2) he represents no threat to national security and public policy, 3) he assists the court, the SBGS or the Migration Department in determining his legal status in the Republic of Lithuania, as well as taking into account other circumstances.

According to the established case-law of the Supreme Administrative Court of Lithuania, the issue of provision or non-provision of an alternative to detention is at a court's discretion, although the establishment of the absence of one of the above-mentioned circumstances constitutes a sufficient ground for the court to refuse to provide the alternative to detention (see, for example, the ruling of the Supreme Administrative Court of Lithuania of 21 July 2008 in administrative case No N143-3565/2008, the ruling of 14 October 2010 in administrative case No N444-7196/2010).

An analysis of the case-law shows that courts assess all the circumstances related to the specific case on a case-by-case basis, however such circumstances as no community support, no stable address or limited financial resources may impact a decision not to provide the following alternatives to detention:

1. the foreigner must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service;
2. the foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service;
3. entrusting the guardianship of the foreigner to a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania, provided that this person undertakes to take care of and support him/her.

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

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

1. The foreigner must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service	
In what it consists, and maximum duration.	A foreigner to whom this alternative has been provided must, at the fixed time, report to the Migration Department or the State Border Guard Service. According to the Law, a foreigner may not be detained for a period in excess of 6 months, with the exception of the cases when he does not cooperate in the process of his removal from the Republic of Lithuania (refuses to provide his personal data, provides misleading information, etc.) or the documents required to carry out removal of such a foreigner from the State's territory are not received. In such cases, the period of detention may be extended for an additional period not exceeding 12 months. It is important to note that in each case a court, having provided the alternative to detention, sets a time limit for the provision of the alternative to detention.
Legal basis.	Article 115(2)(1) of the Law A court may provide to a foreigner an alternative to detention in cases where the following conditions as provided for in Article 115(1) of the Law are met: 1) the foreigner's identity has been determined, 2) he represents no threat to national security and public policy, 3) he assists the court, the SBGS or the Migration Department in determining his legal status in the Republic of Lithuania, as well as taking into account other circumstances. According to the established case-law of the Supreme Administrative Court of Lithuania, the issue of provision or non-provision of an alternative to detention is at a court's discretion, although the establishment of the absence of one of the above-mentioned circumstances constitutes a sufficient ground for the court to refuse to provide the alternative to detention (see, for example, the ruling of the Supreme Administrative Court of Lithuania of 21 July 2008 in administrative case No N143-3565/2008, the ruling of 14 October 2010 in administrative case No N444-7196/2010). An analysis of the case-law also shows that courts assess all the circumstances related to the specific case on a case-by-case basis, however, such circumstances as no community support, no stable address or limited financial resources may impact a decision not to provide this alternative to detention.
Is it used in practice?	Yes. Data of the Foreigners' Registration Centre show that during the period 2015-2020, this alternative was provided to 56 foreigners.
National authorities responsible to administer the alternative.	A decision on the provision of the alternative to detention is taken by a court. The Migration Department or the State Border Guard Service controls the implementation of this alternative to detention, i.e. the foreigner to whom the alternative has been provided must report to the Migration Department or the State Border Guard Service at the fixed time.
Any partner involved?	Not applicable.
Obligations attached to the granting of the alternative.	In order to comply with this alternative to detention, the foreigner must report to the Migration Department or the State Border Guard Service. In providing the alternative, the court indicates the specific division of the Migration Department or the State Border Guard Service as well as the exact address to which the foreigner is to report. The court also specifies the frequency at which the foreigner must report to the designated institution (e.g. specific day(s) of the week and time).

Consequences of non-compliance with the alternative.	In the event of non-compliance with the alternative to detention imposed by a court's decision, the State Border Guard Service refers to the court with a motion to detain the foreigner.
Mechanisms in place in order to monitor the third-country national's compliance with these conditions.	If the foreigner fails to comply with the conditions specified by a court, i.e. if he fails to report to the designated institution at the time fixed for him, it is considered that the foreigner has failed to comply with the alternative to detention provided to him.
Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.	Not applicable.
Was an evaluation conducted to assess the effectiveness of this alternative to detention?	No.
2. The foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service	
In what it consists, and maximum duration.	<p>The foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service. The following means are considered as means of electronic communications: special mobile phone applications, electronic surveillance devices, e-mail with the possibility to identify the sender, etc. If the person does not use such electronic means, it is not possible to determine the whereabouts of the person being monitored and this alternative to detention cannot be provided.</p> <p>A foreigner may not be detained for a period in excess of 6 months, with the exception of the cases when he does not cooperate in the process of his removal from the Republic of Lithuania (refuses to provide his personal data, provides misleading information, etc.) or the documents required to carry out removal of such a foreigner from the State's territory are not received. In such cases, the period of detention may be extended for an additional period not exceeding 12 months.</p> <p>It is important to note that in each case a court, having provided the alternative to detention, sets a time limit for the provision of the alternative to detention.</p>
Legal basis.	<p>Article 115(2)(2) of the Law</p> <p>A court may provide to a foreigner an alternative to detention in cases where the following conditions as provided for in Article 115(1) of the Law are met: 1) the foreigner's identity has been determined, 2) he represents no threat to national security and public policy, 3) he assists the court, the SBGS or the Migration Department in determining his legal status in the Republic of Lithuania, as well as taking into account other circumstances.</p> <p>According to the established case-law of the Supreme Administrative Court of Lithuania, the issue of provision or non-provision of an alternative to detention is at a court's discretion, although the establishment of the absence of one of the above-mentioned circumstances constitutes a sufficient ground for the court to refuse to provide the alternative to detention (see, for example, the ruling of the Supreme Administrative Court of Lithuania of 21 July 2008 in administrative case No N143-3565/2008, the ruling of 14 October 2010 in administrative case No N444-7196/2010).</p> <p>An analysis of the case-law also shows that courts assess all the circumstances related to the specific case on a case-by-case basis, however, such circumstances as no community support, no stable address or limited financial resources may impact a decision not to provide this alternative to detention.</p>

Is it used in practice?	Yes. The data of the Register of Foreigners show that during the period 2015-2020, this alternative was provided to 28 foreigners.
National authorities responsible to administer the alternative.	A decision on the provision of alternatives to detention is taken by a court. The Migration Department or the State Border Guard Service controls the implementation of this alternative to detention, i.e. the foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service.
Any partner involved?	Not applicable.
Obligations attached to the granting of the alternative.	A court determines the frequency (e.g. twice a week on the fixed days) at which the foreigner must, by means of electronic communications, inform the Migration Department or the State Border Guard Service about his whereabouts. If the person does not use such electronic means, it is not possible to determine the whereabouts of the person being monitored and this alternative to detention cannot be provided.
Consequences of non-compliance with the alternative.	In the event of non-compliance with the alternative to detention imposed by a court's decision, the State Border Guard Service refers to the court with a motion to detain the foreigner.
Mechanisms in place in order to monitor the third-country national's compliance with these conditions.	If the foreigner fails to comply with the conditions specified by a court, i.e. if he fails to inform the Migration Department or the State Border Guard Service about his whereabouts by means of electronic communications, it is considered that the foreigner has not implemented the alternative to detention provided to him.
Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.	Not applicable.
Was an evaluation conducted to assess the effectiveness of this alternative to detention?	No.
3. Entrusting the guardianship of the foreigner to a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania, provided that this person undertakes to take care of and support him	
In what it consists, and maximum duration.	<p>The guardianship of the foreigner is entrusted to a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania, provided that this person undertakes to take care of and support him. For this alternative to be provided, the foreigner must have community support in Lithuania, i.e. the citizen of the Republic of Lithuania or the foreigner lawfully residing in the Republic of Lithuania must agree to undertake to take care of the foreigner and support him.</p> <p>A foreigner may not be detained for a period in excess of 6 months, with the exception of the cases when he does not cooperate in the process of his removal from the Republic of Lithuania (refuses to provide his personal data, provides misleading information, etc.) or the documents required to carry out removal of such a foreigner from the State's territory are not received. In such cases, the period of detention may be extended for an additional period not exceeding 12 months.</p> <p>It is important to note that in each case a court, having provided the alternative to detention, sets a time limit for the provision of the alternative to detention.</p>

