



# **THE USE OF DETENTION AND ALTERNATIVES TO DETENTION IN THE CONTEXT OF IMMIGRATION POLICIES**

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**EMN FOCUSED STUDY 2014****The use of detention and alternatives to detention in the context of immigration policies**Summary

The aim of this study is to present the use of third-country nationals detention and alternatives to the detention in the context of the Hungarian immigration policies.

The study provides information about the relevant legislation, the detention centres and asylum detention centres of Hungary, the legal grounds of detention, detention of vulnerable groups, the prolongation of the detention, the time of detention and the conclusions on them, doing this through the examination of relevant legislation, actual statistical data and studies.

The detention of third-country nationals, has a high prevalence in the case of Hungary, according to the statistics the flow of asylum seekers of 2013 continues in 2014 (in 2013 the total number of the applicants was 18,900 persons, in January 2014 the applicant number was 1328<sup>1</sup>).

Under such conditions the provision of adequate reception conditions at the detention centres and asylum detention centres face challenges.

An essential aim of the study is to identify best practices that could give good examples to other Member States of the European Union. The study identifies the challenges and problems of detention as well.

Hungary established a dedicated detention regime for asylum seekers that is separate from alien policing detention regime.

The most important provisions of detentions in the alien policing procedure provided by the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (hereinafter: Third Country National Act) and the Government Decree No 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals and Decree 27/2007 (V. 31.) of the Minister of Justice and Law Enforcement on the Rules of Executing Detention Ordered in Immigration Proceedings.

The most important provisions of asylum detention provided by Act LXXX of 2007 on Asylum (hereinafter: Asylum Act) and Government Decree No 301/2007. (XI.9.) on the implementation of the Act LXXX of 2007 on Asylum (Government Decree) and Decree 29/2013 (VI. 28) of the Minister of Interior on the Rules of Implementing Asylum Detention and Asylum Bail. The above mentioned acts and decrees are in full compliance with EU regulations.

The first manuscript was finalised on the 4<sup>th</sup> April 2014, thus it responds to the questions of the European Migration Network on the basis of legislations in force at this time, our professional knowledge and experiences, as well as our relevant researches.

1. Executive Summary (Synthesis Report)

<sup>1</sup> According to the statistics of Office of Immigration and Nationality. Available:

[http://www.bmbah.hu/jomla/index.php?option=com\\_k2&view=item&layout=item&id=492&Itemid=1259&lang=en](http://www.bmbah.hu/jomla/index.php?option=com_k2&view=item&layout=item&id=492&Itemid=1259&lang=en) (Accessed 03 April 2014)

*The Use of Detention and Alternatives to Detention in the Context of Immigration Policies***The categories of third-country nationals that can be detained:**

**Alien policing detention and Detention prior to expulsion:** Third-country nationals with a return or removal order (due to illegal entry or stay, failed asylum seekers).

Third-country nationals who are criminals awaiting removal following the completion of their sentence.

**Asylum detention:** some asylum seekers by virtue of relevant legislation.

**The types of third-country nationals detention:**

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

The Third Country National Act establishes two different types of detention measures: alien policing detention and detention prior to expulsion (third-country nationals apprehended by the Office of Immigration and Nationality (hereinafter: OIN) Regional Directorate of Alien Policing Department or by the Police):

The Asylum Act establishes the asylum detention (third-country nationals apprehended by the Office of Immigration and Nationality Regional Directorate of Refugee Department.)

**Legal grounds for detention:**

**Alien policing detention:** In order to secure the expulsion, the alien policing authority may order the alien policing detention of the third country national concerned 1. when a foreigner is hiding from the authorities or is obstructing the enforcement of the deportation or transfer in some other way;

2. when he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion (risk of absconding);

3. when a person has seriously or repeatedly violated the code of conduct of the place of compulsory confinement; 4. when a person failed to report as ordered, by means of which to forestall conclusion of the pending immigration procedure; 5. when a person is released from imprisonment to which he was sentenced for committing a deliberate crime<sup>2</sup>.

The substance and legitimate aim of the alien policing detention is to ensure the implementation of the expulsion order.

**Detention prior to expulsion:** The immigration authority may order the detention of the third-country national prior to expulsion in order to secure the conclusion of the immigration proceedings pending, if 1. his/her identity or the legal grounds of his/her residence is not conclusively established, or 2. if the return of the third-country national under the bilateral readmission agreement to another Member State of the European Union is pending<sup>3</sup>. **Asylum**

**detention:** People seeking international protection can be detained for the following reasons: 1. in order to establish a person's identity or nationality; 2. if the person absconds or hinders the processing of the asylum procedure; 3. in order to obtain the information necessary for the processing of the asylum claim; 4. to protect national security, public safety, or public order; 5. if the asylum application has been submitted at the airport; or 6. if the applicant repeatedly has failed fulfil his obligation to attend procedural acts and thus hinders the processing of the Dublin Procedure<sup>4</sup>.

**The right of appeal against detention:****Alien policing detention and detention prior to expulsion:**

<sup>2</sup> Section 54(1) of Third Country Nationals Act

<sup>3</sup> Section 55(1) of Third Country Nationals Act

<sup>4</sup> Section 31/A of the Asylum Act

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According to the Third Country Nationals Act, there is no legal remedy against the detention order made by the immigration authority<sup>5</sup>.

However, there is a way that the detainee presents his arguments about legality of his/her detention before the court: In any case concerning the extension of detention beyond the seventy-two-hour time limit by the court, and in proceedings relating to complaints<sup>6</sup> and further extension of detention the detainee shall be granted a personal hearing upon request<sup>7</sup>. If the detainee manages to submit his request for hearing at the time when the court is adjudicating on prolongation of the detention order, requested by the OIN, the court has to hold a hearing and hear the detainee's arguments.

**Asylum detention:**

According to the Asylum Act<sup>8</sup>, there is no legal remedy against the detention order or the use of a measure securing availability.

There are two ways the detainee may present his arguments about legality of his detention before the court: „a personal hearing shall be held in the following cases:

1. when the detention period is extended by the court in excess of seventy-two hours for the first time; and
2. in the procedure related to an objection or the further extension of the detention, if the person concerned has requested a personal hearing<sup>9</sup>.

**The length of detention:**

**Alien policing detention:** People can be held in custody for an initial period of 72 hours. Within 24 hours of arrest, the immigration authority must file a request to the local court for extension of detention beyond this initial period. The court may extend detention for consecutive 60-day periods, but for no longer than six months in total (in the case of a family with minors, detention shall last no longer than thirty days).

Detention ordered under immigration laws shall be terminated 1. when the conditions for carrying out the expulsion or transfer are secured; 2. when it becomes evident that the expulsion or transfer cannot be executed; 3. the third-country national gets under asylum detention 4; based on the claim for international protection, the third-country national entitled to stay in Hungary 5. after six months from the date when ordered, or in certain cases twelve months.

Once this six-month period ends, the court may extend aliens policing detention for an additional six months under two circumstances 1. if the execution of the expulsion order lasts longer than six months because of failure by the third-country national affected to cooperate with the competent authority, or 2. if there are delays in obtaining the documents required for deportation attributable to the authorities of the third-country national's country of origin, or another state liable for readmission under readmission agreement or which is otherwise liable to accept him/her<sup>10</sup>.

**Detention prior to expulsion:**

Detention under immigration laws may be ordered for a maximum duration of seventy-two hours, and it may be extended by the court of jurisdiction by reference to the place of detention until the third-country nationals deportation or transfer, or a maximum of thirty days at a time<sup>11</sup>.

**Asylum detention:**

Asylum detention shall last no longer than six months or, in the case of a family with minors, thirty days. Detention shall be terminated with no delay if 1. a period of six months – or in the case of a family with minors, thirty days – have elapsed since detention was ordered; 2. the reason for the detention order no longer exists; 3. it has been established that the detainee is an unaccompanied minor seeking recognition; 4. the detained person seeking

<sup>5</sup> Section 57 (2) of Third Country Nationals Act

<sup>6</sup> Section 59 (5) of Third Country Nationals Act

<sup>7</sup> Section 59 (5) of Third Country Nationals Act

<sup>8</sup> Section 31/C (2) of the Asylum Act

<sup>9</sup> Section 31/D(5) of the Asylum Act

<sup>10</sup> Section 54(5)(6) of Third Country Nationals Act

<sup>11</sup> Section 55(3) of Third Country Nationals Act

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recognition requires extended hospitalization for health reasons; 5. the conditions of implementing transfer or return under the Dublin procedure exist; 6. it becomes obvious that the Dublin transfer cannot be carried out<sup>12</sup>.

**Detention concerns families with minor children:**

Both the Third Country Nationals Act and the Asylum Act provide that families with children can be detained for a maximum of 30 days<sup>13</sup>.

**Legal grounds for the alternatives to the detention:****Alien policing detention:**

There are three alternatives to detention: 1. Seizure of money for travel document and ticket. In order to secure the costs of departure, the competent authority may seize the travel ticket if the third-country national in question has one, or - if sufficient financial means cannot be ensured otherwise - may confiscate his money in the amount as is required to purchase the ticket and to obtain a travel document<sup>14</sup>.

In order to secure the enforcement of an expulsion measure the immigration authority shall be authorized to confiscate the travel document of the third-country national affected<sup>15</sup>.

2. Compulsory place of residence: The immigration authority shall have powers to order the confinement of a third-country national in a designated place, if the third-country national in question 1. cannot be returned or expelled due to commitments of Hungary conferred upon it in international treaties and conventions 2. is a minor who should be placed under detention; 3. should be placed under detention, in consequence of which his/her minor child residing in the territory of Hungary would be left unattended if he/she was to be detained; 4. is released from detention, however, there are still grounds for his/her detention; 5. has a residence permit granted on humanitarian grounds; 6. has been expelled, and is lacking adequate financial resources to support himself and/or does not have adequate dwelling. 7. should be placed under detention under immigration, and detention would result in a disproportionate punishment taking into account the state of health and age of the third-country national concerned<sup>16</sup>.

