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Ad-Hoc Query on 2022.13 Border procedures

Requested by EMN NCP Finland on 25 March 2022

Responses from Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, France, Germany, Greece, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovakia, Slovenia, Spain, Sweden (19 in Total)

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1. BACKGROUND INFORMATION

In Finland, the Ministry of the Interior has set up a project to examine and prepare legislative amendments to enable the introduction of the border procedure in Finland. Border procedure is seen as one of the means available in the EU legislation that, if implemented in Finland, would likely bring additional tools for managing situations created by hybrid influence activities. Taking into consideration the current

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geopolitical situation, the matter is urgent and the government proposal is due to be submitted to Parliament as soon as possible. The legislative solutions and practices taken by the Member States already applying border procedure are now of particular interest for Finland. According to article 43 paragraph 1 of the Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection Member States may provide for procedures in order to decide at the border or transit zones of the Member State on certain applications. According to paragraph 2 of the same article when a decision has not been taken within four weeks, the applicant shall be granted entry to the territory of the Member State in order for his or her application to be processed in accordance with the other provisions of the Directive. There are no provisions or regulations in EU law on how to keep applicants at the border or transit zones without giving them right to move freely within the territory of the Member State. In a way it is "a legal fiction" as the applicants are on the territory of a Member State but they are not granted entry into the country. Therefore, we would like to ask you the following questions on your national legislation and practices.

The deadline is of 2 weeks due to the urgent need of the Finnish government and it will count as two ad-hoc queries.

We would like to ask the following questions:

- 1. Do you have a specific provision/provisions in your legislation which states that applicants are not granted entry to the country if their application is examined in a border procedure (i.e. a situation of "legal fiction", where the person is physically present on the territory of the Member State but not legally considered to be present)? YES/NO. If yes, can you please provide the provision and explain how it is applied?**
- 2. Do you have a specific provision/provisions in your legislation on restrictions of movement for applicants whose application is examined in a border procedure? YES/NO. If yes, can you please provide the provision and explain how it works?**
- 3. Does your Member State restrict the movement of applicants in border procedures in practice e.g. do you apply precautionary measures (detention or less coercive measures)? YES/NO. If yes, can you please list these measures and explain how they are applied in this situation.**

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4. If you answer YES to Q.3, how does your Member State guarantee the individual assessment of each case when applying these measures in the context of border procedure, especially when there is a massive influx of migrants?

We would very much appreciate your responses by **8 April 2022**.

2. RESPONSES

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		Wider Dissemination ²	
	EMN NCP Belgium	Yes	<p>1. Yes. According to article 74/5, § 1, first paragraph, 2° of the Immigration Act of 15 December 1980 it is possible to detain at the border a person who has applied for international protection and who is not in the possession of the required entry documents. A TCN can't be detained at the border solely because of his or her application for international protection. The possible detention must always be assessed individually, as in accordance with Directive 2013/32, article 26.</p> <p>2. Yes. Please see above. If a decision in first instance regarding the application for international protection at the border is not taken within four weeks, the applicant will be allowed to enter the territory (article 43, paragraph 2 of Directive 2013/32/EU).</p> <p>3. Yes. They can be detained at the border.</p> <p>4. Every case will be assessed individually. The maximum capacity of detention centers (at the border or on the territory)</p>

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."


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			will never be surpassed. In case of mass influxes, TCNs can be granted temporary residence (as is the case now with Ukrainian nationals).
	EMN NCP Bulgaria	Yes	<ol style="list-style-type: none"> 1. No. Bulgaria does not apply border procedure. 2. 3. 4.
	EMN NCP Croatia	Yes	<ol style="list-style-type: none"> 1. The Act On International And Temporary Protection does not prescribe it directly but article 42 paragraph 4 stipulates : "The Ministry shall render a decision on the application in a procedure at the border crossing or in the transit zone no later than within 28 days from the day the application is lodged. According to Art.42 paragraph 5: "If within the time limit referred to in paragraph 4 of this Article no decision is rendered, the applicant shall be permitted to enter the Republic of Croatia in order for the procedure for the approval of international protection to be conducted". Republic of Croatia currently does not carry out border procedures in practice. 2. NO. 3. NO. Republic of Croatia currently does not carry out border procedures in practice. 4. N/A
	EMN NCP Cyprus	Yes	<ol style="list-style-type: none"> 1. No. Cyprus' Refugee Law does not specifically provide for border procedures. 2. No. Cyprus' Refugee Law does not specifically provide for border procedures.



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			<p>3. No. Cyprus' Refugee Law does not specifically provide for border procedures.</p> <p>4. N/A</p>
	EMN NCP Czech Republic	Yes	<p>1. Yes. In the Czech Republic, there are provisions for proceedings at the reception centre at an international airport. This procedure applies to applicants for international protection who have lodged their application in the transit area of an international airport. Such applicants are placed in a reception centre at an international airport. For such applicants, a decision may be taken not to allow entry into the territory, if</p> <ul style="list-style-type: none"> (a) the purpose of the detention is to reliably establish or verify his identity, (b) he/she presents forged or falsified identity documents and his/her identity is not otherwise known, (c) there are grounds for believing that he or she may constitute a threat to national security or public order, (d) will be transferred to a State bound by a directly applicable provision of the European Union and where there is a serious risk of absconding, in particular where the applicant has previously evaded transfer or attempted to abscond or has expressed an intention not to comply with a final decision on transfer to a State bound by a directly applicable provision of the European Union or where such an intention is evident from his or her conduct, (e) there are reasonable grounds for believing that he or she has made an application for international protection solely with a view to avoiding or delaying an imminent expulsion, extradition or surrender pursuant to a European arrest warrant for prosecution or imprisonment abroad, although he or she could have applied for international protection earlier; or (f) by his or her conduct makes the proceedings for international protection more difficult, in particular by not providing the necessary cooperation to the Ministry of the Interior, and therefore it is not possible to establish the state of affairs in the proceedings for granting international protection beyond reasonable doubt, there is a risk of flight or he or she has previously left the territory unlawfully, unless such conduct is contrary to the international obligations of the Czech Republic. <p>2. Yes, such applicants are obliged to stay in a reception centre at an international airport during the international protection procedure; this measure is applied on individual basis. In the decision on refusal of entry into the territory, the Ministry of the Interior shall specify the period during which the applicant for international protection may not enter the territory; this period may be extended, even repeatedly. The period of stay of the applicant for international protection in a reception centre at an international airport may not exceed 120 days from the date of submission of the application for</p>