Legal basis.	<p>Article 115(2)(3) of the Law</p> <p>A court may provide to a foreigner an alternative to detention in cases where the following conditions as provided for in Article 115(1) of the Law are met: 1) the foreigner's identity has been determined, 2) he represents no threat to national security and public policy, 3) he assists the court, the SBGS or the Migration Department in determining his legal status in the Republic of Lithuania, as well as taking into account other circumstances.</p> <p>According to the established case-law of the Supreme Administrative Court of Lithuania, the issue of provision or non-provision of an alternative to detention is at a court's discretion, although the establishment of the absence of one of the above-mentioned circumstances constitutes a sufficient ground for the court to refuse to provide the alternative to detention (see, for example, the ruling of the Supreme Administrative Court of Lithuania of 21 July 2008 in administrative case No N143-3565/2008, the ruling of 14 October 2010 in administrative case No N444-7196/2010).</p>
Is it used in practice?	Yes. The data of the Register of Foreigners show that during the period 2015-2020, this alternative was provided to 16 foreigners.
National authorities responsible to administer the alternative.	<p>A decision on the provision of alternatives to detention is taken by a court.</p> <p>There is no specific institution to supervise the foreigner's compliance with the provided alternative, however, the foreigner's further legal status is decided by the institution which referred to the court for the provision of the alternative to detention.</p>
Any partner involved?	Not applicable.
Obligations attached to the granting of the alternative.	The foreigner must have community support in Lithuania, i.e. a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania must agree to undertake to take care of the foreigner and support him.
Consequences of non-compliance with the alternative.	In the event of non-compliance with the alternative to detention imposed by a court's decision, the State Border Guard Service refers to the court with a motion to detain the foreigner.
Mechanisms in place in order to monitor the third-country national's compliance with these conditions.	There is no such a mechanism in place, however, the institution which referred to a court requesting the provision of this alternative is responsible for the further legal status of the foreigner. If it is established that the foreigner has violated the alternative to detention, officers refer to the court for detention..
Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.	Not applicable.
Was an evaluation conducted to assess the effectiveness of this alternatives to detention?	No.

4. Accommodation of the foreigner at the State Border Guard Service without restricting his freedom of movement	
In what it consists, and its maximum duration.	<p>The foreigner is accommodated at the Foreigners' Registration Centre of the State Border Guard Service without restricting his freedom of movement. This alternative to detention was previously provided only to asylum applicants. As of 1 March 2021, this measure is available to asylum applicants and foreigners in respect of whose applications for asylum a final decision has been issued and who are to be returned to a foreign state.</p> <p>A foreigner may not be detained for a period in excess of 6 months, with the exception of the cases when he does not cooperate in the process of his removal from the Republic of Lithuania (refuses to provide his personal data, provides misleading information, etc.) or the documents required to carry out removal of such a foreigner from the State's territory are not received. In such cases, the period of detention may be extended for an additional period not exceeding 12 months.</p> <p>It is important to note that in each case a court, having provided the alternative to detention, sets a time limit for the provision of the alternative to detention.</p>
Legal basis.	<p>Article 115(2)(4) of the Law</p> <p>A court may provide to a foreigner an alternative to detention in cases where the following conditions as provided for in Article 115(1) of the Law are met: 1) the foreigner's identity has been determined, 2) he represents no threat to national security and public policy, 3) he assists the court, the SBGS or the Migration Department in determining his legal status in the Republic of Lithuania, as well as taking into account other circumstances.</p> <p>According to the established case-law of the Supreme Administrative Court of Lithuania, the issue of provision or non-provision of an alternative to detention is at a court's discretion, although the establishment of the absence of one of the above-mentioned circumstances constitutes a sufficient ground for the court to refuse to provide the alternative to detention (see, for example, the ruling of the Supreme Administrative Court of Lithuania of 21 July 2008 in administrative case No N143-3565/2008, the ruling of 14 October 2010 in administrative case No N444-7196/2010).</p>
Is it used in practice?	Yes. During the period 2015-2020, courts provided alternatives to detention to 714 foreigners. The vast majority of foreigners (459 or 68 %) were provided the alternative to detention of accommodation at the State Border Guard Service without restricting their freedom of movement. It is important to note that this alternative to detention was previously provided only to asylum applicants. As of 1 March 2021, this measure is available to asylum applicants and foreigners in respect of whose applications for asylum a final decision has been issued and who are to be returned to a foreign state.
National authorities responsible to administer the alternative.	<p>A decision on the provision of alternatives to detention is taken by a court.</p> <p>A foreigner to whom this alternative to detention has been provided is accommodated at the Foreigners' Registration Centre of the State Border Guard Service.</p>
Any partner involved?	Not applicable.
Obligations attached to the granting of the alternative.	When deciding on the granting of this alternative to detention, a court must confirm the fact that the foreigner is an asylum applicant at the given moment or that a final decision has been issued in respect of his application for asylum and he is to be returned to a foreign state.
Consequences of non-compliance with the alternative.	<p>In the event of non-compliance with the alternative to detention imposed by a court's decision, the State Border Guard Service refers to the court with a motion to detain the foreigner.</p> <p>A foreigner who is accommodated at the Foreigners' Registration Centre must comply with the internal rules of the Centre. The fact that the foreigner has violated the procedure for temporary absence from the Foreigners' Registration Centre is considered as the risk of absconding, which constitutes a ground for referral to a court with a motion to detain the foreigner.</p>