3. Obligation to appear at specific intervals before the authority<sup>17</sup>.

Before ordering the detention, the immigration authority shall consider whether the execution of the deportation can be ensured with the application of the above mentioned alternatives<sup>18</sup>.

**Asylum detention:**

There are three alternatives to detention, measures securing availability:

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

2. Designated place of residence: private accommodation, reception centre, community shelter or the area of a designated county<sup>19</sup>.

3. Asylum bail: The refugee authority shall ex officio examine whether conditions of asylum bail prevail. If the availability of the person requesting recognition may be secured through asylum bail, the refugee authority shall make a decision on this.

Following the deposit of asylum bail, the asylum authority shall designate a place of residence for the person seeking recognition, and shall inform him/her about his/her obligations relevant to availability, the non-compliance of which obligation shall result in the person seeking recognition losing the right to claim back the deposited asylum bail<sup>20</sup>.

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

Section 2: Categories of third-country nationals that can be detained, national provisions and grounds for detention (Maximum 3 pages)

<sup>12</sup> Section 31/A(7); (8) of the Asylum Act

<sup>13</sup> Section 56 (3) of Third Country Nationals Act and Section 31/A (7) of the Asylum Act

<sup>14</sup> Section 50 (2) of Third Country Nationals Act

<sup>15</sup> Section 48. (2) of Third Country Nationals Act

<sup>16</sup> Section 62 (1) Third Country National Act

<sup>17</sup> Section 62 (2) c) of Third Country Nationals Act

<sup>18</sup> Section 54 (2) of Third Country Nationals Act

<sup>19</sup> Section 2 la-lc) of the Asylum Act

<sup>20</sup> Sections 31/H 1); 3) and 2 lc) of the Asylum Act

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Q1. Please complete the table below with regard to the categories of third-country nationals that can be detained in your Member State. Children and other vulnerable groups are not included in this table as they are a cross-cutting category; instead, they are dealt with in a separate question (Q2) after the table.

Categories of third-country nationals	Can third-country nationals under this category be detained? (Yes/No)	If yes, is the possibility to detain laid down in legislation? (Yes/No)	If the possibility to detain third-country nationals exists in your (Member) State but is not laid out in national legislation, please explain whether it is outlined in 'soft law' or policy guidelines	Please list the <u>grounds</u> for detention for each category of migrant that can be detained in your (Member) State.  Is there an <u>exhaustive list</u> of grounds outlined in your national framework?
<b>Applicants for international protection in ordinary procedures</b>	<u>Yes</u>	<u>Yes</u>		The grounds for detention: 1. in order to establish a person's identity or nationality; 2. if the person absconds or hinders the processing of the asylum procedure; 3. in order to obtain the information necessary for the processing of the asylum claim; 4. to protect national security, public safety, or public order; 5. if the asylum application has been submitted at the airport; or 6. if the applicant repeatedly has failed to fulfil his obligation to attend procedural acts and thus hinders the processing of the Dublin Procedure <sup>21</sup> .  Yes, there is an exhaustive list of grounds for detention.
<b>Applicants for international protection in fast-track (accelerated) procedures</b>	<u>Yes</u>	<u>Yes</u>		The ground for detention: if the asylum application has been submitted at the airport.  Yes, there is an exhaustive list of grounds for detention.

<sup>21</sup> Section 31/A of the Asylum Act

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<b>Applicants for international protection subject to Dublin procedures</b>	<u>Yes</u>	<u>Yes</u>		<p>The grounds for detention: 1. in order to establish a person's identity or nationality; 2. if the person absconds or hinders the processing of the asylum procedure; 3. in order to obtain the information necessary for the processing of the asylum claim; 4. to protect national security, public safety, or public order; 5. if the asylum application has been submitted at the airport; or 6. if the applicant repeatedly has failed to fulfil his obligation to attend procedural acts and thus hinders the processing of the Dublin Procedure<sup>22</sup>.</p> <p>Yes, there is an exhaustive list of grounds for detention.</p>
<b>Rejected applicants for international protection</b>	<u>Yes</u>	<u>Yes</u>		<p>The grounds for detention: 1. when a foreigner is hiding from the authorities or is obstructing the enforcement of the deportation or transfer in some other way; 2. he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion (risk of absconding); 3. when a person has seriously or repeatedly violated the code of conduct of the place of compulsory confinement; 4. when a person failed to report as ordered, by means of which to forestall conclusion of the pending immigration procedure; 5. when a person is released from imprisonment to which he was sentenced for committing a deliberate crime<sup>23</sup>.</p> <p>Yes, there is an exhaustive list of grounds for detention.</p>
<b>Rejected family reunification applicants</b>	<u>Yes</u>	<u>Yes</u>		<p>The grounds for detention: 1. when a foreigner is hiding from the authorities or is obstructing the enforcement of the deportation or transfer in some other way; 2. he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion (risk of absconding); 3. when a person has seriously or repeatedly violated the code of conduct of the place of compulsory confinement; 4. when a person failed to report as ordered, by means of which to forestall conclusion of the pending immigration</p>

<sup>22</sup> Section 31/A of the Asylum Act

<sup>23</sup> Section 54(1) of Third Country Nationals Act



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				<p>procedure; 5. when a person is released from imprisonment to which he was sentenced for committing a deliberate crime<sup>24</sup>.</p> <p>Yes, there is an exhaustive list of grounds for detention.</p>
<p><b>Other rejected applicants for residence permits on basis other than family reunification (Please provide details)</b></p> <p><b>Other rejected applicants for residence permits: applicants for residence permit on basis of work or study</b></p>	<u>Yes</u>	<u>Yes</u>		<p>The grounds for detention: 1. when a foreigner is hiding from the authorities or is obstructing the enforcement of the deportation or transfer in some other way; 2. he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion (risk of absconding); 3. when a person has seriously or repeatedly violated the code of conduct of the place of compulsory confinement; 4. when a person failed to report as ordered, by means of which to forestall conclusion of the pending immigration procedure; 5. when a person is released from imprisonment to which he was sentenced for committing a deliberate crime<sup>25</sup>.</p> <p>Yes, there is an exhaustive list of grounds for detention.</p>
<p><b>Persons detained at the border to prevent illegal entry (e.g. airport transit zone)</b></p>	<u>Yes</u>	<u>Yes</u>		<p>The ground for detention: if the asylum application has been submitted at the airport<sup>26</sup></p> <p>Yes, there is an exhaustive list of grounds for detention.</p>
<p><b>Persons found to be illegally present on the territory of the (Member) State who have not applied for international protection and are not (yet) subject to a return decision</b></p>	<u>No</u>	<u>No</u>	<p>The return decision must come first, because the detention is ordered to secure the forced return of the person</p>	<p>No, there is not an exhaustive list of grounds for detention.</p>

<sup>24</sup> Section 54 (1) of Third Country Nationals Act

<sup>25</sup> Section 54 (1) of Third Country Nationals Act

<sup>26</sup> Section 31 of the Asylum Act

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			concerned	
<b>Persons who have been issued a return decision</b>	<u>Yes</u>	<u>Yes</u>		<p>The grounds for detention: 1. when a foreigner is hiding from the authorities or is obstructing the enforcement of the deportation or transfer in some other way; 2. he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion (risk of absconding); 3. when a person has seriously or repeatedly violated the code of conduct of the place of compulsory confinement; 4. when a person failed to report as ordered, by means of which to forestall conclusion of the pending immigration procedure; 5. when a person is released from imprisonment to which he was sentenced for committing a deliberate crime<sup>27</sup>.</p> <p>Yes, there is an exhaustive list of grounds for detention.</p>
<b>Other categories of third-country nationals (Please specify the categories in your answer)</b>	<u>Yes</u>	<u>Yes</u>	<p>Revocation of Recognition as Refugee or Beneficiary of Subsidiary Protection<sup>28</sup></p> <p>Other rejected applicants for residence permits: applicants for residence permit on basis of work or study</p>	<p>The grounds for detention: 1. when a foreigner is hiding from the authorities or is obstructing the enforcement of the deportation or transfer in some other way; 2. he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion (risk of absconding); 3. when a person has seriously or repeatedly violated the code of conduct of the place of compulsory confinement; 4. when a person failed to report as ordered, by means of which to forestall conclusion of the pending immigration procedure; 5. when a person is released from imprisonment to which he was sentenced for committing a deliberate crime<sup>29</sup>.</p> <p>Yes, there is an exhaustive list of grounds for detention.</p>

<sup>27</sup> Section 54 (1) of the Third Country Nationals Act

<sup>28</sup> Section 72/A § of the Asylum Act

<sup>29</sup> Section 54 (1) of the Third Country Nationals Act

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Q2. Is it possible, within the national legal framework of your (Member) State, to detain persons belonging to vulnerable groups, including minors, families with children, pregnant women or persons with special needs? Please indicate whether persons belonging to these vulnerable groups are exempt from detention, or whether they can be detained in certain circumstances. If yes, under which conditions can vulnerable persons be detained? NCPs are asked in particular to distinguish whether children can be detained who are (a) accompanied by parents and (b) unaccompanied.

Yes, it is possible. The accommodation of persons requiring special treatment shall be arranged in view of their specific needs – in particular their age and health condition (including their mental condition)<sup>30</sup>.

If the detainee requires special treatment due to torture, rape or other forms of violence in the country of origin or elsewhere, on the basis of the opinion of the doctor carrying out the admission examination, the detainee shall be provided with the specialist's assistance required for the treatment of the injuries caused by such forms of violence. If it is necessary with regard to the status of the detainee requiring special treatment, the detainee shall be isolated from the rest of the detainees<sup>31</sup>. In practice to detain persons belonging to vulnerable groups happens only in exceptional cases.