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			<p>international protection.</p> <p>3. Yes, see the answer to the second question.</p> <p>4. There is an obligation in our law to periodically review whether the conditions for refusal of entry are met and applicant can lodge appeal to the court that will be processed in a speedy court review process. In case of influx, another centre outside the airport area may be used.</p>
	EMN NCP Estonia	Yes	<p>1. No, there is no specific provision in the national legislation stating that applicants are not granted entry to the country if their application is examined in a border procedure. According to the Act on granting international protection to aliens a clearly unfounded application for international protection may be reviewed under the accelerated procedure, including at the border. Nevertheless, in practice the Police and Border Guard Board does not examine asylum applications at the border. Hence, all the asylum seekers are transferred to accommodation center or if necessary to the detention center.</p> <p>2. No.</p> <p>3. No.</p> <p>4. N/A</p>
	EMN NCP France	Yes	<p>1. Yes.</p> <p>In France, the Code on Entry and Residence of Foreign Nationals and Right of Asylum (CESEDA) provides for a procedure relating to applications for international protection at the border. Foreign nationals who do not meet the conditions for entry into the country because of a lack of required documents and visas and who apply for asylum, can be kept in a waiting zone during the process for the time strictly necessary to verify ;</p> <ul style="list-style-type: none"> - 1° Whether the examination of the application falls within the competence of another State pursuant to the Dublin Regulation of 26 June 2013, establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, or pursuant to commitments identical to those provided for in the same regulation; - 2° Or, if the application is inadmissible because they benefit from effective asylum protection in another EU Member State or in a third State where he/she is effectively re-admitted, or because, in the event of a re-examination of their

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			<p>application, the new evidence produced does not significantly increase the likelihood of justifying the qualification for international protection.</p> <p>- 3° Or, if the application is not manifestly unfounded (a manifestly unfounded application for asylum is one which, in view of the statements made by the foreign national and the documents, if any, produced, is manifestly irrelevant with regard to the conditions for granting asylum or manifestly lacking in any credibility as regards the risk of persecution or serious harm in case of return to the country of origin).</p> <p>The decision to admit or reject an asylum seeker to the country is taken by the Ministry of the Interior after consultation with the OFPRA (French office for the protection of refugees and stateless persons - Office français de protection des réfugiés et apatrides, an independent public institution responsible for granting international protection, placed under the supervision of the Ministry of the Interior). The OFPRA interviews foreign nationals applying for asylum at the border and sends a reasoned opinion to the Ministry of the Interior on the inadmissibility or manifestly unfounded nature of their application. Unless the foreigner's access to the territory constitutes a serious threat to public order, OFPRA's opinion, if it is favourable to admission to the territory on the basis of asylum, is binding on the Ministry (L.352-2 of the CESEDA). It is on this basis that the Ministry of the Interior carries out security screening.</p> <p>The waiting zone is extra-territorial: a person in it is not considered to be on French territory.</p> <p>2. YES</p> <p>As mentioned in Q1, a foreign national who wishes to apply for international protection may be kept in a waiting zone. The waiting area is a delimited space located either in an airport, in a port or near a place of disembarkation, or in a railway station open to international traffic.</p> <p>Temporary waiting zones may be established if large numbers of arrivals occur at one location. The area extends from the embarkation and disembarkation points to the points where travellers are checked (bonded areas). It also covers places where foreigners have to go in the context of the procedure for keeping them in the waiting area and in case of medical necessity (e.g. before the court or in hospital).</p> <p>A waiting zone is not a detention centre or a place of house arrest but it is a closed place. The detention in a waiting zone is very well regulated, guided by a concern to preserve the rights and individual freedoms of asylum seekers and carried out under the control of the judge of freedoms and detention.</p> <p>3. YES</p> <p>The maximum period of detention in this zone is 4 days, and can be extended for 8 days, renewable once. The total duration cannot therefore exceed 20 days (with a possible extension of 6 additional days if the asylum application is late,</p>
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			<p>i.e. within this second 8-day period). Afterwards, the foreign national authorised to enter France on the basis of asylum is issued with an eight-day regularisation visa without delay. Within this period, the competent administrative authority issues him/her, at his/her request, an asylum application certificate enabling him/her to lodge his/her asylum application with the OFPRA.</p> <p>Furthermore, the legislation precisely defines the rights recognised to persons held in the waiting zone (right to an interpreter, to the assistance of a doctor, etc.). Authorised associations and the United Nations High Commissioner for Refugees have access to the waiting areas at their request. In addition, asylum seekers may be assisted by a lawyer or a representative of an approved association during the interview with the OFPRA protection officer.</p> <p>Finally, if the OFPRA considers that the examination of the application, taking into account the applicant's personal situation (minority, victims of violence, etc.), requires specific procedural guarantees which are not compatible with detention in the waiting area, detention is terminated by decision of the Director General of the OFPRA. The foreign national is then issued with an eight-day regularisation visa with a view to going to the Prefecture to lodge an asylum application. Unaccompanied minors can only be held in the waiting area for the time strictly necessary to examine their application in the following cases :</p> <ul style="list-style-type: none"> o they come from a safe country of origin, o they apply for a review, o they have presented false identity or travel documents o their presence in France presents a serious threat to public order. <p>Unaccompanied minors benefit from the assistance of an ad hoc administrator responsible for ensuring their representation in administrative and jurisdictional procedures. He or she is appointed by the public prosecutor as soon as the procedure is initiated. In addition, the competent services pay particular attention to the material conditions under which unaccompanied minors are held in the waiting area. If they are under 13 years of age, they are provided with accommodation in a hotel under the care of a nurse. An agreement was concluded in 2007 between the Ministry of the Interior and the French Red Cross to entrust this organisation with humanitarian assistance to unaccompanied minors, regardless of their age.</p> <p>4. A guide for the reception and management of operational flows at the borders was drawn up and distributed by the Ministry of the Interior to the prefects of the defence and security zone and the prefect of the Police, who are responsible for coordinating actions in this area. The aim of these mobilisation actions of a legal, logistical, security and communication nature is to formalise a zonal intervention plan and its departmental version.</p> <p>In the event of a large number of foreign nationals arriving at the border, this zonal intervention plan focuses particularly</p>
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			<p>on four areas of intervention: prior activation of the departmental operational centre and the zonal operational centre (dissemination of information and alert role), taking charge (legal, material, health) of foreign nationals arriving at the sea, land or air borders, placing them in a waiting area and removing them from this waiting area.</p> <p>During the care phase in the context of land or sea arrivals, the aim is firstly to keep the foreign nationals in the place of application (premises provided before referral to an existing waiting area, or one created or extended on an ad hoc basis to meet the situation by prefectural order). The legal and administrative authorities are informed of this significant arrival of foreigners. The border police collect evidence of actions to assist the illegal entry of these persons. In case of arrival by air, a reinforced control is set up.</p> <p>Placed in a waiting area, the foreigners are then subjected to the procedure for examining their asylum application at the border under the usual conditions.</p>
	EMN NCP Germany	Yes	<p>1. Yes, However, in Germany, special border procedures only exist in the case of foreigners who arrive via an airport and apply for asylum with the border authority. The so-called airport procedure takes place before the German Federal Police decides whether the applicant may enter the country or not. During the procedure, the applicants have not yet entered Germany (for example the transit area). The airport procedure only applies if the applicants are unable to identify themselves with a valid passport or other means of identification or if they come from a safe country of origin.</p> <p>The Federal Office for Migration and Refugees (hereinafter: Federal Office) shall interview applicants without undue delay, and decide on the asylum application within two days. If the Federal Office approves the application for asylum, the Federal Police grants permission to enter the country. If the Federal Office rejects the application for asylum, the Federal Police can refuse applicants to enter the country. In this case, the applicant can file an application for temporary relief before the administrative court. Applicants receive free legal advice from an independent lawyer within three days. If the administrative court approves the application for a temporary relief or has not ruled on it within 14 days, the applicant may enter the country. This means that the airport procedure has a maximum duration of 19 days. During the airport procedure the applicant has to remain in the airport transit area. The airport procedure currently applies at Berlin-Schönefeld, Düsseldorf, Frankfurt/Main, Hamburg and Munich airports. These airports can accommodate asylum applicants on the airport complex.</p> <p>Provision: Section 18a Asylum Act Procedure in case of entry by air (1) In the case of foreigners from a safe country of origin (Section 29a) who wish to enter via an airport and apply for asylum with the border authority, the asylum procedure shall be conducted prior to the decision on entry, if the foreigner can be accommodated on the airport premises during the procedure or cannot be accommodated on the airport premises</p>