Mechanisms in place in order to monitor the third-country national's compliance with these conditions.	<p>The staff of the Foreigners' Registration Centre supervise that asylum applicants comply with the provided alternative to detention and the internal rules of the Foreigners' Registration Centre.</p> <p>The foreigner is explained his legal status in Lithuania, the internal rules of the Foreigners' Registration Centre, and the foreigner is also informed that, during the examination of his application for asylum, he may not leave Lithuania. An attempt to leave the Republic of Lithuania until the examination of the application for asylum has been completed may be considered by a court as a failure to implement the alternative to detention and a ground for detention of the foreigner.</p>
Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.	<p>If the foreigner disagrees with the provided alternative to detention, he may file an appeal with a court either directly or through the Foreigners' Registration Centre.</p> <p>The State Border Guard Service also refers, periodically but at least once every 3 months, to a court in accordance with the procedure laid down in Article 118 of this Law with a request to review the decision to detain the foreigner.</p>
Was an evaluation conducted (at the national level) to assess the effectiveness of this alternative to detention?	No.
5. Accommodation of the foreigner at the State Border Guard Service with the right of movement only within the territory belonging to the accommodation facility	
In what it consists, and maximum duration.	<p>The foreigner is accommodated at the Foreigners' Registration Centre of the State Border Guard Service with the right of movement only within the territory of the accommodation facility. This alternative to detention (provided only to asylum applicants and foreigners in respect of whose applications for asylum a final decision has been issued and who are to be returned to a foreign state) was introduced to the Law as of 10 November 2020, whereas in practice it is used only as of 1 March 2021, therefore data on its application are not available yet.</p> <p>According to the Law, a foreigner may not be detained for a period in excess of 6 months, with the exception of the cases when he does not cooperate in the process of his removal from the Republic of Lithuania (refuses to provide his personal data, provides misleading information, etc.) or the documents required to carry out removal of such a foreigner from the State's territory are not received. In such cases, the period of detention may be extended for an additional period not exceeding 12 months.</p> <p>It is important to note that in each case a court, having provided the alternative to detention, sets a time limit for the provision of the alternative to detention.</p>
Legal basis.	<p>Article 115(2)(5) of the Law</p> <p>A court may provide to a foreigner an alternative to detention in cases where the following conditions as provided for in Article 115(1) of the Law are met: 1) the foreigner's identity has been determined, 2) he represents no threat to national security and public policy, 3) he assists the court, the SBGS or the Migration Department in determining his legal status in the Republic of Lithuania, as well as taking into account other circumstances.</p> <p>According to the established case-law of the Supreme Administrative Court of Lithuania, the issue of provision or non-provision of an alternative to detention is at a court's discretion, although the establishment of the absence of one of the above-mentioned circumstances constitutes a sufficient ground for the court to refuse to provide the alternative to detention (see, for example, the ruling of the Supreme Administrative Court of Lithuania of 21 July 2008 in administrative case No N143-3565/2008, the ruling of 14 October 2010 in administrative case No N444-7196/2010).</p>
Is it used in practice?	This alternative to detention was introduced to the Law as of 10 November 2020, whereas in practice it is used only as of 1 March 2021, therefore data on its application are not available yet.

National authorities responsible to administer the alternative.	<p>A decision on the provision of alternatives to detention is taken by a court.</p> <p>A foreigner to whom this alternative to detention has been provided is accommodated at the Foreigners' Registration Centre of the State Border Guard Service.</p>
Any partner involved?	Not applicable.
Obligations attached to the granting of the alternative.	When deciding on the granting of this alternative to detention, a court must confirm the fact that the foreigner is an asylum applicant at the given moment or that a final decision has been issued in respect of his application for asylum and he is to be returned to a foreign state.
Consequences of non-compliance with the alternative	<p>In the event of non-compliance with the alternative to detention imposed by a court's decision, the State Border Guard Service refers to the court with a motion to detain the foreigner.</p> <p>A foreigner who is accommodated at the Foreigners' Registration Centre must comply with the internal rules of the Centre. A violation of the rules may constitute a ground for referral to a court with a motion to detain the foreigner.</p>
Mechanisms in place in order to monitor the third-country national's compliance with these conditions.	<p>The staff of the Foreigners' Registration Centre supervise that the asylum applicants to whom the alternative to detention has been provided comply with the internal rules of the Foreigners' Registration Centre and do not violate them.</p> <p>The foreigner is explained his legal status in Lithuania, the internal rules of the Foreigners' Registration Centre, and the foreigner is also informed that, during the examination of his application for asylum, he may not leave Lithuania. Non-compliance with the rules of the Foreigners' Registration Centre or an attempt to leave the Republic of Lithuania until the examination of the application for asylum has been completed may be considered by a court as a failure to implement the alternative to detention and a ground for detention of the foreigner.</p>
Mechanisms in place in order to monitor the conditions of the alternative and the treatment of third-country nationals.	There is no such a mechanism in place, however, the institution which referred to a court requesting the provision of this alternative is responsible for the further legal status of the foreigner. If it is established that the foreigner has violated the alternative to detention, officers refer to the court for detention.
Was an evaluation conducted (at the national level) to assess the effectiveness of this alternative to detention?	No.

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.

Challenge	Alternative 1 - The foreigner must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service	Alternative 2 - The foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service	Alternative 3 - Entrusting the guardianship of the foreigner to a citizen of Lithuania or a foreigner lawfully residing in the Republic of Lithuania, provided that this person undertakes to take care of and support him	Alternative 4 - Accommodation of the foreigner at the State Border Guard Service without restricting his freedom of movement	Alternative 5 - Accommodation of the foreigner at the State Border Guard Service with the right of movement only within the territory belonging to the accommodation facility
Availability of facilities related to accommodation (i.e. beds)	A foreigner must have stable address or financial resources for a court to provide this alternative to detention.	A foreigner must have a stable address or financial resources for the court to provide this alternative to detention.	A citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania must undertake to take care of him and support him (including provision of accommodation) for the foreigner.	The accommodation capacity of the Foreigners' Registration Centre is limited and an increase in the number of foreigners to whom this alternative to detention has been imposed by a court's decision would result in a challenge to accommodation availability. In this case, possibilities would be explored to reorganise the accommodation of non-detained asylum applicants by transferring them to other accommodation facilities (e.g. to the Refugee Reception Centre or alternative accommodation facilities).	(see the answer in the column on the left)
Availability of staffing and supervision	Unknown.	Unknown.	Unknown.	The current staffing corresponds to the accommodation capacity of the Foreigners' Registration Centre.	(see the answer in the column on the left)
Administrative costs	Unknown.	Unknown.	Unknown.	In the case of provision of the alternative to detention, administrative costs are similar to those in the case of detention, since in both cases the foreigner is accommodated at the Foreigners' Registration Centre, only in different sections.	(see the answer in the column on the left)

Mechanisms to control movements of the person	The foreigner is informed that he may not leave the territory of the Republic of Lithuania. The foreigner must also report to the Migration Department or the State Border Guard Service on the days fixed by a court.	The foreigner is informed that he may not leave the territory of the Republic of Lithuania. The foreigner must also, at the time fixed by a court and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service.	The foreigner is informed that he may not leave the territory of the Republic of Lithuania during the period of provision of the alternative to detention.	The foreigner is informed that he may not leave the territory of the Republic of Lithuania. The foreigner must also comply with the internal rules of the Foreigners' Registration Centre and may not violate them. The foreigner may, upon obtaining a permit, temporarily leave the Centre in compliance with the internal rules of the Centre.	The foreigner is informed that he may not leave the territory of the Republic of Lithuania. The foreigner must also comply with the internal rules of the Foreigners' Registration Centre, may not violate them and may not leave the territory of the Centre.
Legislative obstacles	There exist no legislative obstacles.	There exist no legislative obstacles.	There exist no legislative obstacles (there are only practical challenges in controlling whether a foreigner complies with the provided alternative).	There exist no legislative obstacles.	There exist no legislative obstacles.
Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support)	An analysis of the case-law shows that such circumstances as no community support, no stable address or limited financial resources may impact a court's decision not to provide to a foreigner the alternative to detention.	An analysis of the case-law shows that such circumstances as no community support, no stable address or limited financial resources may impact a court's decision not to provide to a foreigner the alternative to detention. In order to apply this alternative, the foreigner must be able to use means of electronic communications (special mobile phone applications, electronic surveillance devices, e-mail with the possibility to identify the sender, etc.). If the person does not use such electronic means, it is not possible to determine the whereabouts of the person being monitored and this alternative to detention cannot be provided.	A foreigner must have community support in Lithuania, i.e. a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania must agree to undertake to take care of the foreigner and to support him.	This alternative to detention can be provided only to asylum applicants and foreigners in respect of whose applications for asylum a final decision has been issued and who are to be returned to a foreign state. Other aspects, such as possession of community support, stable address or financial resources, are not essential.	This alternative to detention can be provided only to asylum applicants and foreigners in respect of whose applications for asylum a final decision has been issued and who are to be returned to a foreign state. Other aspects, such as possession of community support, stable address or financial resources, are not essential.
Other advantages					

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.