- a) The Asylum Act and the Third Country Nationals Act specify that the maximum time of detention in the case of family with minors is 30 days<sup>32</sup>. and
- b) Asylum detention may not be ordered in the case of an unaccompanied minor seeking recognition<sup>33</sup>.

Q3. Concerning persons, who cannot be removed and/or are granted tolerated stay, please provide information on any provisions in your (Member) State regulating the release from detention of this category of third-country nationals.<sup>34</sup>

The Regional aliens policing directorate of the OIN orders a compulsory place of residence for the third-country national<sup>35</sup> and can order an obligation for he/she to appear at specific intervals before the immigration authority<sup>36</sup>.

### Section 3: Assessment procedures and criteria for the placement of third-country nationals in detention

Q1. Please indicate whether an **individual assessment** procedure is used to determine the appropriateness of detention in the case of any of the categories of third-country nationals selected in Section 2 (Table Q1). **Yes.**

If yes, please list the categories of third-country nationals where individuals are subject to individual assessments.

If individual assessment procedures are not used, please indicate the mechanism used to determine the appropriateness of detention e.g. are all individuals within a particular category of third country national automatically placed in detention?

Detention (both alien policing detention and asylum detention) may only be ordered on the basis of individual deliberation, individual assessment procedure<sup>37</sup>.

Q2. Where individual assessment procedures are used, and specific criteria exist to help the competent authorities decide whether particular grounds for detention apply, please indicate the **legal basis** on which these individual assessment procedures are exercised (for example legislation, soft law/guidelines).

The legal basis on which the individual assessment procedures are exercised can be found in legislation. The most important provisions of alien policing detention provided by the Third-Country Nationals Act and the

<sup>30</sup> Section 31/F(2) of the Asylum Act

<sup>31</sup> Section (5) (6) Decree 27/2007 (V. 31.) of the Minister

<sup>32</sup> Section 56. (3) of Third Country Nationals Act and Section 31/A (7) of the The Asylum Act

<sup>33</sup> Section 56 (2) Third Country Nationals Act and Section 31/A (2) of the Asylum Act

<sup>34</sup> According to Article 15(4) of the Return Directive, in situations when it appears that a reasonable prospect of removal no longer exists for legal or other considerations detention ceases to be justified and the person concerned shall be released immediately.

<sup>35</sup> Section 62(1) Third Country National Act

<sup>36</sup> Section 62(2) c) of Third Country Nationals Act

<sup>37</sup> Section 54 (2) of Third Country Nationals Act and Section 31/A. (2) of the Asylum Act

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Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals and Decree 27/2007 (V. 31.) of the Minister of Justice and Law Enforcement on the Rules of Executing Detention Ordered in Immigration Proceedings.

The most important provisions of asylum detention provided by the Asylum Act and Government Decree 301/2007. (XI.9.) on the implementation of the Act LXXX of 2007 on Asylum (Government Decree) and Decree 29/2013 (VI. 28) of the Minister of Interior on the Rules of Implementing Asylum Detention and Asylum Bail.

*Q3. Where individual assessments are used, does the third-country national receive detailed information on the consequences of the interview before the individual assessment procedure? If yes, is there an emphasis on all possible options/outcomes of the assessment?*

The **alien policing authority** give oral information to the third-country national, and he/she can ask questions from the officer of the aliens police office. If the third-country national illiterate the reading of the information sheet by the translator also available.

The **Regional Directorate Refugee Department** of OIN aims to provide detailed information in their mother tongue for all third-country nationals before the asylum interviews. These information sheets give detailed information on the consequences of the interview. There is an emphasis on all possible options/outcomes of the assessment including the asylum detention. The asylum seeker gets oral information too and the asylum seeker or his/her legal representative may seek information from the officer of the refugee office. If the third-country national is illiterate the reading of the information sheet by the translator is also available.

*Q4. Where individual assessments are used, please indicate whether the procedure includes an assessment of the **vulnerability** of the individual in question. (Yes/No) If yes, please describe the vulnerability assessment procedure used.*

If the third-country national states that he/she is a minor: he/she has to prove it (for instance with birth certificate) or if the age is uncertain the immigration authority makes decide on the medical expert opinion.

Bad health condition, illness: based on medical documentation and the immigration authority can order a medical examination.

Pregnancy: based on medical documentation and medical examination, depending from the state of pregnancy the officer can notice it.

Unaccompanied minor: the minor states that he/she arrived without family.

*Q5. Please provide more detailed information on **the criteria /indicators** used to decide whether particular grounds for detention apply in individual cases. EMN NCPs are asked to answer this question by listing the criteria / indicators that are used to determine the circumstances in which the following grounds for detention, permitted in EU law, apply. However, if the grounds for detention are not applicable in your (Member) State, EMN NCPs may identify the criteria/indicators that are used to determine the circumstances in which other grounds for detention apply.*

a) **Ground 1: If there is a risk of absconding**

The risk of absconding may be measured in Hungary on the basis of a previous escape or attempt to escape from detention, a statement about the person's reluctance to return to their home country, non-compliance with an alternative to detention, for instance the compulsory place of residence, lack of a valid passport, lack of address or residence, previous declaration of false identify, previous violation of voluntary departure or entry ban. He/she does not have ties to Hungary for instance: family, property. His/her travel destination is not Hungary.

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- b) **Ground 2: If the third-country national avoids or hampers the preparation of a return or removal process**

If the third-country national avoids or hampers the preparation of a return or removal process may be measured in Hungary on the basis of that he or she do not cooperate with the immigration office (do not try to get travel documents, do not come for interviews to the immigration authorities, do not gives proper answers, use false personal data.

- c) **Ground 3: If required in order to protect national security or public order**

If required in order to protect National security when the third-country national says he/she belongs to a terroristic group.

If required in order to protect public order when the third country national committed a serious crime, he/she behaves aggressively, he/she is behaving with intention of causing a breach of the peace, stealing, when a person is released from imprisonment to which he was sentenced for committing a deliberate crime.

- d) **Ground 4: Please indicate any other ground(s) and the respective criteria/indicators considered in the assessment**

**Asylum detention :** in order to establish a person's identity or nationality; if the asylum application has been submitted at the airport.

**Detention prior to expulsion:** the return of the third-country national under the bilateral readmission agreement to another Member State of the European Union is pending.

Q6. Is the **possibility to provide alternatives to detention** systematically considered when assessing whether to place a person in detention in your (Member) State?

Yes, the alternatives to detention are systematically considered when assessing whether to place a person in detention. Before ordering detention the immigration authority shall consider whether the deportation or transfer can be secured in accordance with alternatives to detention<sup>38</sup>. Asylum detention may only be ordered on the basis of individual deliberation and only if its purpose cannot be achieved through measures securing availability<sup>39</sup>.

Q7. Please indicate which **national authorities** are responsible for (i) conducting individual assessment procedures (where these exist) and (ii) deciding on the placement of a third-country national in detention.

For (i) conducting the individual assessment procedures the responsible national authorities are the Regional Directorate Refugee and Alien Policing Departments of OIN. (ii) Deciding on the placement of a third-country national in detention can be decided by the Regional Directorate Refugee and Alien Policing Departments of OIN and by the Police (if the detention was ordered by the Police).

Q8. Please indicate whether **judicial authorities** are involved in the decision to place a third-country national in detention, and if so, at which stage(s) of the decision-making process and in what capacity? (e.g. do judicial authorities make the final decision, do they only make a recommendation, do they only come in if the third-country national appeals against a decision?)

Yes, the judicial authorities are involved in the decision to place a third-country national in detention. The court of jurisdiction by reference to the place of detention extend the time of the detention. The court can decide that the detention is not needed and can end to the detention. The time of detention has to be extended in the first 72

<sup>38</sup> Section 54 (2) of Third Country Nationals Act

<sup>39</sup> Sections 31/A (2) and 31/H of the Asylum Act

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hours of detention, within a period not exceeding 60 days.

Q9. Please identify any **challenges** associated with the implementation of existing assessment procedures in your (Member) State.

Sometimes it is hard to decide if he/she is a minor or not during the age assessment of the third-country nationals.

The court and the Regional Directorate Refugee Department of OIN can have a different opinion on the sum of asylum bail.

Q10. Please identify any **good practices** in relation to the implementation of assessment procedures (e.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities)

The refugee authority shall ex officio examine whether conditions of asylum bail prevail.

If the third country-national can pay the cost-of-living, or there is a person who supports him/her, it makes possible that he/she choose where to live as compulsory place of residence.

Giving special attention to vulnerable groups and people with special needs: In general person with poor health condition cannot be detained, in the case of a family with minors, detention shall last no longer than thirty days, unaccompanied minors cannot be detained.

#### Section 4: Types of detention facilities and conditions of detention

Q1. Are there specialised immigration detention facilities in your (Member) State, which are not prisons? (Yes/No) If yes, please indicate how many exist and how they are distributed across the territory of your (Member) State.

During the alien policing process the place of the detention is the alien policing detention centre (located at: Győr, Nyírbátor, Kiskunhalas and Police Directorate at International Airport in Budapest). For asylum seekers the place of detention is guarded asylum reception centre (located at: Debrecen, Békéscsaba, Nyírbátor).

Q2. Are there different types of specialised immigration detention facilities for third-country nationals in different circumstances (e.g. persons in return proceedings, applicants for international protection, persons who represent a security risk, etc.)? **Yes**. If yes, please provide a brief overview of the different types of immigration detention facilities.

During the alien policing process the place of the detention is the alien policing detention centre (located at: Győr, Nyírbátor, Kiskunhalas and Police Directorate at International Airport in Budapest).