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			<p>only because of a necessary hospital stay. The same applies to foreigners who request asylum from the border authorities at an airport and who are unable to prove their identity with a valid passport or other means of identification. The foreigner shall immediately be given the opportunity to file an asylum application with the branch office of the Federal Office assigned to the border checkpoint. The Federal Office shall interview the foreigner in person without delay. The foreigner shall immediately thereafter be given the opportunity to contact a legal adviser of his choice, unless he has already secured legal counsel. Section 18 (2) shall remain unaffected.</p> <p>(2) If the Federal Office rejects the asylum application as manifestly unfounded, the Federal Office shall warn the foreigner pursuant to Sections 34 and 36 (1) that he will be deported should he enter the country.</p> <p>(3) If the asylum application is rejected as manifestly unfounded, the foreigner shall not be allowed to enter the country. The decisions of the Federal Office together with the refusal of entry shall be delivered by the border authority. The border authority shall immediately send a copy of its decision and the administrative file of the Federal Office to the competent administrative court.</p> <p>(4) Any application for temporary relief pursuant to the Code of Administrative Court Procedure shall be filed within three days from the date the decisions of the Federal Office and of the border authority are delivered. The application may be filed with the border authority. The foreigner shall be informed of this. Section 58 of the Code of Administrative Court Procedure shall be applied accordingly. The decision should be issued in writing. Section 36 (4) shall be applied. If an application is filed on time, the refusal of entry shall not be enforced prior to the court decision (Section 36 (3), ninth sentence).</p> <p>(5) Any application pursuant to subsection 4 shall be aimed at the granting of entry and, in the case of entry, against the deportation warning. The court order allowing the foreigner to enter the country shall at the same time serve to suspend deportation.</p> <p>(6) The foreigner shall be allowed entry if</p> <ol style="list-style-type: none"> 1. the Federal Office informs the border authority that it is not able to decide the case within a short time; 2. the Federal Office has not taken a decision on the asylum application within two days of its being filed; 3. the court has not taken a decision on an application pursuant to subsection 4 within two weeks, or 4. the border authority has not requested detention as required by Section 15 (6) of the Residence Act or the judge has refused to order or extend detention. <p>2. Please answer to Q1</p> <p>3. Please see answer to Q1</p>
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			4. Please answer to Q1
	EMN NCP Greece	Yes	<p>1. No, there is no such provision in our legislation, regarding the arrival of third country nationals who enter Greece from the borders without complying with the legal formalities. Third country nationals are subject to identification and the reception procedures which are conducted by the Reception and Identification Service (R.I.S.) of the Ministry of Migration and Asylum as provided by articles 39 et seq., of Law 4636/2019 [Government Gazette A/169]. However, Article 90(3) Law 4636/2019 (transposition of article 43 of Directive 2011/95/EU) provides that a “border procedure” applies in case of mass arrivals of third country nationals or stateless persons, who submit applications for international protection at the border or in the transit zone of ports or airports of the country or while they remain in Reception and Identification Centers. Reception and identification Centres (RIC) introduced in 2015 by the European Commission in the European Agenda on Migration and established in 2015-2016 in the islands of Lesbos, Chios, Samos, Kos and Leros, taking into account the number of arrivals of third country nationals and stateless persons. Within these Centers operates a Unit of the Reception and Identification Service (RIS) and a Regional Asylum Office (RAO). Within some of those PreRemoval Detention Centres (PRDC) also operate. Currently, the RICs of Samos, Kos and Leros have been replaced by Closed Controlled Access Centers of Islands (CCACI). In this case, applicants who have applied for asylum at the borders and on whom there has been imposed this restriction of movement, they will be examined with the border procedure which includes shorter deadlines while at the same time safeguarding the basic principles of the asylum procedure.</p> <p>2. Third country nationals arriving at the Greek islands of Lesbos, Samos, Kos, Leros and Chios from the maritime borders are subject to restriction of movement following the Ministerial Decision of the Minister of Citizen Protection no.1140/2019 (GG B'4736/2019) with the aim to process their asylum applications in a swift and efficient manner and according to the law 4636/2019. This ministerial decision has been issued according to the provision of Article 45 par.1 Law 4636/2019 (article 45 transposes and specifies in Greek legislation the provision of article 7 of Directive 2013/33). Regarding the restriction of freedom of movement within a specific geographical area (islands), which was applied between March 2016 and December 2021, the following are pointed out: The establishment of Reception and Identification Centres and the implementation of the “border procedure” was closely linked to the EU-Turkey Statement. Starting from the 20th of March 2016, all third country nationals and stateless persons arriving from Turkey to the five islands of the Aegean Sea (Lesbos, Chios, Samos, Kos and Leros) plus the island of Rhodes, were subjected to a restriction of freedom of movement within the island in which they arrived, their application was to be</p>