Advantage	Alternative 1 – The foreigner must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service	Alternative 2 - The foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service	Alternative 3 - Entrusting the guardianship of the foreigner to a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania provided that this person undertakes to take care of and support him	Alternative 4 – Accommodation of the foreigner at the State Border Guard Service without restricting his freedom of movement	Alternative 5 – Accommodation of the foreigner at the State Border Guard Service with the right of movement only within the territory belonging to the accommodation facility
Availability of facilities related to accommodation (i.e. beds)	When providing this alternative to detention, state funds are not used for the accommodation and support of a foreigner. The foreigner himself is responsible for possession of stable address and financial resources.	When providing this alternative to detention, state funds are not used for the accommodation and support of a foreigner. The foreigner himself is responsible for possession of stable address and financial resources.	When providing this alternative to detention, state funds are not used for the accommodation and support of a foreigner. A citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania is responsible for the provision of the foreigner with accommodation and his support.	When providing this alternative to detention, a foreigner is accommodated at the Foreigners' Registration Centre just as in the case of detention, but in the other section.	When providing this alternative to detention, a foreigner is accommodated at the Foreigners' Registration Centre just as in the case of detention, but in the other section.
Availability of staffing and supervision	This alternative to detention requires less staffing than when applying detention at the Foreigners' Registration Centre.	This alternative to detention requires less staffing than when applying detention at the Foreigners' Registration Centre.	This alternative to detention requires less staffing than when applying detention at the Foreigners' Registration Centre.	When providing this alternative to detention, the need for staffing is similar to that in the case of detention, since in both cases a foreigner is accommodated at the Foreigners' Registration Centre, only in different sections	When providing this alternative to detention, the need for staffing is similar to that in the case of detention, since in both cases a foreigner is accommodated at the Foreigners' Registration Centre, only in different sections.

Administrative costs	The administrative costs of provision of this alternative to detention are lower than when applying detention at the Foreigners' Registration Centre.	The administrative costs of provision of this alternative to detention are lower than when applying detention at the Foreigners' Registration Centre.	The administrative costs of provision of this alternative to detention are lower than when applying detention at the Foreigners' Registration Centre.	Administrative costs are similar to those in the case of detention, since in both cases a foreigner is accommodated at the Foreigners' Registration Centre, only in different sections.	Administrative costs are similar to those in the case of detention, since in both cases a foreigner is accommodated at the Foreigners' Registration Centre, only in different sections.
Mechanisms to control movements of the person	If this alternative to detention has been provided to a foreigner, the foreigner has the right to move within the territory of the country and such movement is not controlled, however, if the foreigner violates the conditions of the alternative to detention (e.g. attempts to leave the territory of the Republic of Lithuania), then a motion is brought before a court for the foreigner's detention.	If this alternative to detention has been provided to a foreigner, the foreigner has the right to move within the territory of the country and such movement is not controlled, however, if the foreigner violates the conditions of the alternative to detention (e.g. attempts to leave the territory of the Republic of Lithuania), then a motion is brought before a court for the foreigner's detention.	If this alternative to detention has been provided to a foreigner, the foreigner has the right to move within the territory of the country and such movement is not controlled, however, if the foreigner violates the conditions of the alternative to detention (e.g. attempts to leave the territory of the Republic of Lithuania), then a motion is brought before a court for the foreigner's detention.	If this alternative to detention has been provided to a foreigner, the foreigner may, upon obtaining a permit, temporarily leave the Centre. The employees of the Foreigners' Registration Centre supervise the return of foreigners to the Centre at the fixed time.	If this alternative to detention has been provided to a foreigner, the foreigner has the right to move only within the territory belonging to the accommodation facility.
Legislative obstacles	Nothing to report	Nothing to report	Nothing to report	Nothing to report	Nothing to report
Aspects related to the situation of third-country nationals (e.g. limited financial resources, no stable address or community support	These circumstances are assessed by a court. An analysis of the case-law shows that such circumstances as possession of community support, stable address or financial resources may impact the court's decision concerning provision to a foreigner of an alternative to detention.	These circumstances are assessed by a court. An analysis of the case-law shows that such circumstances as possession of community support, stable address or financial resources may impact the court's decision concerning provision to a foreigner of an alternative to detention.	These circumstances are assessed by a court. An analysis of the case-law shows that such circumstances as possession of community support, stable address or financial resources may impact the court's decision concerning provision to a foreigner of an alternative to detention.	These circumstances are assessed by a court. An analysis of the case-law shows that such circumstances no community support, no stable address or limited financial resources do not impact the court's decision concerning provision to a foreigner of this alternative to detention.	These circumstances are assessed by a court. An analysis of the case-law shows that such circumstances as no community support, no stable address or limited financial resources do not impact the court's decision concerning provision to a foreigner of this alternative to detention.
Other advantages					

3.

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

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

- Is the assessment between detention or alternatives to detention made at the same time as when the grounds for detention are considered or at a different time?
- In what circumstances are the grounds for detention rejected in favour of an alternative to detention?
- 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)?
- Which authorities are involved in the procedure, please specify the respective role (i.e. consultative, decision maker)?

International protection procedure

1. Yes. Pursuant to Article 116(1) of the Law, if there are grounds for detaining a foreigner, an officer of the State Border Guard Service refers to a district court of the location of the foreigner's stay in the territory of the Republic of Lithuania with a motion to detain the foreigner for a period exceeding 48 hours or to provide to the foreigner an alternative to detention within 48 hours from the moment of detention of the foreigner. The foreigner's presence at the court hearing is mandatory.
2. A court, taking into account the fact that a foreigner's identity has been determined, he represents no threat to national security and public policy, assists the court, the State Border Guard Service and the Migration Department in determining his legal status in the Republic of Lithuania as well as other circumstances, may provide to the foreigner an alternative to detention.

It is at a court's discretion to decide whether, on a case-by-case basis, there is a ground for the provision of an alternative to detention, i.e. whether the measure of detention is proportionate in view of the objectives pursued and whether the alternative to detention, if provided, would pose a real risk to the attainment of those objectives.

A court conducts assessment of the circumstances of each case on a case-by-case basis and, when taking a decision, assesses whether detention is proportionate in view of the objectives pursued, i.e. whether the same objective could be attained by applying a less stringent measure, namely, an alternative to detention.

3. Pursuant to the Law, first of all, it is determined whether or not a foreigner is an asylum applicant, since the grounds for detention and the application of possible alternatives to detention depend on it. The Law also stipulates that vulnerable persons and families with minor foreigners may be detained only in exceptional cases, having regard to the best interests of the child and the vulnerable persons. Other categories (e.g. the country of origin of the foreigner, etc.) are not distinguished in the Law, however it should be noted that the court assesses all relevant circumstances and each situation is examined on a case-by-case basis.
4. A decision on detention for a period exceeding 48 hours may be taken only by a court. An officer of the State Border Guard Service refers to the court regarding detention or provision of an alternative to detention.