During their detention, detainees may freely use the premises found in the living space in accordance with the house rules, and can circulate without restriction around the parts of the detention facility designated for this purpose. The living space is a building or part of a building, the purpose of which is the provision of accommodation and guarding the detainee. The living space shall include the dormitories, dining halls, community premises for leisure time activities, bathrooms, showers and toilets. They can spend 1 hour at outdoor space. They have access to television and Internet.

For asylum seekers the place of detention is guarded asylum reception centres (located at: Debrecen, Békéscsaba, Nyírbátor)

The person seeking recognition may in accordance with the house rules, freely use the rooms in the living area during the period of the detention and may move without restriction in the designated areas of the guarded asylum reception centre. Persons seeking recognition may use the communal and eating areas, as well as the

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courtyard created for the purpose of spending time outdoors, at the same time, irrespective of their gender and they may participate in the community programmes organised by the social workers. They can own a television and has internet access.

Q3. Which authorities/organisations are responsible for the day-to-day running of the specialised immigration detention facilities in your (Member) State?

In Hungary the Hungarian Police is responsible for the day-to-day running of the specialised immigration detention facilities.

Q4. Please describe any measures taken by your (Member) State to deal with situations where the number of third country nationals to be placed in detention exceeds the number of places available in the detention facilities.

When the third country nationals to be placed in detention exceeds the number of places available in the detention facilities the Police can open detention centres for emergencies.

Q5. Are third-country nationals detained in prisons in your (Member) State? **Yes** If yes, under which circumstances?

No, the third-country nationals cannot be detained in prisons in Hungary, but they can be imprisoned for committing a deliberate crime.

Q6. If third-country nationals are detained in prisons in your (Member) State, are they held separately from general prisoners? If yes, please provide information on the mechanisms to separate third-country nationals under immigration detention from general prisoners?

The third-country nationals cannot be detained in prisons in Hungary because of illegal entry or stay.

Q7. Please provide the following information about the conditions of third-nationals who have been placed in an immigration detention facility in your (Member) State: (Please indicate if the facilities in question are prisons or specialised immigration detention facilities).

Conditions of detention	Statistics and/or comments
Please provide any statistics on the average available surface area per detainee (in square meters)	Such statistics not available but there are minimum standards: the living quarters of detained third-country nationals must have at least 15 cubic meters of air space and 5 square meters of floor space per person <sup>40</sup> .
Please provide any statistics on the average number of detainees placed in one room per detention facility	2-9 persons per room. <sup>41</sup>
Are families accommodated in separate facilities?	Yes. Families are accommodated in separate facilities <sup>42</sup> .

<sup>40</sup> Section 129 (1) a) Government Decree 114/2007 (V. 24.)

<sup>41</sup> Available: [http://pointofreturn.eu/wp-content/uploads/2013/12/PONR\\_Factsheet\\_HU\\_2\\_HR.pdf](http://pointofreturn.eu/wp-content/uploads/2013/12/PONR_Factsheet_HU_2_HR.pdf) (Accessed 03 April 2014)

<sup>42</sup> Section 31/F (2) of the Asylum Act and Section 3 (5); (6); (7) Decree 27/2007 (V. 31.) of the Minister of Justice and Law

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Can children be placed separately from their parents? (e.g. in a childcare facility). Under what circumstances might this happen?	In general no, children and their parents have to be placed together. Separation may occur only in the best interest of the child.
Are single women separated from single men?	Yes, single woman and men separated both in detention centers and asylum detention centers <sup>43</sup> .
Are unaccompanied minors separated from adults?	Unaccompanied minors cannot be detained at all <sup>44</sup> .
Do detainees have access to outdoor space? If yes, how often?	Yes, detainees have access to outdoor space. In guarded asylum reception centers asylum seekers are entitled to spend at least one hour per day outdoors <sup>45</sup> . In detention centers the house rules shall include the period when the detainees may go outdoors <sup>46</sup> .
Are detainees allowed to have visitors? If yes, which visitors are allowed (for example, family members, legal representatives, etc.) and how often?	<p><b>In detention center:</b></p> <p>The detainee may keep contact with the following persons without supervision/inspection (only subject to security surveillance):</p> <ul style="list-style-type: none"> <li>(a) with their legal representative holding power of attorney, or appointed guardian ad litem,</li> <li>(b) with a person providing legal aid,</li> <li><i>Oder</i> with the representative of a non-governmental organization or a foundation, the statute of which includes the objective of human rights protection,</li> <li>(d) with any member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, or of any organization of the United Nations or the Council of Europe authorized to protect human rights if the member is specifically assigned to this task,</li> <li>(e) with a member of an organization authorized by Hungarian law to protect human rights an authority granted the power by Hungarian law to check the execution of detention,</li> <li>(f) with a diplomatic representative or consular official accredited to Hungary of their home country; if no such person is available, to the representative of a country that protects the detainee's interests,</li> </ul> <p>To practice their faith, the detainee may keep contact with the following persons without supervision/inspection (only subject to security surveillance) with the representative of a church (denomination).</p> <p>The detainee's relatives or persons not mentioned above may visit at times arranged in advance; on the day of the visit, the detainee may spend at least forty-five minutes with them, which the head of the detention facility may extend by thirty minutes. in the case of visitors arriving from abroad, at least a sixty-minute visit must be allowed – immediately if possible. The frequency of visits shall not be</p>

<sup>43</sup> Section 31/F(a) of the Asylum Act and Section 61 (2) of Third Country Nationals Act

<sup>44</sup> Section 31/B (2) Asylum Act and Section 56 (2) of Third Country Nationals Act

<sup>45</sup> Section 34/F 3 (ag) of the Asylum Act

<sup>46</sup> Section 5. (2) d) Decree 27/2007 (V. 31.) of the Minister of Justice and Law.



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	<p>restricted.</p> <p>On weekdays, detainees may only receive visitors during normal office hours, and on non-working days, during those times that correspond to normal office hours<sup>47</sup>.</p> <p><b>In guarded asylum reception centre:</b></p> <p>The person seeking recognition shall be entitled to communicate with the following without monitoring:</p> <ul style="list-style-type: none"> <li>a) his/her duly authorised legal counsel or the appointed guardian ad litem;</li> <li>b) persons providing legal aid;</li> <li>c) the representative of a non-governmental organisation, the statutes or deed of foundation of which mentions the protection of human rights among the aims of the organisation;</li> <li>d) the member of the Council of Europe's Committee for the Prevention of Torture and inhuman or degrading treatment and of the United Nations' and the Council of Europe's organisations for the protection of human rights, who has been sent for such purpose;</li> <li>e) the member of an organisation authorised by the laws of Hungary to protect human rights and the member of an authority or organisation entitled to examine restrictions of the freedom of movement;</li> <li>f) on his/her own initiative, with the accredited diplomatic representative or consular officer of his/her native country in Hungary, or – if there is no such person – the representative of the state which represents his/her interests;</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>g) for the purpose of practicing his/her religion, a representative of the church (denomination).</li> </ul> <p>Communication between the person seeking recognition and his/her relative or persons other than receiving visitors shall be provided at a date agreed in advance.</p> <p>The frequency of such visits shall not be restricted.</p> <p>Visitors may be received at the following times:</p> <ul style="list-style-type: none"> <li>a) on work-days: during official working hours, or</li> <li>b) on public holidays: during the times that correspond to normal working hours<sup>48</sup>.</li> </ul>
<p>Are detainees allowed contact with the outside world via telephone, mail, e-mail, internet? If yes, are in- and/or out-coming messages screened in any way?</p>	<p>Yes, detainees are allowed to contact with the outside world via telephone, mail, e-mail, internet.</p> <p><b>In detention center:</b></p> <p>The detainee may only use the phone at the detention facility and the cost of using the phone shall be borne by the detainee. The length of time when the detainee may use the phone may only be limited during the night-time rest period and if the phone conversation constitutes a threat to the security of the detention facility or to the execution of the detention.</p> <p>Phone calls may be monitored for security reasons. If the phone conversation constitutes a threat to the security of the detention facility or to the execution of the detention, it may be ended after a warning. The detainee shall be informed that calls may be monitored.</p>

<sup>47</sup> Section 7 of Decree 27/2007 (V. 31.) of the Minister of Justice and Law

<sup>48</sup> Section 10 of Decree 29/2013 (VI. 28) of the Minister of Interior

The detainee may keep contact with others by mail. The frequency of sending and receiving mail shall not be restricted.

The detainee may receive a package twice a week; such packages may contain seasonal clothing, underwear, toiletries, tobacco products, books, newspapers and magazines, writing paper and stationery, and also non-perishable food.

The detainee may also send packages. The frequency of sending packages shall not be restricted.

If there is reasonable doubt that a letter received by the detainee is not from the person identified on the envelope as the sender, the letter shall be opened in the presence of the detainee and two witnesses, and minutes shall be kept of this. The sole purpose of examining the letter in this case is to check who the actual sender is.

The correspondence of the detainee and the contents of the detainee's packages may only be checked for security and public health reasons. If correspondence is checked, the detainee shall be informed of this, and packages shall be checked in the presence of the detainee.

If, according to the content of the checked mail, there is a risk to the security of the detention facility or the execution of the detention and this risk cannot be averted otherwise, the letter cannot be sent to the addressee. If a letter cannot be sent to the addressee, the detainee shall be notified of this<sup>49</sup>.

The detainee has access to Internet and e-mails too.

***In guarded asylum reception centre:***

Communication over the telephone may only take place using the device provided by the guarded asylum reception centre, at the cost of the person seeking recognition. The duration of telephone conversations may only be limited during rest periods or if the safety of the guarded asylum reception centre or the implementation of detention is endangered.

An applicant seeking recognition may also communicate through correspondence. The frequency of letters shall not be restricted. Any costs of correspondence shall be borne by the person seeking recognition.