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			<p>examined under an accelerated “border procedure” (if submitted by a Syrian national was to be examined initially at an admissibility stage under the concept of “safe third country”) and if rejected with a final decision, they would be readmitted to Turkey.</p> <p>Concerning issues of residence and freedom of movement, are applied the provisions of article 45 Law 4636/2019, which transposed article 7 of Directive 2013/33/EU. Based on the above provision and on a series of regulatory decisions since 2016, a restriction of freedom of movement within the island of arrival was imposed after the completion of reception and identification procedure and was mentioned on the cards of the applicants of international protection. The restriction of freedom of movement within the islands was deemed necessary due to the mass influx of third country nationals and stateless persons in the country and was justified by reasons of public interest and for serving the country's immigration policy, especially for: a. fast processing and efficient monitoring of applications for international protection, b. the management of the population of applicants for international protection within the Greek territory, and c. implementation of the EU-Turkey Statement.</p> <p>Article 45 Law 4636/2019 further provides that an applicant, for whom a restriction of freedom of movement within a specific geographical area applies, may apply before the competent authority to temporarily leave the area. The decision on the application is taken after an individual assessment and contains a complete and detailed reasoning. Such permission is not required when the applicant is required to appear before a public authority. In any case, applicants are obliged to notify the competent authorities of any change in their place of residence.</p> <p>Due to the decrease of the number of arrivals of third country nationals and stateless persons in Greece in 2021, the restriction of freedom of movement within the islands ceased to apply in 2022, as currently, it is not considered that there is a mass influx. Although the restriction of freedom of movement applied initially for every third country national or stateless person arriving from Turkey after the 20th of March 2016, there were provisions according to which the restriction could be lifted, based on the previous legal framework, Law 4375/2016 (in force until December 2019).</p> <p>More specifically, since January 2022, the practice of restriction of freedom of movement within the islands has stopped and been replaced by the restriction of freedom of movement within the RIC, as long as the reception and identification procedures last. According to Article 39 Law 4636/2019: “All third country nationals and stateless persons who enter without complying with the legal formalities in the country, shall be submitted to reception and identification procedures”.</p> <p>Reception and identification procedure includes five stages: a. Information (on rights and obligations, transfer to other facilities, possibility to seek international protection or voluntary return etc), b. Inclusion (in the reception and identification procedure), c. Registration and medical checks (including identification of vulnerable groups), d. Referral to the asylum procedure (examination of the asylum application under the “border procedure”), e. Further referral and transfer (to other reception or detention facilities depending on the circumstances of the case).</p>
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			<p>Specifically, during reception and identification procedures, third country nationals and stateless persons are in a regime of restriction of their freedom of movement within the Center, based on a decision of the Head of RIC, which is issued within 5 days from their entry. If the procedures have not been completed after the expiration of the five-day period, the Head of RIC may decide to extend the restriction of the freedom of movement until the completion of these procedures for an additional period not exceeding a total of 25 days. This restriction implies the prohibition of leaving the Center and an obligation of staying in its premises in accordance with the terms and conditions of the regulations of the Center. In this context, special care is given to vulnerable groups and especially to unaccompanied minors. Exceptionally and for serious health reasons, the Head of RIC may grant a temporary exit permit from the above facilities. The third country national or the stateless person can appeal against the decision of extension of the restriction of his/her freedom of movement. When the reception and identification procedures are completed and a decision on the application of international protection has not been issued, the restriction of the freedom of movement is lifted and the applicant is provided with an international protection card, according to Article 70(5)(b) Law 4636/2019. This point may be informally considered the applicant's entrance in the territory of the country, since he/she has been provided with documentation (applicant's card) and he/she can move freely in the Greek territory. In any case, based on article 90(2) Law 4636/2019, if the decision of the application of international protection has not been issued within 28 days from the date of submission of the application, the applicant is allowed to enter and stay in the territory of the country.</p> <p>It should be also mentioned that, since November 2021, third country nationals and stateless people who entered the national territory without complying with the legal formalities and have not been subjected to reception and identification procedures, are eligible to apply for international protection in one of the RAOs operating within the RICs of the abovementioned islands and in Fylakio, which is near the land border of Evros.</p> <p>Finally, in Ministerial Decision nr. 1140/2019 (point 6), it is mentioned that the restriction of movement of the applicants does not harm their right to private life or the right to enact on the rights they have according to the national, european or international legislation. There is also provision for a temporary lift of this restriction of movement after such a permission for temporary lift has been filed to the authorities. The restriction of movement regarding the applicants applying for asylum at the borders, can be lifted with a Decision taken by the Commander of the Reception Center as provided in Article 39 par.7 of Law 4636/2019, in the cases of unaccompanied minors or of vulnerable persons or persons in need of special accommodation according to the provisions of law 4636/2019.</p> <p>3. Restriction of liberty can be imposed according to Article 39 par. 4 of Law 4636/2019 on third-country nationals or stateless persons who enter the Reception and Identification Centre during their reception and identification procedure for a period not exceeding twenty-five (25) days. Detention may be applied to applicants as a measure after individual</p>
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			<p>evaluation and the safeguards of articles 46 (transposition of articles 8 and 9 of Directive 2013/33/EU) et seq. of L. 4636/2019 and only if no alternative less coercive measures (as provided by Law 3907/2011, A' 7) are available for one of the following reasons (according to article 46 par.2):</p> <p>“Detention in accordance with the previous subparagraph is only required for one of the following reasons:</p> <p>(a) in order to determine his /her identity or nationality;</p> <p>(b) in order to determine those elements on which the application for international protection is based which could not be obtained otherwise, in particular when there is a risk of absconding of the applicant, as this risk is defined in Article 18(g) of Law 3907/2011; Or</p> <p>(c) when he/she constitutes a danger for national security or public order, according to the reasoned judgment of the competent authority of paragraph 4 of this Article; or</p> <p>(d) when there is a serious risk of absconding of the applicant within the meaning of Article 2(n) of Regulation (EU) No 604/2013 in accordance with the criteria laid down in Article 18 of Law 3907/2011 which apply respectively and in order to ensure the enforcement of a transfer decision according to the above Regulation; or</p> <p>(e) to determine, in the framework of a procedure, the applicant's right to enter the territory.”</p> <p>Regarding the issue of detention upon arrival, a third country national or stateless person seeking international protection will not be detained for the mere reason that he or she has entered the country without complying with the legal formalities. However, an applicant of international protection may be exceptionally detained, if necessary, following an individual assessment and provided that alternative measures cannot be applied. According to Law 3907/2011 (transposition of Directive 2008/115/EC), provides in article 22(3) that alternative measures may include the regular appearance before the authorities, a financial deposit or the obligation to within a specific geographical area. The vulnerability of applicants (minors, either unaccompanied or not), direct relatives of shipwreck victims, people with mental or physical disabilities, people with serious illnesses, the elderly, pregnant women, single-parent families with minor children, victims of trafficking, and victims of torture or other serious forms of psychological, physical or sexual violence) is taken into account for the imposition or extension of detention.</p> <p>According to article 46 Law 4636/2019 (articles 8 and 9 Directive 2013/33/EE) detention is permitted only for one of the following reasons: (a) in order to determine or verify his or her identity or nationality or origin; (b) in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant; (c) when there is a risk of national security or</p>
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			<p>public order; (d) when there is a significant risk of absconding within the meaning of Art. 2(n) of Regulation (EU) 604/2013 and in order to ensure the implementation of the transfer procedure in accordance with the Dublin Regulation; (f) in order to decide, in the context of a procedure, on the applicant's right to enter the territory. Detained applicants will be informed promptly in writing, in a language they understand of the reasons of their detention and the procedures, they can have access to free legal aid and challenge the detention order.</p> <p>Finally, a pilot project was being launched since 2017 by the Hellenic Police and was implemented on the islands of Lesbos and Kos, where a Pre-Removal Detention Centre (PRDC) used to operate within the Reception and identification Centre (RIC). Under this project, newly arrived persons (single men) belonging to particular nationalities with low recognition rates and Syrian nationals were placed in detention upon arrival. This deemed necessary due to the mass influx of third country nationals and stateless persons in the country and was justified by reasons of public interest, for the fast processing and efficient monitoring of applications for international protection and the implementation of the EU-Turkey Statement.</p> <p>4. The individual assessment of each case is safeguarded through the provisions of Law 4636/2019, which has transposed Directives 2013/32 and 2011/95. According to Law 4636/2019, each asylum application is examined separately (with an individual interview according to art. 65 par.1) and a separate decision is taken on each case, regardless of whether the applicant is under restriction of movement or not.</p>
	EMN NCP Latvia	Yes	<p>1. Yes.</p> <p>In order to ensure the effectiveness of the asylum procedure in a situation where the number of asylum seekers has increased significantly and to prevent abuse thereof, the Asylum Law provides a special procedure for the examination of the application regarding the granting of refugee or alternative status in the Republic of Latvia (hereinafter - application), if the application has been submitted at the border crossing point or in the transit zone and there are conditions for taking a decision regarding leaving the application without (hereinafter) (- border procedure). In accordance with the requirements of Directive 2013/32/EU, the abovementioned procedure, including the time allowed for appeal and judicial settlement, may not exceed four weeks. In accordance with the border procedure specified in the Asylum Law, the following time limits shall be provided: after receipt of the application and performance of the initial activities, the State Border Guard shall submit the information at its disposal regarding the asylum seeker, the information obtained in the negotiations and the initial interview and the submission to the Office of Citizenship and Migration Affairs within two working days from the moment of submission of the application (Section 23 of the Asylum Law. in Part Six, Paragraph 2), the Office of Citizenship and Migration Affairs may, within five working days, take a decision regarding leaving an application without consideration,</p>