Return procedure

1. Yes. Pursuant to Article 116(1) of the Law, if there are grounds for detaining a foreigner, an officer of the State Border Guard Service refers to a district court of the location of the foreigner's stay in the territory of the Republic of Lithuania with a motion to detain the foreigner for a period exceeding 48 hours or to provide to the foreigner an alternative to detention within 48 hours from the moment of detention of the foreigner. The foreigner's presence at the court hearing is mandatory.
2. A court, taking into account the fact that a foreigner's identity has been determined, he represents no threat to national security and public policy, assists the court, the State Border Guard Service and the Migration Department in determining his legal status in the Respublic of Lithuania as well as other circumstances, may provide to the foreigner an alternative to detention.

It is at a court's discretion to decide whether, on a case-by-case basis, there is a ground for the provision of an alternative to detention, i.e. whether the measure of detention is proportionate in view of the objectives pursued and whether the alternative to detention, if provided, would pose a real risk to the attainment of those objectives.

A court conducts assessment of the circumstances of each case on a case-by-case basis and, when taking a decision, assesses whether detention is proportionate in view of the objectives pursued, i.e. whether the same objective could be attained by applying a less stringent measure, namely, an alternative to detention.

3. The Law stipulates that vulnerable persons and families with minor foreigners may be detained only in exceptional cases, having regard to the best interests of the child and the vulnerable persons. Other categories (e.g. the country of origin of the foreigner, etc.) are not distinguished in the Law, however it should be noted that the court assesses all relevant circumstances and each situation is examined on a case-by-case basis.
4. A decision on detention for a period exceeding 48 hours may be taken only by a court. An officer of the State Border Guard Service refers to the court for detention or provision of an alternative to detention.

Q9. Is the possibility to provide alternatives to detention systematically considered in your (Member) State when assessing whether to place a person in detention?

International protection procedures

Yes.

Details:

According to the established case-law of the Supreme Administrative Court of Lithuania, the issue of provision or non-provision of an alternative to detention is at a court's discretion, although the establishment of the absence of one of the circumstances listed in Article 115 of the Law, such as 1) a foreigner's identity has been determined, 2) he represents no threat to national security and public policy, 3) he assists the court, the SBGS or the Migration Department in determining his legal status in the Republic of Lithuania, as well as taking into account other circumstances, constitutes a sufficient ground for the court to refuse to provide the alternative to detention (the rulings of the Supreme Administrative Court of Lithuania in administrative cases No N143-3565/2008, No N444-7196/2010).

Return procedures

Yes.

Details: (see the answer above)

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	<p>Yes.</p> <p>In taking its decision, the court conducts assessment on a case-by-case basis and decides having regard to the specific situation and all the relevant circumstances.</p> <p>An analysis of the case-law shows that circumstances such as no community support, no stable address or limited financial resources may impact a court's decision not to provide to a foreigner the following alternatives to detention: 1) the foreigner must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service; 2) the foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service; 3) entrusting the guardianship of the foreigner to a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania, provided that this person undertakes to take care of and support him.</p> <p>However, the above-mentioned circumstances are not essential when the court is considering the possibility to provide the fourth and fifth alternatives, i.e. 4) accommodation of the foreigner at the State Border Guard Service without restricting his freedom of movement; 5) accommodation of the foreigner at the State Border Guard Service with the right of movement only within the territory belonging to the accommodation facility.</p>	<p>Yes.</p> <p>In taking its decision, the court conducts assessment on a case-by-case basis and decides having regard to the specific situation and all the relevant circumstances.</p> <p>An analysis of the case-law shows that circumstances such as no community support, no stable address or limited financial resources may impact a court's decision not to provide to a foreigner the following alternatives to detention: 1) the foreigner must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service; 2) the foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service; 3) entrusting the guardianship of the foreigner to a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania, provided that this person undertakes to take care of and support him.</p>
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	<p>Yes.</p> <p>Article 113(4) of the Law provides, inter alia, that an asylum applicant may be detained only in the following cases: 1) in order to determine and/or verify his identity and/or citizenship; 2) to identify the grounds underlying his application for asylum (when information on the grounds could not be obtained without detaining the asylum applicant), and having regard to the circumstances referred to in points 6-10 of paragraph 5 of this Article there are grounds for believing that he may abscond to avoid return to a foreign state or removal from the Republic of Lithuania.</p> <p>Pursuant to points 6 to 10 of Article 113(5) of the Law,</p>	<p>Yes.</p> <p>Article 113(2) of the Law provides that when deciding on the return of a foreigner to a foreign state, his removal from the Republic of Lithuania, the obligation of the foreigner to leave the Republic of Lithuania or the transfer of an asylum applicant to another EU Member State responsible for examining an application for asylum, the foreigner may be detained only if detention is necessary for the issue and/or enforcement of the relevant decision (if the foreigner hampers the issue and/or enforcement of the decision, may abscond to avoid return, removal or transfer).</p>

	when deciding whether there are grounds for believing that an asylum applicant may abscond, the following circumstances are taken into account: the foreigner fails to comply with the alternative to detention imposed by a court; the foreigner accommodated at the State Border Guard Service without restricting his freedom of movement has violated the procedure for temporary absence from the State Border Guard Service; in order to escape criminal liability for illegal crossing of the state border, the person has lodged an application for asylum pending pre-trial investigation against him; the foreigner's stay in the Republic of Lithuania may represent a threat to public policy; during the examination of the application for asylum, he does not cooperate with civil servants and employees of the competent authorities.	This means that if, on the basis of the established circumstances, a court assesses that without being detained, the foreigner may abscond in order to avoid return to the foreign state or removal from the Republic of Lithuania, it may take a decision to detain and not to provide alternatives to detention.
Vulnerability	<p>Yes.</p> <p>Pursuant to Article 114(4) of the Law, vulnerable persons and families with minor foreigners may be detained only in exceptional cases having regard to the best interests of the child and the vulnerable persons.</p> <p>The trend of giving priority to the interests of vulnerable persons is observed in administrative cases concerning foreigners' detention. It is a common practice in the case-law that the Supreme Administrative Court of Lithuania provides an alternative to detention to vulnerable persons, despite having received a motion for detention.</p>	<p>Yes.</p> <p>Pursuant to Article 114(4) of the Law, vulnerable persons and families with minor foreigners may be detained only in exceptional cases having regard to the best interests of the child and the vulnerable persons.</p> <p>The trend of giving priority to the interests of vulnerable persons is observed in administrative cases concerning foreigners' detention. It is a common practice in the case-law that the Supreme Administrative Court of Lithuania provides an alternative to detention to vulnerable persons, despite having received a motion for detention.</p>
Less-invasive legal measures impacting on human rights	<p>Yes.</p> <p>It is at a court's discretion to decide whether, on a case-by-case basis, there is a ground for the provision of an alternative to detention, i.e. whether the measure of detention is proportionate in view of the objectives pursued and whether the alternative to detention, if provided, would pose a real risk to the attainment of those objectives.</p>	<p>Yes.</p> <p>It is at a court's discretion to decide whether, on a case-by-case basis, there is a ground for the provision of an alternative to detention, i.e. whether the measure of detention is proportionate in view of the objectives pursued and whether the alternative to detention, if provided, would pose a real risk to the attainment of those objectives.</p>
Other	<p>Yes.</p> <p>The key condition for the provision of an alternative to detention is laid down in Article 115(1) of the Law, i.e. a court may provide an alternative to detention in cases where the following conditions are met: 1) a foreigner's identity has been determined, 2) he represents no threat to national security and public policy, 3) he assists the court, the SBGS or the Migration Department in determining his legal status in the Republic of Lithuania, as well as taking into account other circumstances.</p> <p>According to the established case-law of the Supreme Administrative Court of Lithuania, the issue of provision or non-provision of an alternative to detention is at a court's discretion, although the establishment of the absence of one of the above-mentioned circumstances constitutes a sufficient ground for the court to refuse to provide the alternative to detention (see the ruling of the Supreme Administrative Court of Lithuania of 21 July 2008 in administrative case No N143-3565/2008, the ruling of 14 October 2010 in administrative case No N444-7196/2010).</p>	