The person seeking recognition may receive packages at his/her own expense, which may contain clothing, toiletries, tobacco products, books, periodicals, stationery and non-perishable food. The frequency of receiving packages shall not be restricted.

A person seeking recognition may send packages at his/her own cost. The frequency of sending packages shall not be restricted.

The correspondence and the content of the packages of a person seeking recognition may only be inspected for security or public health reasons. Such an inspection shall not extend to any texts within the consignment. The person seeking recognition shall be informed of the inspection and packages shall be examined in the presence of the person seeking recognition.

If the inspected letter or package endangers the security of the

<sup>49</sup> Section 8., 9., 10. of Decree 27/2007 (V. 31.) of the Minister of Justice and Law Enforcement.

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	<p>guarded asylum reception centre or the implementation of detention and this dangerous nature cannot be eliminated, the letter or package may not be forwarded. The person seeking recognition shall be informed that forwarding the letter or package has been refused. Letters containing complaints, requests, objections or announcements of public interest and addressed to the authority entitled to monitor the implementation of detention or to an organisation that performs the protection of human rights shall be forwarded with no delay. All other letters shall be forwarded within two working days and any letters to the person seeking recognition shall be delivered within two working days<sup>50</sup>.</p> <p>The asylum seeker has access to Internet and e-mails as well.</p>
<p>Are education programmes provided (e.g. school courses for minors and language classes for adults)?</p>	<p>Yes, there are education programmes provided. <b>In detention centre:</b></p> <p>Minors staying with their family at the detention facility shall be provided with the conditions and equipment necessary for the educational and recreational activities corresponding to their age and maturity, including but not limited to the use of a playroom and classes held by a teacher or a specifically trained social worker. In order to provide the education corresponding to the level of development of the school-age minor under detention, the head of the detention facility must immediately contact the district government office having jurisdiction over the location of the detention facility<sup>51</sup>.</p> <p><b>In guarded asylum reception centre:</b></p> <p>The social workers take measures to enroll the child in detention in a public education institution<sup>52</sup>.</p> <p>Adults are not entitled to education, but sometimes they can study Hungarian; other European Languages and other essential skills at courses organised by social workers or volunteers.</p>
<p>Do detainees have access to leisure activities? If yes, which leisure activities are provided in the detention facility? And if yes, how often?</p>	<p>Yes, detainees have access to leisure activities. <b>In detention centre:</b></p> <p>At the assigned area, the detainee may use the sports and cultural facilities, the library, listen to the radio and watch the television<sup>53</sup>.</p> <p><b>In guarded asylum reception centre:</b></p> <p>Persons seeking recognition are free to avail themselves of the educational and sports facilities in the areas of the guarded asylum reception centre designated for such purposes and they may also use the library, listen to the radio and watch television. The asylum seeker can own a TV.</p>

<sup>50</sup> Sections 11 and 12 of Decree 29/2013 (VI. 28) of the Minister of Interior

<sup>51</sup> Section 17 of Decree 27/2007 (V. 31.) of the Minister of Justice and Law

<sup>52</sup> Section 19 h) of Decree 29/2013 (VI. 28) of the Minister of Interior

<sup>53</sup> Section 17 of Decree 27/2007 (V. 31.) of the Minister of Justice and Law

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	The social workers organise community programmes that help detainees to spend their free time usefully <sup>54</sup> .
Can persons in detention leave the facility and if yes, under what conditions? Can persons move freely within facility or are their movements restricted to some parts/rooms of the facility?	<p>In certain cases, yes, for instance to consult a local medical specialist or to appear before the court to extend the time of detention. During their leave from the facility they are guarded by the Police.</p> <p><b>In detention centre:</b></p> <p>During their detention, detainees may freely use the premises found in the living space in accordance with the house rules, and can circulate without restriction around the parts of the detention facility. The detainee shall be provided unrestricted access to the toilet at any time of the day and also during the night<sup>55</sup>.</p> <p><b>In guarded asylum reception centre:</b></p> <p>The person seeking recognition may in accordance with the house rules, freely use the rooms in the living area during the period of the detention and may move without restriction in the designated areas of the guarded asylum reception centre. The person seeking recognition shall have unlimited access to the toilets, at any time. Persons seeking recognition may use the communal and eating areas, as well as the courtyard created for the purpose of spending time outdoors, at the same time, irrespective of their gender and they may participate in the community programs organized by the social workers<sup>56</sup>.</p>
Are detainees entitled to legal advice / assistance? If yes, is it free of charge?	Yes, but if a detainee requests the assistance of a legal representative he/she has to pay the costs of the legal representative. The help of international human rights organisations are available free of charge.
Are detainees entitled to language support (translation / interpretation services)? If yes, is it free of charge?	Yes, but if a detainee requests the assistance of an interpreter concerning an issue not related to the execution of the detention, the interpreter shall be provided at the expense of the detainee <sup>57</sup> .
Is medical care available to detainees inside the facilities? Is emergency care covered only or are other types of medical care included?	Yes, medical care is available to detainees inside the facilities. They can consult with the local medical specialist guarded by the Police.
Are there special arrangements for persons belonging to vulnerable groups? Please describe	<p>Yes, there are special arrangements for persons belonging to vulnerable groups.</p> <p><b>In guarded asylum reception centre:</b></p> <p>The accommodation of persons requiring special treatment shall be arranged in view of their specific needs – in particular their age and health condition (including their mental condition)<sup>58</sup>.</p>

<sup>54</sup> Sections 18 (1). and 19 (1) c) of Decree 29/2013 (VI. 28) of the Minister of Interior

<sup>55</sup> Section 17 of Decree 27/2007 (V. 31.) of the Minister of Justice and Law Enforcement

<sup>56</sup> Sections 7 and 8 of Decree 29/2013 (VI. 28) of the Minister of Interior

<sup>57</sup> Section 13 of Decree 27/2007 (V. 31.) of the Minister of Justice and Law Enforcement

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	<p>If the person seeking recognition cannot be accommodated in the guarded asylum reception centre due to his/her health, s/he shall be taken to a health institution without delay.</p> <p>Any person seeking recognition who suffered torture, rape or other violent acts in their country of origin or elsewhere and who requires special treatment shall be provided with appropriate specialist treatment of the injuries caused by the above-mentioned acts, based on the opinion of the physician performing the medical examination necessary for admission.</p> <p>If it is justified based on the individual situation of the person seeking recognition and requiring special treatment, s/he shall be provided with separate accommodation within the guarded asylum reception centre.</p> <p>In order to ensure the appropriate rehabilitative care and, if necessary, mental health treatment and consultancy for a person seeking recognition who has suffered torture, rape, or any other grave form of psychological, physical or sexual violence, the head of the guarded asylum reception centre shall – based on the written recommendation of the physician or psychiatrist providing medical care in the guarded asylum reception centre – inform the competent health institution immediately.</p> <p>Family unity shall be maintained even during the separate accommodation of a person requiring special treatment. During the procedure of admission to a guarded asylum reception centre, the best interests of the child shall always be the primary consideration. Families and married couples shall be provided with a separate living space that meets the basic requirements of family life<sup>59</sup>.</p> <p><b>In detention centre:</b> The regulation in regard of persons belonging to vulnerable groups is the same as the <i>guarded asylum reception centre</i><sup>60</sup>.</p>
<p>Are there special arrangements for persons considered to be security risks for others and/or themselves? Please describe</p>	<p>Yes, when the detention cannot be executed at the selected detention facility for security or other reasons, the police shall select another facility and shall notify the immigration authority ordering the detention of this<sup>61</sup>.</p>

**Section 5: Availability and practical organisation of alternatives to detention**

Q1. 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.

<b>Alternatives to detention</b>	<b>Yes/ No (If yes, please provide a short description)</b>
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<sup>58</sup> Section 31F(2) of the Asylum Act

<sup>59</sup> Section 3 of Decree 29/2013 (VI. 28) of the Minister of Interior

<sup>60</sup> Section 3 of Decree 27/2007 (V. 31.) of the Minister of Justice and Law

<sup>61</sup> Section 1 (2) of Decree 27/2007 (V. 31.) of the Minister of Justice and Law

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Reporting obligations (e.g. reporting to the policy or immigration authorities at regular intervals)	<b>Yes.</b> Third-country nationals subject to reporting obligations are required to report regularly to the Regional Directorate Alien Policing Department of OIN by reference to the place of their living in a period ranging from a few days to 3 months depending from the a decision of monitoring authority in the particular case <sup>62</sup> . When reporting, the person has to present an identification document called Certificate of temporary Residence and in case of extension, he/she has to sign that s/he got the Certificate. If the person fails to comply with reporting obligations, s/he can be placed in detention facilities. The asylum seekers have to go to the Regional Directorate Refugee Department to fulfil their reporting obligations.
Obligation to surrender a passport or a travel document	<b>Yes.</b> In order to secure the enforcement of an expulsion measure the immigration authority shall be authorized to confiscate the travel document of the third-country national affected <sup>63</sup> .
Residence requirements (e.g. residing at a particular address)	<b>Yes.</b> The Regional Directorate Refugee Department of OIN (for asylum applicants) and The Regional Directorate Alien Policing Department of OIN by reference to the third-country national residence order that he/she has to live at a particular address, when he/she comes to renew the Certificate of Temporary resident, he/she has to inform the authorities of any change of residence. The third-country national can reside in an address of his/her own or s/he can be accommodated in an open reception centre.
Release on bail (with or without sureties) <i>If the alternative to detention "release on bail" is available in your (Member) State, please provide information on how the amount is determined and who could be appointed as a guarantor (e.g. family member, NGO or community group)</i>	<b>Yes.</b> The refugee authority shall ex officio examine whether conditions of asylum bail prevail. If the availability of the person requesting recognition may be secured through asylum bail, the refugee authority shall make a decision on this. Following the deposit of asylum bail, the asylum authority shall designate a place of residence for the person seeking recognition, and shall inform him/her about his/her obligations relevant to availability, the non-compliance of which obligation shall result the person seeking recognition losing the right to claim back the deposited asylum bail <sup>64</sup> . The refugee authority determines the amount of the asylum bail (hereinafter: the bail), taking into consideration the personal and financial circumstances of the person seeking recognition. The amount of the bail shall not be less than EUR 500 and it shall not exceed EUR 5,000 If the asylum detention of the person seeking recognition has been ordered before bail is deposited but later the refugee authority finds that the availability of the person seeking recognition can be ensured by giving bail and it orders for bail to be deposited, asylum detention shall be terminated with no