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			<p>if the circumstances referred to in Section 30, Paragraph one of the Asylum Law exist (Section 29, Paragraph one, Clause 1 of the Asylum Law), i.e.:</p> <ol style="list-style-type: none"> 1) the asylum seeker of another Member State has been granted international protection; 2) a State which is not a Member State is considered to be the first country of asylum for an asylum seeker; 3. a country which is not a Member State is considered to be a safe third country for an asylum seeker; 4) the asylum seeker has submitted a repeated application in the Republic of Latvia after the final decision regarding the refusal to grant refugee or alternative status has been taken, and it does not mention the circumstances which would have changed significantly in favour of the asylum seeker and could be the basis for granting refugee or alternative status. <p>An asylum seeker or his or her empowering person has the right to appeal the decision of the Office of Citizenship and Migration Affairs regarding leaving an application without examination in the Administrative District Court in conformity with the address of the place of detention or accommodation of the asylum seeker (in conformity with the decision specified in Section 189, Paragraph two of the Administrative Procedure Law) within five working days (Section 48, Paragraph four, Clause 2 of the Asylum Law. paragraph) and the court shall examine the case within five working days from the date on which the decision regarding the taking of the application and the adjudication of the case has been taken (Section 49, Paragraph one, Clause 2 of the Asylum Law).</p> <p>The Office of Citizenship shall forward the received application of the asylum seeker regarding the appeal of the decision regarding leaving the application without consideration, together with the documents and evidence at its disposal, to the court within one working day from the date of receipt thereof.</p> <p>If the application has been submitted at a border crossing point or transit zone and the matter regarding the taking of the application for consideration or leaving without consideration is decided, the State Border Guard shall provide adequate and adequate support to an asylum seeker who has special procedural or reception needs, so that he or she may use the rights specified in the Asylum Law during the asylum procedure and fulfil the duties specified in the Asylum Law.</p> <p>If the deadlines referred to above cannot be observed or the State Border Guard for an asylum seeker, which has been recognised as an asylum seeker, who needs special procedural guarantees, particularly if the asylum seeker has suffered from torture, rape or other serious psychological, physical or sexual violence, cannot provide adequate support so that the asylum seeker has suffered during the asylum procedure the right of the Asylum Law and the performance of duties may be exercised, the applicant of the application shall be allowed to enter the territory of the Republic of Latvia for the purpose of examining the application in accordance with other provisions of Directive 2013/32/EU.</p> <p>In the Republic of Latvia, it is intended that asylum seekers, the applications of which will be examined at borders, will be placed in the accommodation rooms of the State Border Guard detainees, located near the border.</p>
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			<p>2. Yes.</p> <p>In accordance with the conditions of Section 16(3) of the Asylum Law, i.e. it is necessary to decide on the right of an asylum seeker to enter the Republic of Latvia, the State Border Guard has the right to initially suspend the asylum seeker for up to six days if the application of the asylum seeker will be examined within the framework of the border procedure. When detaining an asylum seeker, the State Border Guard shall without delay draw up a detention report, indicating in it:</p> <ol style="list-style-type: none"> 1) the given name, surname and position of the official who compiled the report, as well as the time and place of drawing up the report; 2) the given name (given names), surname, date of birth and nationality of the detained asylum seeker; 3) the given name, surname and position of the official who committed actual detention, actual time and place of detention, as well as the time when the asylum seeker was taken to the premises of the State Border Guard in order to draw up a detention report; 4) the established facts; 5) the reason for the detention, as well as the legal norms applied; 6) procedures for appealing to detention; 7) the possibility of requesting free legal assistance and representation. <p>The asylum seeker shall be informed of the detention report in a language which he understands or, in a language which has grounds for believing he is understandable, if necessary by means of an interpreter, explain the reasons for the detention, the appeal procedures, the procedures for exercising judicial control over the detention and shall be informed of the possibility of requesting free legal assistance. Information regarding the reasons for the detention, as well as the procedures for appealing the detention specified in regulatory enactments and the procedures for granting the free legal aid provider and representative shall be issued in writing in a language which the asylum seeker understands or in a language which is justified to be regarded as understandable to him or her.</p> <p>The detention report shall be drawn up in two copies, one of which shall be issued to the asylum seeker, and the other shall be attached to the case of the asylum seeker. The detention report shall be signed by the official who composed it and by the detained asylum seeker. If the detained asylum seeker refuses to sign or receive a copy of the Protocol, it shall be indicated in the Protocol.</p> <p>The number of detention periods from the time the asylum seeker was actually detained.</p> <p>An asylum seeker has the right to appeal the detention to a district (city) court within 48 hours after his or her introduction to the detention protocol, the procedures for appealing, the procedures by which court control regarding detention is exercised, as well as the right to request free legal assistance.</p> <p>A asylum seeker may be detained for more than six days only on the basis of a decision of the district (city) court. In such</p>
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			<p>cases, the State Border Guard shall submit to a district (city) court (according to the actual location of the asylum seeker) a reasoned proposal to hold the asylum seeker for more than six days, not later than 48 hours before the end of the term of detention. The State Border Guard shall take the asylum seeker to a district (city) court and, if necessary, invite an interpreter.</p> <p>A district (city) court, within 24 hours, examining a proposal to suspend an asylum seeker for more than six days, hearing the opinion of the official of the State Border Guard, the opinion of the asylum seeker and his or her representative (if any), evaluating the basis for the application of restrictive measures and the conditions of detention, shall take one of the following decisions:</p> <ol style="list-style-type: none"> 1) to refuse the detention of an asylum seeker; 2) to apprehend an asylum seeker, indicating the term of detention. The period of detention shall not exceed two months and shall not exceed the period of the asylum procedure. <p>If the court has taken a decision to refuse the detention of an asylum seeker, the State Border Guard shall, without delay after the receipt of the transcript thereof and the presentation of the asylum seeker thereof, release the asylum seeker. The redetention of an asylum seeker may be limited to information or new circumstances justifying the detention have been established.</p> <p>An asylum seeker or his or her representative may at any time submit an application to a district (city) court (according to the actual location of the detained asylum seeker) regarding the assessment of the need for further application of the detention.</p> <p>An application for an assessment of the need for further application of the detention may be rejected if it does not contain details of the circumstances which were not known in advance when deciding on the detention or examining the previous application. The court shall review the application in a written procedure without the participation of the persons involved in the proceedings and the decisions taken by the court shall not be appealed.</p> <p>3. The border procedure in the Republic of Latvia has never been applied until this time, and therefore the detention on the basis of Section 16(3) of the Asylum Law has also not been implemented in practice. However, it should be noted that the need to apply detention to an asylum seeker shall be assessed taking into account the individual situation and circumstances of the asylum seeker and, for example, if it is established that the State Border Guard for an asylum seeker recognised as an asylum seeker who needs special procedural or reception guarantees cannot provide adequate support in order to allow an asylum seeker during the asylum procedure the applicant is allowed to enter the territory of the Republic of Latvia for the purpose of examining the application in accordance with other provisions of Directive 2013/32/EU.</p>
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			4. N/a
	EMN NCP Lithuania	Yes	<p>1. Yes.</p> <p>According to the Law on the Legal Status of Foreigners, when the asylum application is submitted at border crossing points, transit zones or shortly after an irregular crossing of the border, the presence of asylum seekers in the temporary accommodation facilities is not considered an entry into Lithuania until a decision to allow their entry is made. Unless it decides to examine the substance of asylum application in <u>accelerated procedure or to not examine it</u>, the Migration Department has 48 hours to make this decision. While waiting for the decision, the State Border Guard Service temporarily accommodates asylum seekers at border crossing points, transit zones or the premises of the State Border Guard Service. If a <u>final</u> decision is not taken within 28 days from the lodging of an application for asylum by an asylum applicant temporarily accommodated in the temporary accommodation facilities, the Migration Department shall take a decision to admit such an asylum applicant into the Republic of Lithuania.</p> <p>The time for the procedure is extended when there is a declared extreme situation due to the influx of foreigners. When the asylum application is submitted at border crossing points, transit zones or shortly after an irregular crossing of the border during an extreme situation due to the influx of foreigners, the presence of asylum seekers in the temporary accommodation facilities is not considered an entry into Lithuania for 6 months from the date of their registration in the Lithuanian Migration Information System (MIGRIS). Asylum applicants are temporarily accommodated by the State Border Guard Service at border crossing points, transit zones, the premises of the State Border Guard Service, the Refugee Reception Centre, other accommodation centers, or in other locations adapted for that purpose, without granting them the right to move freely within the territory of the Republic of Lithuania. If during the period of an extreme situation due to the mass influx of foreigners and 28 days after its end, but not more than within 6 months from the date of registration of the foreigner in the Lithuanian Migration Information System, a final decision has not been taken on the legal status of the asylum applicant temporarily accommodated in the places of temporary accommodation, the Migration Department shall take a decision to admit such an asylum applicant to the Republic of Lithuania and to accommodate him in the places of temporary accommodation.</p> <p>2. Yes. Please see Q1.</p> <p>The presence of foreigners in the transit zones of international airports of the Republic of Lithuania shall not be considered as entry into the territory of the Republic of Lithuania. The presence of foreigners, who have lodged an application for asylum at border crossing point, transit zones or shortly after the irregular crossing of the state border of the Republic of Lithuania, in the temporary accommodation facilities shall not be considered as an entry into the territory of the Republic</p>