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.

- Are vulnerability assessments conducted on a case-by-case basis, or is the assessment based on pre-defined categories/groups?
- Authorities / organisation conduct the assessment?
- Procedures followed.

International protection procedures

The Law provides that vulnerable persons and families with minor foreigners may be detained only in exceptional cases having regard to the best interests of the child and the vulnerable persons.

A foreigner may be detained by a written decision of an officer of a law enforcement institution for a period not exceeding 48 hours. Detention of the foreigner for a period exceeding 48 hours may be decided only by a court. When deciding on detention or provision of an alternative to detention, the court conducts assessment on a case-by-case basis and takes its decision having regard to the specific situation and all the relevant circumstances, including **vulnerability**.

Based on the case-law of the Supreme Administrative Court of Lithuania, children and other vulnerable persons in particular have the right to effective protection and the safeguarding of their interests must be given priority over other legal values (see, for example, the ruling of the Supreme Administrative Court of Lithuania of 12 July 2018 in administrative case No A-4853-442/2018).

The trend of giving priority to the interests of vulnerable persons is observed also in other administrative cases concerning foreigners' detention. For example, in its decision of 4 October 2018 in administrative case No A-5350-662/2018, the Supreme Administrative Court of Lithuania emphasised that assessing the circumstances of the specific situation and taking into account the fact that the person has been included in the list of vulnerable persons, although the foreigner's conduct could be regarded as misuse of the asylum procedure, there exists a ground for provision to the foreigner of an alternative to detention.

In administrative case No A-5072-520/2018, the Supreme Administrative Court of Lithuania, having established that the applicants and 4 minor children (asylum applicants) had been included in the list of vulnerable persons, there were no doubts concerning their identity and other circumstances, stated that the imposition of alternatives to detention did not meet the needs of this vulnerable family and its minor children, therefore the sanctions against the family of the applicants could be completely lifted.

In administrative case No A-1798-624/2015, the Supreme Administrative Court of Lithuania stated that although the asylum applicant, while grossly ignoring explicit prohibitions, attempted to leave the Republic of Lithuania without being in possession of a valid travel document, and this could be a ground for detention, such a measure may be imposed upon a person who must take care of minor children residing together with him only in exceptional cases, for example, when he represents a threat to national security. The court provided to the asylum applicant the alternative to detention of accommodation at the Foreigners' Registration Centre without restricting his freedom of movement.

Return procedures

(see information above)

Q11. Which legal remedies are available to the third-country national against a decision to opt for detention/instead of an alternative to detention?

International protection procedures

According to Article 116(3) of the Law, a court's decision to detain a foreigner or to provide to him an alternative to detention must be announced without delay in a language that the foreigner understands, indicating reasons for his detention or for providing to him the alternative to detention. The court's decision to detain the foreigner or to provide to him an alternative to detention becomes effective from the moment of its announcement.

A foreigner has the right to appeal to the Supreme Administrative Court of Lithuania against a decision of a district court to detain him or to extend the detention period or to impose an alternative to detention within 14 days. The appeal may be filed through the State Border Guard Service, which forwards the foreigner's appeal to the Supreme Administrative Court of Lithuania.

During the court hearing of a motion to detain a foreigner or to provide to him an alternative to detention, he is entitled to state-guaranteed legal aid. The foreigner's presence at the court hearing is mandatory.

A detained asylum applicant is informed without delay in writing in a language that he understands about the grounds for his detention, the procedure for appealing against the decision to detain and the possibility of receiving free legal aid.

Return procedures

According to Article 116(3) of the Law, a court's decision to detain a foreigner or to provide to him an alternative to detention must be announced without delay in a language that the foreigner understands, indicating reasons for his detention or for providing to him the alternative to detention. The court's decision to detain the foreigner or to provide to him an alternative to detention becomes effective from the moment of its announcement.

A foreigner has the right to appeal to the Supreme Administrative Court of Lithuania against a decision of a district court to detain him or to extend the detention period or to impose an alternative to detention within 14 days. The appeal may be filed through the State Border Guard Service, which forwards the foreigner's appeal to the Supreme Administrative Court of Lithuania.

During the court hearing of a motion to detain a foreigner or to provide to him an alternative to detention, he is entitled to state-guaranteed legal aid. The foreigner's presence at the court hearing is mandatory.

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 court hearing of a motion to detain a foreigner or to provide to him an alternative to detention, he is entitled to state-guaranteed legal aid. The foreigner's presence at the court hearing is mandatory.

A detained asylum applicant is informed without delay in writing in a language that he understands about the grounds for his detention, the procedure for appealing against the decision to detain and the possibility of receiving free legal aid.

Return procedures

During the court hearing of a motion to detain a foreigner or to provide to him an alternative to detention, he is entitled to state-guaranteed legal aid. The foreigner's presence at the court hearing is mandatory.

4.

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

Ensuring compliance with migration 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.

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.

	# people in international protection procedures (including Dublin)	# of applicants who absconded
Detention	Not available	Not available
Alternative to detention 1	Not available	Not available
Alternative to detention 2	Not available	Not available
Alternative to detention 3	Not available	Not available
Alternative to detention 4	Not available	Not available

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.)?

There are no statistics or studies available on this issue, however, it is important to mention that asylum applicants to whom the alternative to detention of accommodation at the State Border Guard Service without restricting their freedom of movement has been provided are informed that a violation of the procedure for temporary absence from the Foreigners' Registration Centre would constitute a ground for referring to a court for detention of an asylum applicant, considering it as the risk of absconding and thus restricting the freedom of movement of such foreigners and prohibiting their temporary absence from the Foreigners' Registration Centre. Such conditions encourage foreigners to comply with the rules of the Foreigners' Registration Centre.

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.

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.

	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	Not available	Not available
Alternative to detention 1	Not available	Not available
Alternative to detention 2	Not available	Not available
Alternative to detention 3	Not available	Not available
Alternative to detention 4	Not available	Not available

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.)?

Not available.

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.

	# of irregular migrants in return procedures (including pre-removal)	# who absconded before removal is implemented
Detention	Not available	Not available
Alternative to detention 1	Not available	Not available
Alternative to detention 2	Not available	Not available
Alternative to detention 3	Not available	Not available
Alternative to detention 4	Not available	Not available

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.)?