<sup>62</sup> Section 62. (2) c) of Third Country Nationals Act

<sup>63</sup> Section 48. (2) of Third Country Nationals Act

<sup>64</sup> Sections 31/H (1);(3) and 2(lc) of the Asylum Act

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	delay upon depositing bail. There are no regulations for the guarantor <sup>65</sup> .
Electronic monitoring (e.g. tagging)	<b>No</b>
Guarantor requirements <i>If this alternative to detention is available in your (Member) State, please provide information on who could be appointed as a guarantor (e.g. family member, NGO or community group)</i>	<b>No</b>
Release to care worker or under a care plan	<b>No</b>
Community management programme	<b>No</b>
Other alternative measure available in your (Member) State. Please specify.	<b>Yes</b> , the seizure of money for travel document and ticket. In order to secure the costs of departure, the competent authority may seize the travel ticket if the third-country national in question has one, or - if sufficient financial means cannot be ensured otherwise - may confiscate his money in the amount as is required to purchase the ticket and to obtain a travel document <sup>66</sup> .

Q2. For each of the alternatives to detention that are available in your (Member) State, please indicate the categories of third country nationals that may be provided an alternative to detention, making use of the list provided below and adding any additional categories as applicable. If there are variations in the practical organisation of any of the alternatives to detention provided to different categories of third country national, please indicate this is the case and briefly illustrate the variations.

- Applicants for international protection in ordinary procedures;
- Applicants for international protection in fast-track (accelerated) procedures;
- Applicants for international protection subject to Dublin procedures;
- Rejected applicants for international protection;
- Rejected family reunification applicants;
- Persons found to be illegally present on the territory of the (Member) State who have not applied for international protection and are not (yet) subject to a return decision)
- Persons who have been issued a return decision;
- Other categories of third-country nationals;
- Vulnerable persons (such as minors, families with very young children, pregnant women and persons with special needs).

- **Reporting obligations:** Applicants for international protection in ordinary procedures; Applicants for international protection subject to Dublin procedures; Rejected applicants for international protection; Rejected family reunification applicants; Persons who have been issued a return decision; Other

<sup>65</sup> Sections 30-36 of Decree 29/2013 (VI. 28) of the Minister of Interior

<sup>66</sup> Section 50(2) of Third Country Nationals Act

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*categories of third-country nationals; Vulnerable persons (such as minors, families with very young children, pregnant women and persons with special needs.*

- **Residence requirements:** *Applicants for international protection in ordinary procedures; Applicants for international protection subject to Dublin procedures; Rejected applicants for international protection; Rejected family reunification applicants; Persons who have been issued a return decision; Other categories of third-country nationals; Vulnerable persons (such as minors, families with very young children, pregnant women and persons with special needs.*
- **Release on bail:** *Applicants for international protection in ordinary procedures; Applicants for international protection in fast-track (accelerated) procedures; Applicants for international protection subject to Dublin procedures.*

*Q3. For each of the alternatives to detention that are available in your (Member) State, please indicate the legal basis on which they may be granted to particular categories of third country nationals (for example legislation, soft law/guidelines, other).*

- *Applicants for international protection in ordinary procedures; Act LXXX of 2007 on Asylum.*
- *Applicants for international protection in fast-track (accelerated) procedures; Act LXXX of 2007 on Asylum.*
- *Applicants for international protection subject to Dublin procedures; Act LXXX of 2007 on Asylum.*
- *Rejected applicants for international protection; Third County National Act.*
- *Rejected family reunification applicants; Third County National Act.*
- *Persons found to be illegally present on the territory of the (Member) State who have not applied for international protection and are not (yet) subject to a return decision) Third Country National Act.*
- *Persons who have been issued a return decision; Third County National Act.*
- *Other categories of third-country nationals; Third County National Act.*
- *Vulnerable persons (such as minors, families with very young children, pregnant women and persons with special needs. Third County National Act and Act LXXX of 2007 on Asylum.*

*Q4. For each of the alternatives to detention that are available in your (Member) State, please indicate the authorities/organisations responsible for (a) deciding and (b) administering the alternative. Please indicate in particular whether the responsible organisation is a non-governmental organisation.*

- *Applicants for international protection in ordinary procedures; Regional Directorate Refugee Department of OIN.*
- *Applicants for international protection in fast-track (accelerated) procedures; Regional Directorate Refugee Department of OIN.*
- *Applicants for international protection subject to Dublin procedures; Regional Directorate Refugee Department of OIN.*
- *Rejected applicants for international protection; Regional Directorate Alien Policing Department of OIN.*
- *Rejected family reunification applicants; Alien Policing Department of OIN Regional Directorate Alien Policing Department of OIN.*
- *Persons found to be illegally present on the territory of the (Member) State who have not applied for international protection and are not (yet) subject to a return decision) Alien Policing Department of OIN.*



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- *Persons who have been issued a return decision;* Alien Policing Department of OIN.
- *Other categories of third-country nationals;* Regional Directorate Alien Policing Department of OIN.
- *Vulnerable persons (such as minors, families with very young children, pregnant women and persons with special needs.* Regional Directorate Aliens Policing and Refugee Department of OIN.

*Q5. For each of the alternatives to detention that are available in your (Member) State, please provide information on any consequences if the third-country national does not follow the conditions of the alternative to detention.*

- *Applicants for international protection in ordinary procedures;* loss of asylum bail, he/she wanted by the police, stricter reporting obligation, detention.
- *Applicants for international protection in fast-track (accelerated) procedures;* loss of asylum bail, he/she wanted by the police, stricter reporting obligation, detention.
- *Applicants for international protection subject to Dublin procedures;* loss of asylum bail, he/she wanted by the police, stricter reporting obligation, detention.
- *Rejected applicants for international protection;* he/she wanted by the police, stricter reporting obligation, detention.
- *Rejected family reunification applicants;* he/she wanted by the police, stricter reporting obligation, detention.
- *Persons found to be illegally present on the territory of the (Member) State who have not applied for international protection and are not (yet) subject to a return decision)* he/she wanted by the police, stricter reporting obligation, detention.
- *Persons who have been issued a return decision;* he/she wanted by the police, stricter reporting obligation, detention.
- *Other categories of third-country nationals;* he/she wanted by the police, stricter reporting obligation, detention.
- *Vulnerable persons (such as minors, families with very young children, pregnant women and persons with special needs.* he/she wanted by the police, stricter reporting obligation.

*Q6. Please indicate any challenges associated with the implementation of the alternatives to detention in your (Member) State. (based on existing studies/evaluations or information received from competent authorities)*

The alternatives to detention cannot secure that the third-country national be present between the period of regular reporting before the alien policing or refugee authorities. The risk of absconding of the third-country national is high.

The court and the Regional Directorate Refugee Department of OIN can have a different opinion on the sum of asylum bail.

*Q7. Please provide any examples of good practices regarding the implementation of the alternatives to detention in your (Member) State. Please specify the source (e.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities)*

The refugee authority shall ex officio examine whether conditions of asylum bail prevail.

If the third country-national can pay the cost of living, or there is a person who can support him/her it is possible that he/she choose where to live as compulsory place of residence.

Obligation to appear at specific intervals before the refugee or the alien policing authority.

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### Section 6: Assessment procedures and criteria used for the placement of third-country nationals in alternatives to detention

*Q1. In Section 2, Q1, you have identified the grounds on which detention can be authorised for particular categories of third-country national. In what circumstances can those grounds be displaced in favour of an alternative to detention in your (Member) State? Please provide answers in relation to each of the relevant categories of third-country national. If there is a separate set of grounds for providing third-country nationals an alternative to detention in your (Member) State, please indicate this is the case.*

- *Applicants for international protection in ordinary procedures can be provided an alternative to detention if the personal and financial situation of the asylum seeker make it possible, and/or the person is unreturnable.*
- *Applicants for international protection in fast-track (accelerated) procedures can be provided an alternative to detention if the personal and financial situation of the asylum seeker make it possible, and/or the person is unreturnable.*
- *Applicants for international protection subject to Dublin procedures can be provided an alternative to detention if the personal and financial situation of the asylum seeker make it possible, and/or the person is unreturnable.*
- *Rejected applicants for international protection can be provided an alternative to detention if he/she wants return to the country of origin but the preparation of the return takes time or there is a real possibility to legalise his/her status and/or the person is unreturnable.*
- *Rejected family reunification applicants can be provided an alternative to detention if he/she wants return to the country of origin but the preparation of the return takes time or there is a real possibility to legalise his/her status and/or the person is unreturnable.*
- *Persons found to be illegally present on the territory of the (Member) State who have not applied for international protection and are not (yet) subject to a return decision) can be provided an alternative to detention if he/she wants return to the country of origin but the preparation of the return takes time or there is a real possibility to legalise his/her status and/or the person is unreturnable.*
- *Persons who have been issued a return decision can be provided an alternative to detention if he/she wants return to the country of origin but the preparation of the return takes time or there is a real possibility to legalise his/her status and/or the person is unreturnable.*
- *Other categories of third-country nationals can be provided an alternative to detention if he/she wants return to the country of origin but the preparation of the return takes time or there is a real possibility to legalise his/her status and/or the person is unreturnable.*
- *Vulnerable persons (such as minors, families with very young children, pregnant women and persons with special needs can be provided an alternative to detention if he/she wants return to the country of origin but the preparation of the return takes time or there is a real possibility to legalise his/her status and/or the person is unreturnable and on humanitarian grounds.*

*Q2. Which other considerations are made before deciding whether to provide the third-country national concerned an alternative to detention, e.g. considerations regarding the availability of alternatives, the cost of alternatives, and vulnerabilities of the third-country national?*

He/she has ties to Hungary (family in Hungary, property in Hungary), he/she entered Hungary legally or illegally, his/her identity or nationality is clear or not, does he/she want to reside in Hungary, he/she get a non-refoulement opinion from the *Refugee Department of OIN* that he/she cannot be returned to his/her country of origin, his/her health conditions.