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			<p>of Lithuania pending a decision to admit an asylum applicant into the Republic of Lithuania.</p> <p>3. Yes. As the presence of an asylum applicant in temporary accommodation during the border procedure is not considered as entry into the territory of the Republic of Lithuania, s/he is accommodated in temporary accommodation (The State Border Guard Service temporarily accommodates at border crossing points, transit zones, the State Border Guard Service, the Refugee Reception Centre or other accommodation centers, accommodation places, accommodation facilities, temporary accommodation or other adapted places) without the right to move freely throughout the territory of the Republic of Lithuania.</p> <p>4. As a result of the mass influx of foreigners, asylum applicants who are subject to the border procedure, i.e. when the Migration Department makes a decision to process an asylum application essentially as a matter of urgency, they are accommodated by the State Border Guard Service in three foreigners' registration centers (Pabrade, Medininkai, and Kybartai) and in two camps administered by the Ministry of Social Security and Labor (Rukla and Vilnius). Asylum applicants are not granted the right to move freely throughout the territory of Lithuania. Such a legal situation - non-admission to the territory of the Republic of Lithuania, during an emergency event may last up to 6 months from the date of registration in MIGRIS.</p>
	EMN NCP Luxembourg	Yes	<p>1. No. As Luxembourg does not have any external borders except for the Luxembourg International Airport, it did not transpose article 43 (1) of the Directive 2013/32/EU into its national law.</p> <p>2. No. If yes, can you please provide the provision and explain how it works? N/A.</p> <p>3. NO. According to Article 4(1) of the modified Law on international protection and temporary protection, if the application for international protection is made to an officer of the Airport Control Service, there will be no restriction of the movement of the applicants. However, it has to be noted that the Directorate of immigration may need up to 6 working days to register the application after the wish to make an application for international protection is expressed. However, as soon as the person made an application, s/he can leave the airport and is directed to one of the housing facilities of the National Reception Office (ONA).</p>