Not available.

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

1. the proportion of voluntary returns and
2. the success rate in the number of departures among persons that were placed in detention and in alternatives to detention

If possible, distinguish between the different types of alternatives to detention that are available.

Average length of procedures to issue a return decision, and number of voluntary return among third country nationals placed in detention or alternatives. Reference years: 2017, 2018, 2019.

	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	Not available	Not available	Not available	Not available

Alternative to detention 1	Not available	Not available	Not available	Not available
Alternative to detention 2	Not available	Not available	Not available	Not available
Alternative to detention 3	Not available	Not available	Not available	Not available
Alternative to detention 4	Not available	Not available	Not available	Not available

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.)?

Not available.

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?

International protection procedures

No such studies have been conducted, however, it is important to mention that asylum applicants to whom the alternative to detention of accommodation in the State Border Guard Service without restricting their freedom of movement has been provided are informed that a violation of the procedure for temporary absence from the Foreigners' Registration Centre would constitute a ground for referring to a court for detention of an asylum applicant, considering it as the risk of absconding and restricting the freedom of movement of such foreigners and prohibiting their temporary absence from the Foreigners' Registration Centre. Such conditions encourage foreigners to comply with the rules of the Foreigners' Registration Centre.

Return procedures

Not applicable.

Q18. Is there any evidence, or empirical observation on whether detention or alternatives to detention have a greater impact on migration procedures, depending on certain characteristics of migrants and specifically country of origin, nationality, family situation, gender, age.

International protection procedure

Nothing to report.

Return procedure

Compared to other EU countries, Lithuania has a rather high rate of enforcement of return decisions and expulsion decisions. Given that the number of issued expulsion decisions per year is not large (on average approximately 100 per year according to data from the last 3 years) and in the presence of grounds for detention, foreigners are most often detained pending removal, thus significantly reducing the risk of absconding. In this case, the rate of enforcement of expulsion decisions is around 90 %, while non-enforced decisions are mostly related to appeals before a court.

Upholding fundamental rights

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

Safeguards	Detention	Alternatives to detention	Comparison between safeguards provided in detention and in the alternatives to detention
Is access to legal aid ensured? If so, how?	<p>Yes.</p> <p>Persons accommodated at the Foreigners' Registration Centre have access to state-guaranteed legal aid in accordance with the procedure specified by the Minister of the Interior and are entitled to hire a lawyer at their own expense. Detained asylum applicants have access to free legal aid throughout the detention procedure or when appealing against detention and are entitled to apply to the United Nations High Commissioner for Refugees and to other organisations providing specialised legal aid.</p> <p>In 2020, the State Border Guard Service and the Lithuanian Red Cross Society signed an agreement allowing to provide legal aid to asylum applicants detained or accommodated at the Foreigners' Registration Centre.</p>	<p>Yes.</p> <p>The same provisions apply as to detention.</p>	<p>In the case of both detention and alternatives to detention, the same provisions apply.</p>
Is the right to be heard ensured during detention/alternatives to detention? If so, how?	<p>Yes.</p> <p>Article 116(1) of the Law stipulates that the foreigner's presence at a court hearing concerning the issue of his detention or provision of an alternative to detention is mandatory.</p> <p>Article 117 of the Law provides that the foreigner has the right to appeal to the Supreme Administrative Court of Lithuania against a decision of a district court to detain him or to extend the detention period or to impose an alternative to detention within 14 days from the service of the decision. The appeal may be filed through the State Border Guard Service, which forwards the foreigner's appeal to the Supreme Administrative Court of Lithuania.</p> <p>In the event of disappearance of the grounds for the foreigner's detention, the foreigner has the right, and the institution which initiated the foreigner's detention must refer without delay to a district court with a request to review the decision to detain the foreigner.</p> <p>In the event of disappearance of the grounds for detention of an asylum applicant, the institution which initiated the asylum applicant's detention must refer without delay to a district court with a request to review the decision to detain the asylum applicant.</p>	<p>Yes.</p> <p>The same provisions apply as those to detention.</p>	<p>In the case of both detention and alternatives to detention, the same provisions apply.</p>

	<p>If a foreigner who has been detained lodges an application for asylum, the State Border Guard Service must refer without delay to a district court with a request to review the decision to detain the asylum applicant.</p> <p>The Supreme Administrative Court of Lithuania has also stated that a court cannot hear a case in the absence of any of the parties to the proceedings, unless the person has been duly informed about the venue and time of the hearing, because in such a case the right to be heard, the principles of equality of the parties and rivalry would be violated.</p>		
Is the right to health (e.g. access to facilities, monitoring of health and wellbeing of the person) ensured? If so, how?	<p>Yes.</p> <p>Qualified medical aid and psychological assistance are provided to foreigners detained and asylum applicants accommodated at the Foreigners' Registration Centre. Primary outpatient care is provided at a family physician's office. If necessary, the family physician refers to a specialist physician to whom a foreigner is escorted by a nurse of the Foreigners' Registration Centre.</p>	<p>Yes, but depends on an alternative to detention.</p> <p>If the foreigner is provided the alternative to detention of accommodation at the Centre without restricting his freedom of movement or accommodation at the Centre with the right of movement only within the territory belonging to the accommodation facility, the foreigner has access to the same services as in the case of detention.</p> <p>If another alternative to detention⁷ is provided to the foreigner, he has access to free medical aid only in case of emergency medical care (when there exists a direct threat to the patient's life). For other medical services, the person should pay at his own expense.</p>	<p>Accessibility of medical services directly depends on whether the person is accommodated at the Foreigners' Registration Centre or resides in another place.</p> <p>The person who is accommodated at the Foreigners' Registration Centre (applicable in the case of both detention and provision of an alternative to detention) may receive more free medical services than the person who has been provided an alternative to detention and who resides on his own.</p>
Please add any additional safeguard			

⁷ 1) the foreigner must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service;

2) the foreigner must, at the fixed time and by means of electronic communications, inform about his whereabouts the Migration Department or the State Border Guard Service;

3) entrusting the guardianship of the foreigner to a citizen of the Republic of Lithuania or a foreigner lawfully residing in the Republic of Lithuania, provided that this person undertakes to take care of and support him.

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?

No.

Key findings: Not applicable.

Reference: Not applicable.

Additional information:

No targeted studies have been conducted, however, the Seimas Ombudsmen's Office of the Republic of Lithuania organises visits to foreigners' detention facilities and subsequently provides recommendations on how the current situation could be improved.

In 2019, the main shortcomings identified at the Foreigners' Registration Centre were as follows⁸:

- Part of the premises was not suitable for disabled persons;
- The offered alternative menu was not suitable for Muslim foreigners;
- High-quality and timely access to healthcare was not ensured;
- The vulnerability of asylum applicants was assessed in an inefficient and ineffective manner.

In the 2018 report, a recommendation was made to improve the conditions in temporary detention facilities at border inspection points and at border guard stations.

One of the issues mentioned in the 2017 report was organisation of the services of translators, as the Foreigners' Registration Centre did not provide the services of a qualified translator, so that the foreigners entering unlawfully or illegally staying in the Republic of Lithuania and speaking only their mother tongue other than a language most commonly used in the European Union and Lithuania (English, French, German or Russian) could properly communicate.⁹

It is important to note that all shortcomings have been eliminated and the recommendations have been implemented.