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Q3. Please indicate whether an individual assessment procedure is used to determine whether the grounds on which detention can be authorised can be displaced in favour an alternative to detention. **Yes/** If yes, please list the categories of third-country nationals where individuals are subject to individual assessments.

In Hungary, all categories of third-country nationals are subject to individual assessment procedure.

Q4. Where individual assessments are used, please indicate whether the procedure includes an assessment of the vulnerability of the individual in question. **Yes/No.** If yes, please describe the vulnerability assessment procedure used.

If the third-country national states that he/she is a minor: he/she has to prove it (for instance with birth certificate) or if the age is uncertain the immigration authority decides on the medical expert opinion.

Bad health condition, illness, mental problems: based on medical documentation and medical examination.

Pregnancy: based on medical documentation and medical examination, depending from the state of pregnancy the officer can notice it.

Unaccompanied minor: the minor states that he/she arrived without family.

Q5. Are assessment procedures for **providing** alternatives to detention conducted on all third-country nationals who are apprehended, or only on those third-country nationals who have already completed a period in detention?

Assessment procedures for providing alternatives to detention conducted on all third-country nationals who are apprehended by Regional Directorate Alien Policing and Refugee Department of OIN. It is not necessary to complete a period in detention for providing alternatives to detention.

Q6. Please indicate which national authorities are responsible for (i) conducting individual assessment procedures (where these exist) and (ii) deciding on alternatives to detention

The Regional Directorate Alien Policing and Refugee Department are responsible for (i) conducting individual assessment procedures. and the (ii) Regional Directorate Alien Policing and Refugee Department.

Q7. Please indicate whether judicial authorities are involved in the decision to **provide** an alternative to detention, and if so, at which stage(s) of the decision-making process and in what capacity? (e.g. do judicial authorities make the final decision, do they only make a recommendation, do they only come in if the third-country national appeals against a decision?)

Yes, the judicial authorities are involved in the decision to provide an alternative to detention. The court of jurisdiction by reference to the place of detention extend the time of the detention. The court can decide that the detention is not needed and can end to the detention. The time of detention has to be extended in the first 72 hours of detention, within a period not exceeding 60 days.

## Section 7: Impact of detention and alternatives to detention on the effectiveness of return and international protection procedures

### **7.1. Effectiveness in reaching prompt and fair decisions on the immigration status of the individuals in question, and in executing these decisions**

#### **7.1.1. Effectiveness in reaching decisions on applications for international protection**

Q1. Have any evaluations or studies (including studies of the views of detainees of alternatives to detention) in your (Member) State considered the impact of detention and alternatives to detention on the efficiency of reaching decisions on applications for international protection? (for example, by affecting the time it takes to decide on international protection status). **No.**

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

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Q2. Please provide any statistics that might be available in your (Member) State on the average length of time needed to determine the status of applicants for international protection who are held in detention and who are in an alternative to detention. Please provide the statistics for the latest year available and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) State (The different alternatives are listed as A1, A2, A3 in the table below; please explain what these represent in a key underneath the table).

Where statistics can be disaggregated by categories of third-country nationals, please do so. Please provide information on the methodology and data collection.

Where no information is available, please indicate "No information" and briefly state why no information is available.

Where it is not applicable, please indicate "Not applicable" and briefly state why.

Applicable year	Detention	Alternatives to detention			
		A1	A2	A3	A4
Average length of time in determining the status of an applicant for international protection	No information/no study available				

Q3. Please provide any other evidence that may be available in your (Member State) on the impact of detention and alternatives to detention on effectiveness in terms of reaching decisions on applications for international protection and provide any examples of good practice in this regard. (e.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities)

The detention secure that the asylum seeker would be available and it helps to reaching decisions on applications for international protection.
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### 7.1.2 Effectiveness in reaching decisions regarding the immigration status of persons subject to return procedures and in executing returns

Q4. Have any evaluations or studies in your (Member) State considered the impact of detention and alternatives to detention on:

- The length of time from apprehending an irregular migrant to issuing a return decision? **No**
- The length of time that transpires from issuing a return decision to the execution of the return? **No**
- The share of voluntary returns out of the total number of returns? **No**
- The total number of removals completed? **No**

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

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Q5. Please provide any statistics that might be available in your (Member) State on (i) the average length of time that transpires from the decision to return a person in detention, and in (different) alternatives to detention, to the execution of the return procedure; (ii) the proportion of voluntary returns and (iii) the success rate in the number of departures among persons that were placed in detention and in alternatives to detention. Please provide the statistics for the latest year available and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) Stat. (The different alternatives are listed as A1, A2, A3 in the table below; please explain what these represent in a key underneath the table).

Where statistics can be disaggregated by categories of third-country nationals, please do so. Please provide information on the methodology and data collection.

Where no information is available, please indicate "No information" and briefly state why no information is available.

Where it is not applicable, please indicate "Not applicable" and briefly state why.

Statistics on the success rate in the number of departures should be provided as the number of persons who were issued a return decision and who have returned to their country of origin, and the number of persons who were issued a return decision and who have not returned to their country of origin. Please provide both the numbers and the share they represent out of the total number of persons issued a return decision.

Applicable year	Detention	Alternatives to detention			
		A1	A2	A3	A4
Average length of time from apprehending an irregular migrant to issuing a return decision	No information/no study available				
Average length of time from issuing a return decision to the execution of the return	No information/no study available				
Number of voluntary returns (persons who opted to return voluntarily)	No information/no study available				
Success rate in number of departures	No information/no study available				

Q6. Please provide any other evidence that may be available on the effectiveness in reaching decisions regarding the immigration status of persons subject to return procedures and executing the return, and provide any examples of good practice in this regard. (e.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities)

In general the forced return is easier if the third-country nationals are in detention. The persons with the alternatives to the detention get a Certificate of Temporary Residence<sup>67</sup>. This certificate contains their photo, personal data, and the address in Hungary. The Certificate used for police identity check and they can use it to get money transfers from certain banks. This Certificate does not provide any additional right like right to work or reside in Hungary.

## 7.2. Costs

<sup>67</sup> Section 30 of Third Country Nationals Act

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Q7. Have any evaluations or studies on the costs of detention and alternatives to detention been undertaken in your (Member) State?

No information/no study available.

Q8. Please provide any statistics available on the costs of detention and alternatives to detention in the table below. Please provide the statistics for the latest year(s) available and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) State (The different alternatives are listed as A1, A2, A3 in the table below; please explain what these represent in a key underneath the table).

Where costs can be disaggregated by categories of third-country nationals, please do so. Please provide information on the methodology and data collection to measure the costs.

Where no information is available, please indicate "No information" and briefly state why no information is available.

Where it is not applicable, please indicate "not applicable" and briefly state why

Applicable year	Detention	Alternatives to detention			
		A1	A2	A3	A4
Total costs	No information/no study available				
Staffing costs	No information/no study available				
Medical costs	No information/no study available				
Food and accommodation costs	No information/no study available				
Legal assistance	No information/no study available				
Other costs (This could include any additional costs that do not fall into the categories above e.g. costs of technical tools for administering alternatives to detention, such as electronic tagging). Please specify	No information/no study available				

Q9. Please provide any other evidence that may be available in your (Member) State on the cost-effectiveness of detention and alternatives to detention, and provide any examples of good practice in this regard. (e.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities)

The cost of living at the detention centres and asylum detention centres is paid by the Hungarian state. After the detainee released from the detention he/she gets a decision from the immigration authority that he/she has to reimburse all costs of the accommodation and services provided to him/her unless a decision providing refugee status, subsidiary protection or protection against refoulement<sup>68</sup> was made in his/her case<sup>69</sup>. In general third-country nationals do not reimburse their costs. The use of alternatives is more cost-effective as the third-country

<sup>68</sup> In case of non-refoulement he/she gets a special protection status of Hungary called 'person authorised to stay' this status is valid for 1 year, after it has to be renewed.

<sup>69</sup> Sections 61 (5) of Third Country Nationals Act and Section 31/F (3) bf)

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nationals cover their cost of living (with/without the help of humanitarian organisation and welfare system).

**7.3. Respect for fundamental rights**

Q10 Have evaluations or studies been conducted in your (Member) State on the impact of detention and alternatives to detention on the fundamental rights of the third-country nationals concerned (for example, with regard to the number of complaints of detainees or persons **provided** alternatives to detention)?

No information/no study available.

Q11. Please provide any statistics that might be available in your (Member) State 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. Please provide the statistics for the latest year available and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) State (The different alternatives are listed as A1, A2, A3 in the table below; please explain what these represent in a key underneath the table). Please do the same with any statistics that may be available in your (Member) State on the number of voluntary returns.

Where statistics can be disaggregated by categories of third-country nationals, please do so. Please provide information on the methodology and data collection.