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			<p>However, in case a third country national did not express his/her wish to make an application for international protection, s/he may be denied entry at the external border on a duly motivated decision issued by the Central Unit of the Airport Police in accordance with article 104 of the amended law of 29 August 2008 on free movement of persons (Immigration Law) and the decision can be executed ex-officio. However, if there is no possibility to execute the decision in the short term, the third-country national is placed in a waiting area (article 119 (1) of the Immigration Law). This waiting area extends to the places to which the third-country national must go, either as part of the procedure in progress (offices of the Directorate of Immigration where the procedure is taking place) or in case of medical emergency (the medical service office). However, the third-country national' stay in the waiting area is limited to the time strictly necessary for his or her departure, without the duration of the stay exceeding forty-eight hours (art. 119 (2) al. 1). Where the decision taken under Article 104 cannot be executed within 48 hours, the third-country national will be placed in detention in a closed facility (article 119 (2) al. 2), without this detention being considered as an authorisation to enter the territory.</p> <p>4. N/A. As the procedure laid down in answer of Q.3 only applies for cases that occur at the Luxembourg International Airport, it is not foreseen for a massive influx of migrants.</p>
	EMN NCP Malta	Yes	<p>1. NO</p> <p>2. NO</p> <p>3. NO</p> <p>4.</p>
	EMN NCP Netherlands	Yes	<p>1. Yes, the Netherlands has implemented the border procedure within the meaning of the art. 43 of the directive 2013/32/EU. The border procedure is established in article 3, paragraph 3 and 4 of the Aliens Act (Vreemdelingenwet) and elaborated in Article 3.109 b of the Aliens Decree (Vreemdelingenbesluit). The border police, Royal Netherlands Marechaussee checks at the external border (airports or seaports) whether foreign nationals meet the conditions to enter the country. If a person is denied entry, he/she can apply for international protection at the application centre of Schiphol. The decision on the entry of the Netherlands is postponed and the person enters the border procedure. He or she is detained in the Detention Centre Schiphol on the grounds of article 6, third paragraph Aliens Act. Unaccompanied minors are excluded from the border procedure, unless there are doubts about the minority. A family with minor children is also</p>


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			<p>excluded from the border procedure, unless there are doubts about the family relationship between parent and child. If this is the case, the parent and/or child are detained at a special detention centre at Zeist that is adapted to detain minors and families with minors, the Closed Family Facility (Gesloten Gezinsvoorziening – GGV) Zeist.</p> <p>During the border procedure an asylum request can only be rejected as:</p> <ul style="list-style-type: none"> • Not considered, due to the application of the Dublin Regulation (art. 30 Aliens Act) • Inadmissible (art. 30a Aliens Act) • Manifestly unfounded (art. 30b Aliens Act) <p>If one of these abovementioned grounds of rejection do not apply, the border procedure will be immediately terminated and access to the territory of the Netherlands is granted, where the application will be examined in the ordinary asylum procedure (art. 3.109b, third paragraph, Aliens Decree).</p> <p>If after four weeks in the border procedure there has not been given a decision on the application, the third-country national is provided access to the territory of the Netherlands ex officio (art. 3, paragraph 6 Aliens Act) and their application will also be examined in the ordinary asylum procedure.</p> <p>2. Yes, article 6 of the Aliens Act sets out the grounds for detention or a freedom-restricting measure at the border for persons who are refused entry at the border, including persons subject to a return procedure, or for persons for which the decision on entry at the border is postponed due to the submission of an application for asylum. Article 6, third paragraph Aliens Act applies detention specifically to persons applying for asylum at the border (i.e. the border procedure). It is elaborated in article 3.109 b Aliens Decree.</p> <p>During the course of the border procedure detention is applied. If it is established in the border procedure that the third-country national falls under the scope of a postponement (moratorium) of the decision or departure, or is likely to be eligible for an asylum residence permit, the detention measure will be lifted. Unaccompanied minors and families with minors applying for international protection are not subject to the border procedure but are transferred to the ordinary asylum procedure in the Central Reception Centre (Centrale Opvanglocatie – COL) in Ter Apel.</p> <p>If in the border procedure the application is denied and there is a risk that the third-country national will abscond or if the third-country national does not cooperate on the preparations of the return procedure, access to the Netherlands will be</p>
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			<p>refused when the applicant no longer has a right to stay (in accordance with the Reception Conditions Directives and Procedures Directive). In this case detention can be extended if there is a prospect of return and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively (which is rarely the case because alternative measures entail entry to the Schengen area).</p> <p>3. Yes, the Netherlands applies detention in border procedures in practice. Persons subject to the border procedure are detained at the airport, at Detention Centre Schiphol. Please see the description under Q2 for more information. The border procedure does not provide for alternatives to detention. For applicants for international protection and persons subject to a Dublin procedure, detention in the border procedure is only foregone in case of exceptional individual circumstances leading to detention being disproportionately burdensome, as any measure other than detention would effectively provide access to the territory of the Member State.[1]</p> <p>Though not part of the border procedure (which applies to applicants for international protection), an alternative to border detention exists for third-country nationals who are refused entry at the border but who do not apply for international protection and for whom return can be arranged within a matter of days. Rather than being detained, this group may be ordered to stay in the airport lounge ex art. 6, first paragraph Aliens Act.</p> <p>[1] Parliamentary Papers II, 2014-2015, 23088 no. 3, Memorie van Toelichting,</p> <p>4. Although third-country nationals who apply for asylum in the border procedure are in principle detained, it is nonetheless required in each case to motivate whether detention is disproportionate and a less-coercive measure should be applied. This motivation is carried out by the border police (Royal Netherlands Marechaussee) and the Immigration and Naturalisation Service. The border police makes an initial assessment of the applicability of the border procedure. After that, the IND assesses at each step in the border procedure whether the detention can or should be continued. There is an operational plan for situations of massive influx, but this has not been used so far and may be outdated.</p>
	EMN NCP Poland	Yes	<p>1. No. Poland has not implemented the border procedure within the meaning of the art. 43 of the directive 2013/32/EU. If the person submits the application for asylum and the Office for Foreigners initiates the asylum procedure the person is allowed to the territory of Poland.</p> <p>2. N/a.</p>