Q21. Please provide any statistics available in your country on the number of complaints regarding violations of human rights and the number of court cases regarding fundamental rights violations in detention as opposed to alternatives to detention.

International protection procedures & Return procedures

According to Article 12 of the Law of the Republic of Lithuania on the Seimas Ombudsmen, the Seimas Ombudsmen investigate complainants' complaints regarding abuse of office by and bureaucracy of officials or other violations of human rights and freedoms in the area of public administration. The Seimas Ombudsmen do not investigate complaints arising from labour legal relations, nor do they check the validity or legality of court decisions, judgments and rulings.

⁸ https://www.lrski.lt/wp-content/uploads/2020/11/Ataskaita-2019-LT_03_10_compressed.pdf

⁹ https://www.lrski.lt/wp-content/uploads/2020/11/Seimo-kontrolieriai-ataskaita-2017_galutine_compressed.pdf

Detailed statistics on complaints submitted by detained foreigners regarding violations of human rights are not collected and published. During the period from 2010 to the first half of 2017, 4 complaints were received and investigated regarding excessive use of force at the Foreigners' Registration Centre, however, in all cases the facts presented in the complaints proved to be unfounded.¹⁰

Detained foreigners usually refer to a court in order to appeal against a decision of a court of lower instance regarding detention, setting of a detention period or non-provision of an alternative to detention.

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?

Not applicable.

Q23. Have any evaluations or studies in your (Member) State considered cost-effectiveness of using detention and alternatives to detention as part of the return procedures?

Not applicable.

¹⁰ https://www.urm.lt/uploads/default/documents/Lietuvos_IV_prane%C5%A1imas_ICCPR_galutinis.pdf

5.

Conclusions

1. In the Republic of Lithuania, detention-related principles, procedures and provisions have remained almost unchanged since 2015. Detention of a person in Lithuania is permitted only when it is necessary and unavoidable and strictly in compliance with the requirements of the Law. A decision to detain a foreigner for a period exceeding 48 hours may be taken only by a court. The court conducts assessment on a case-by-case basis and takes its decision having regard to the specific situation and all the relevant circumstances.
2. A court decides, on a case-by-case basis, whether the measure of detention is proportionate in view of the objectives pursued by it and whether an alternative to detention would pose a real risk to the attainment of those objectives. According to the case-law, if at least one of the conditions necessary for the provision of an alternative to detention is not met, this may constitute a sufficient ground for the court to refuse the provision of the alternative to detention.
3. Since 2015, several provisions on alternatives to detention have changed:

- When the first alternative to detention is provided, foreigners must, regularly at the fixed time, report to the Migration Department or the State Border Guard Service (prior to the amendment of the provision – to a local police agency).
- During the period of provision of the second alternative to detention, foreigners must, by means of electronic communications, inform about their whereabouts the Migration Department or the State Border Guard Service (prior to the amendment of the provision – a local police agency).
- The requirement that a person who undertakes to take care of and support a foreigner for whom an alternative to detention is being considered must have family ties with the foreigner has been waived.

According to the case-law, the main challenges faced when providing these three alternatives to detention are no stable address, limited financial resources and no community support.

- As of 1 March 2021, a new alternative to detention, namely, accommodation of the foreigner at the State Border Guard Service with the right of movement only within the territory belonging to the accommodation facility, was introduced. This alternative, together with another alternative to detention (accommodation of the foreigner at the State Border Guard Service without restricting his freedom of movement), may be provided only to asylum applicants and foreigners in respect of whose applications for asylum a final decision has been issued and who are to be returned to a foreign state.
4. Asylum applicants who have been provided, as an alternative to detention, with accommodation at the State Border Guard Service without restricting their freedom of movement are informed that a violation of the procedure for temporary absence from the accommodation facility would constitute a ground for referring to a court for detention of an asylum applicant. The aim is to encourage foreigners to comply with the established rules of the Foreigners' Registration Centre and to reduce the risk of absconding.

5. Vulnerable persons and families with minor foreigners may be detained only in exceptional cases. This is also reflected in the case-law – it is a common practice that the Supreme Administrative Court of Lithuania, having regard to the best interests of vulnerable persons, provides an alternative to detention, although it has received a motion for detention. There has also been a change in the regulation of the provision of alternatives to detention to unaccompanied minors, as the unaccompanied minors are not detained but are appointed a representative and are accommodated at a social institution, namely, the Refugee Reception Centre.
6. In the case of both detention and provision of alternatives to detention, the persons who are accommodated at the Foreigners' Registration Centre have access to state-guaranteed legal aid and may receive more free medical services than a person to whom an alternative to detention has been provided and who resides on his own.
7. In order to safeguard the rights of detained foreigners, the Seimas Ombudsmen's Office organises visits to foreigners' detention facilities and subsequently submits reports on identified shortcomings and recommendations on how the current situation could be improved. Institutions take the recommendations into account and implement them to the extent possible.

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

	2014	2015	2016	2017	2018	2019	Source / further information
Statistics on number of third-country nationals in detention per category							
Total number of third-country nationals in detention	353	232	183	152	110	54	Data of the Migration Year-book
Number of applicants for international protection in ordinary procedures in detention (including Dublin)							
Number of persons detained to prevent illegal entry at borders							
Number of person detained during return procedures (including pre-removal)							
Number of vulnerable persons part of the aforementioned categories of third-country nationals							
Vulnerable persons specified - minors							
Vulnerable persons specified – unaccompanied minors							
Number of other third-country nationals placed in immigration detention							
Statistics on number of third-country nationals provided alternatives to detention							
Total number of third-country nationals in alternatives to detention:	25	33	42	276	89	249	Data of the Migration Year-book
Alternatives 1, 2, 3:	24	16	14	94	94	94	
Alternative 4: Accommodation of the foreigner at the State Border Guard Service without restricting his freedom of movement;	1	17	28	182	40	191	
Alternative 5: No data available yet as it came into force as of 1 March 2021.							

Number of applicants for international protection in ordinary procedures in Alternatives to detention (including Dublin)										
Number of persons given alternatives to detention to prevent illegal entry at borders										
Number of person in alternatives to detention during return procedures (including pre-removal)										
Number of vulnerable persons part of the aforementioned categories of third-country nationals										
Vulnerable persons specified - minors										
Vulnerable persons specified – unaccompanied minors										

Table 2: Average length of time in detention

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	74,7	53,9	68,8	55,7	48,3	55,8	
Average length of time in detention of applicants for international protection in ordinary procedures	98,4	90,8	104,6	106,5	76,2	93,6	
Average length of time in detention of persons detained to prevent illegal entry							
Average length of time in detention of persons during return procedures	91,2	75,5	111,3	87,3	88,8	133,5	
Average length of time in detention of vulnerable persons part of the aforementioned categories of third-country nationals							

EMN is a Network composed of migration experts which aims to collect, analyse and provide up-to-date, objective, reliable and comparable information on migration and asylum. By the decree of the Government of Republic of Lithuania International Organization for Migration Vilnius Office acts as the national coordinator for the EMN activities in Lithuania.

The EMN National Contact Point (NCP) in Lithuania is composed of representatives from the Ministry of the Interior, the Migration Department, the State border guard service as well as the International Organization for Migration (IOM) Vilnius office which acts the national coordinator for the EMN activities in Lithuania. EMN NCP in Lithuania also collaborates with other entities from governmental as well as non-governmental institutions working in the area of migration.