Where no information is available, please indicate "No information" and **briefly state why no information is available.**

Where it is not applicable, please indicate "Not applicable" and **briefly state why.**

Applicable year	Detention	Alternatives to detention			
		A1	A2	A3	A4
Number of complaints of violations of fundamental rights <b>lodged</b> with non-judicial bodies (e.g. Human Rights Commissioners/Ombudspersons) (where possible, please disaggregate by types of complaints and by categories of third-country nationals).	No information/no study available				
Number of complaints of violations of fundamental rights <b>upheld</b> by non-judicial bodies (e.g. Human Rights Commissioners/Ombudspersons) (where possible, please disaggregate by types of complaints and by categories of third-country nationals).	No information/no study available				
Number of court cases in which there have been <b>challenges</b> to the decision to detain / place in an alternative to detention based on violations of fundamental rights (where possible, please disaggregate by types of violation and by categories of third-country national)	No information/no study available				
Number of court cases in which challenges to the decision to detain / place in an alternative to detention based on violations of fundamental rights have been <b>upheld</b> (where possible,	No information/no study available				

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<i>please disaggregate by types of violation and by categories of third-country national)</i>					
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Q12. Please indicate if studies exist in your (Member) States which show negative effects of the alternatives to detention in practice. (For example, ankle bracelets can be socially stigmatising and cause physical and emotional distress.)

No information/no study available.

Q13. Please provide any other evidence that may be available in your (Member) State on the impact of detention and alternatives to detention on the fundamental rights of the third-country nationals, and provide any examples of good practice in this regard. (e.g. cited in existing evaluations/studies/other sources or based on information received from competent authorities)

No information/no study available.

#### 7.4. Rate of absconding and compliance rate

Rate of absconding is the share of persons who have absconded from all third-country nationals placed in detention or provided an alternative to detention.

Compliance rate is the share of persons who have complied with the alternative to detention.

Q14. Have evaluations or studies on the compliance rate and rate of absconding of third-country nationals in detention and in alternatives to detention been undertaken in your (Member) State? Please provide details.

No information/no study available.

Q15. Please provide any statistics that might be available in your (Member) State on the rate of absconding and the compliance rate of third-country nationals in detention as opposed to alternatives to detention. Please provide the statistics for the latest year available and, if possible, distinguish between the different types of alternatives to detention that are available in your (Member) State (The different alternatives are listed as A1, A2, A3 in the table below; please explain what these represent in a key underneath the table).

Where statistics can be disaggregated by categories of third-country nationals, please do so. Please provide information on the methodology and data collection.

Where no information is available, please indicate "No information" and briefly state why no information is available.

Where it is no applicable, please indicate "Not applicable and briefly state why."

Applicable year	Detention	Alternatives to detention			
		A1	A2	A3	A4
Rate of absconding	No information/no study available				
Compliance rate	No information/no study available				

Q16. Please provide any other evidence that may be available of the impact of detention and alternatives to detention on the rate of absconding and compliance rate of third-country nationals in detention and in alternatives to detention.



No information/no study available.

### Section 7: Conclusions

The alternatives of detention are more widely used in Hungary than ever, but the detention still remains as the most effective last resort to secure the forced return and to prevent the asylum seekers from absconding. The Hungarian immigration authorities can order detention as the last resort as result of an individual detention assessment procedure.

After the third-country nationals are released from detention most of them move to Western Europe as Hungary is a transit country for them, not a destination.

According to a survey conducted by Hungarian Supreme Court (the Curia of Hungary), the **alien policing detention** becomes unlawful when:

1. *There are no acts in order to execute the forced return (an ongoing alien policing process of expulsion not enough to extend the time of the detention, but particular and practical actions are required)*
2. *There are ongoing particular and practical actions, but the immigration authorities do not show due diligence the necessary actions to implement the forced return (the alien policing process stops for weeks without any reason etc.)*
3. *It is unlikely that (does not has to be impossible) during the remaining time of the 6 months detention the forced return can be fulfilled.<sup>70</sup>*

The long time detention of a person who - based on the experience of the immigration authority (for instance because of the lack of cooperation from the country of origin) - cannot be removed is unreasonable, and the cost of detention is high.

The alien policing detention does not have enough repressive effect on persons who consider moving to welfare state in search of a better life. When the detention is over, the immigration authorities use the alternatives to the detention: compulsory place of residence with the obligation to appear at specific intervals before the authority, but these cannot guarantee that the third-country national remains in Hungary.

It is very hard to identify and provide with travel documents the third-county nationals coming without any kind of documents and they often provide false personal data. The legal status of these person is unsolved they are unreturnable, but they do not have excess to the labour market and they remains without residency status. The unreturnable person is often be forced to make their living with a life of crime or unauthorised work. He/she means problem for the Police, the Immigration Authority and he/she charges the social welfare system too.

To reduce the number of unreturnable person, not the detention is the best solution, but the prevention of their unauthorised entry to the European Union.

The problem of the unreturnable person should be solved by the European Union with putting the country of origin under economic and political pressure in order to receive back their citizens.

Hungary is among the first EU countries to set up a wholly separate detention regime from the alien policing detention regime. For asylum seekers, **the asylum detention** was introduced that includes both specific grounds of detention for those seeking asylum and a separate detention facility for them. Other good practice is that the unaccompanied minors cannot be detained, and the detention concerns families with minor children cannot least longer than 30 days. In the case of asylum detention there is no need to take it to consideration that the asylum applicant maybe an unreturnable person as its main aim is to secure the presence of the asylum seeker during the asylum interviews in order to asylum decision-making.

To secure implementation of removal order and to prevent the asylum seekers from absconding the detention is needed, but an even oftener and wider use of the alternatives to the detention would be desirable.

<sup>70</sup> According to the Curia of Hungary only in Hungarian only [http://www.lb.hu/sites/default/files/joggyak/idegenrendeszeti\\_osszefoglalo\\_velemeny\\_kuria.pdf](http://www.lb.hu/sites/default/files/joggyak/idegenrendeszeti_osszefoglalo_velemeny_kuria.pdf) (Accessed 03 April 2014)

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

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

**Please provide the cumulative figures (the number of all third-country nationals that have been detained during the year).**

	2009	2010	2011	2012	2013	Source / further information
<b>Statistics on number of third-country nationals in detention per category</b>						
Total number of third-country nationals in detention	<b>1989</b>	<b>3509</b>	<b>5715</b>	<b>5434</b>	<b>6496</b>	<p><b>Statistics from the Hungarian Office of Immigration and Nationality and from the Aliens Policing Department of Hungarian Police /the number of detention orders with the number of detained asylum seekers</b></p> <p><b>Sometimes the same third-country national can be found in the detention statistics of Police, statistics of Alien Policing Department of OIN and the statistics of Refugee Department of OIN as he/she could be apprehended (this results from different legal grounds of detention). Such cases can significantly increase the number of third-country nationals in detention.</b></p>

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Number of third-country national applicants for international protection in ordinary procedures in detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<b>1762</b>	<b>Statistics from the Hungarian Office of Immigration and Nationality/ Till 2013 it was possible to order only alien policing detention for asylum seekers</b>
Number of third-country national fast-track international protection applicants (accelerated international protection procedures) in detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of applicants for international protection subject to Dublin procedures in detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of rejected applicants for international protection in detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of rejected family reunification applicants in detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of other rejected applicants for residence permits on basis other than family reunification (Please specify)	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>

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Number of persons detained to prevent illegal entry at borders in detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of persons found to be illegally present on the territory of the (Member) State who have not applied for international protection and are not (yet) issued a return decision in detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of persons who have been issued a return decision in detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of vulnerable persons part of the aforementioned categories of third-country nationals - Please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.) and by category	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of other third-country nationals placed in immigration detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
<b>Statistics on number of third-country nationals provided alternatives to detention</b>						
Total number of third-country	<b>709</b>	<b>753</b>	<b>327</b>	<b>308</b>	<b>284</b>	<b>Statistics from the</b>

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nationals provided alternatives to detention						<b>Hungarian Office of Immigration/ The number of the compulsory place of residence orders, no data for the other alternatives to the detention</b>
Number of third-country nationals applicants for international protection in ordinary procedures provided alternatives to detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of third-country nationals fast-track international protection applicants (accelerated international protection procedures) provided alternatives to detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of international protection applicants subject to Dublin procedures provided alternatives to detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of rejected applicants for international protection provided alternatives to detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of rejected applicants for family reunification provided alternatives to detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of other rejected applicants for residence permits on basis other than family reunification (Please specify)	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>

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Number of persons found to be illegally present on the territory of the (Member) State (i.e. such as those who have not applied for international protection and are not (yet) been issued a return decision) provided alternatives to detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of persons issued a return decision provided alternatives to detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of vulnerable persons part of the aforementioned categories of third-country nationals - Please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.) and by category provided alternatives to detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Number of other third-country nationals provided alternatives to detention (Please specify the category(ies))	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>

**Table 2: Average length of time in detention**

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

<b>Average length of time in detention</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Source / further</b>

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						<b>information</b>
Average length of time in detention of all categories of third-country nationals in detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Average length of time in detention of applicants for international protection in ordinary procedures	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Average length of time in detention of fast-track (accelerated) international protection applicants (accelerated international protection procedures)	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Average length of time in detention of applicants for international protection subject to Dublin procedures	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Average length of time in detention of rejected applicants for international protection	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Average length of time in detention of rejected family reunification applicants	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Average length of time in detention of other rejected applicants for residence permits on basis other than family reunification (Please specify)	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Average length of time in detention of persons detained to prevent illegal entry	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Average length of time in detention of persons found to be illegally present on the territory of the (Member) State (i.e. such as those who have not applied for	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>

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international protection and are not (yet) been issued a return decision)						
Average length of time in detention of persons who have been issued a return decision	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Average length of time in detention of vulnerable persons part of the aforementioned categories of third-country nationals - Please, where possible, disaggregate by type of vulnerable persons (for example, minors, persons with special needs, etc.) and by category	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>
Average length of time in detention of other third-country nationals placed in immigration detention	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>	<i>No information</i>

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