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			<p>3. N/a. The detention is used only in cases indicated in the art. 8 of the directive 2013/32/EU.</p> <p>4. N/a.</p>
	EMN NCP Slovakia	Yes	<p>1. In accordance with Section 3/2/c Act on Asylum No 480/2002 as amended foreigner who arrives by plane to the territory of the Slovak Republic and who does not meet requirements for entering the Slovak Republic is placed in a transit centre. The competent entity to receive the application for asylum in such cases is the Police department in the transit zone of an international airport.</p> <p>Transit centre means a place in the transit area of an international airport where the applicant is being placed pursuant to Section 3 Par. 2 (c) or a delimited area in another asylum facility where the applicant is being placed pursuant to Section 3 Par. 2 (c) if he/she cannot be placed in the transit area of an international airport; placement in the transit centre shall not be considered to be an entry and stay of the applicant in the territory of the Slovak Republic.</p> <p>2. Transport of the applicant during his/her placement in the transit centre shall be accompanied by a police officer where such transport shall be considered neither an entry nor a stay of the foreigner in the territory of the Slovak Republic. The applicant shall be obliged to stay in the transit centre.</p> <p>The Ministry of Interior may terminate the placement of an applicant under Section 3 Paragraph 2 (c) in the transit centre and place him/her in the reception centre on the humanitarian grounds. The Ministry of Interior shall terminate the placement of an applicant under Section 3 Paragraph 2 (c) in the transit centre, and shall place him/her at the reception centre if</p> <ul style="list-style-type: none"> a) his/her application for granting asylum has not been decided within seven days from filling in of the questionnaire (validity of the law from 1.6.2022 within 28 days from Commencement of the Procedure) or b) the court has not decided within 30 days from the delivery of an administrative action against the decision issued by the Ministry of Interior in the asylum granting procedure. <p>3. See response to question 2.</p> <p>4. Applicants in border procedures are very rare in the Slovak Republic.</p>

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	EMN NCP Slovenia	Yes	<p>1. No, according to Article 43 of International Protection Act if person declares intention to file an application on a border or in the transit area of an airport or aboard a ship anchored in a harbour or seaport, the competent authority shall receive the application and decide on the admissibility of the application. The competent authority may process the application in accelerated procedure for one of the reasons on which it may be considered manifestly unfounded in accordance with Article 52 of this Act, and a request to reopen the procedure if the person has not submitted new evidence or stated new facts that significantly increase the likelihood of qualifying for international protection. Until the finality of the decision on the admissibility of an application the competent authority can restrict movement of the person. The person shall remain at the border or in the transit area of an airport or seaport capacity. If the decision or order referred to in the preceding paragraph is not taken within three weeks after the application has been made, the applicant shall be allowed entry on the territory of the Republic of Slovenia.</p> <p>2. Paragraph 3 of the article 84 of the International protection Act states that in order to decide on the applicant's right to enter the territory in accordance with Article 43 of the International protection Act, the competent authority shall issue an order to restrict movement of the applicant to capacity established at the border, transit area at the airport or on a ship anchorage of a port or port.</p> <p>3. No, Slovenia does not apply border procedures (and within them restrictions on movement) in practice.</p> <p>4. N/A</p>
	EMN NCP Spain	Yes	<p>1. Yes. The border procedure in Spain is applied to all international protection applications made at airports and maritime ports, but also at Detention Centres for Foreigners (CIE). As long as the procedure is pending, the applicant has not formally entered the Spanish territory. Applicants at Detention Centres for Foreigners are in the territory but their applications are processed according to the rules of the border procedure since they are about to be removed to their country of origin. The issue under examination in the border procedure is not if the asylum seeker needs to be granted international protection or not, but if his or her application is admissible and needs to be examined in the ordinary procedure or not. An application at the border may be rejected for the reasons set forth in Article 31.8 a), b), e) and j), Article 33.1 and Article 33.2, paragraphs a) to d) of Directive 2013/33/UE of the European Parliament and of the Council, of 26 June 2013, as they have been transposed into the Spanish law.</p>


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			<p>From the moment the asylum application is made, there is a period of 96 hours to issue a decision of admission, non-admission or rejection. This period may be extended up to 10 days in some cases, if UNHCR asks for it, but it is very unlikely. The re-examination (“reexamen”) request prolongs the procedure for several days (2 working days to present that request and 48 hours to be examined by the Spanish Office of Asylum). As a result, the asylum seeker may be retained in the border post or CIE premises during 7-10 days.</p> <p>If the application is admitted, the applicant is entitled to be documented as asylum seeker and to stay in Spanish territory until a final decision is taken, so access to the territory is granted. If it is not admitted or is rejected, the procedure ends and “non-refoulement” principle doesn’t apply anymore.</p> <p>The border procedure is provided for in Article 21 of our Asylum Law (“Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria”). Article 22 states that the person has to remain in the designated facilities until the decision is taken. Article 25.2 provides for the processing of applications lodged at CIEs according to the border procedure provisions.</p> <p>2. Yes. Articles indicated above about the border procedure establish the obligation for asylum seekers to remain in the designated facilities until a decision on their applications is adopted. Articles 21 and 22 of Law 12/2009, of 30th October. Applicants at CIEs (Foreigners Internment Centres) remain confined within their premises while their applications for international protection are processed.</p> <p>3. Yes. While the procedure is pending the applicants have to remain in the designated facilities at the airport or maritime posts, managed by the police. As stated above, the maximum time they can be retained is between 7 and 10 days. If their applications are not decided upon within that timeframe, they are implicitly admitted and the applicants are allowed to enter the territory. The border procedure also applies to applications made at Detention Centre for Foreigners (CIE). Retention at these centers is a preventive measure to ensure the enforcement of a removal order and needs to be authorized by a judge. The total period of stay cannot exceed 60 days and during that period an international protection application can be made. If it is admitted, the applicant has to be released and documented as an asylum seeker. If not, the procedure ends and the removal order can be enforced.</p> <p>4. The Spanish Office of Asylum has a team of caseworkers dedicated border procedures, who only study applications</p>
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			<p>made at airports, maritime ports and CIEs. In addition, in moments of massive influx other case workers at the Office are temporarily assigned to that team.</p> <p>Interviews and additional documentary evidence provided by the applicants are carefully examined by case officers, along with the views expressed by UNHCR on each case. According to Article 35 of our Asylum Law, UNHCR must be heard before a decision is made on any application at the border or in CIEs.</p> <p>In 2021, the border procedure was applied to 1.589 applications made at airports and maritime ports and to 639 made at CIE.</p>
	EMN NCP Sweden	Yes	<ol style="list-style-type: none"> 1. No 2. Not applicable 3. Not applicable 4. Not applicable
