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Ad-Hoc Query on 2022.59 Detention of third-country nationals in non-specialised detention facilities

Requested by EMN Netherlands on 31 October 2022

Responses from Austria, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Slovakia, Slovenia, Spain, Sweden (22 in Total)

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## 1. BACKGROUND INFORMATION

In the Netherlands it is common practice that third-country nationals who are apprehended by police are detained at a police station. Such a place is not considered a 'specialised detention facility' in accordance with article 16 (1) of the Return Directive. In most cases, the transfer of the third-country national to a specialised facility is relatively time-consuming. In principle, the third-country national will be transferred to a specialised detention facility

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after he/she has stayed in a non-specialised facility (e.g. a police station) for a maximum of five days. The aim is however to organise the transfer as fast as possible on working days, preferably within 24 hours.

Of course, when staying at a non-specialised facility the third-country national should be at all times separated from persons who are detained in the context of a criminal procedure.

In this context, the Netherlands is interested to know in what place(s) or facilities third-country nationals are initially detained in other Member States. If this is not a 'specialised detention facility' as intended by the Return Directive, the Netherlands would like to know in which period of time the third-country national is transferred to a specialised detention facility.

NB: In case it can be assumed, based on the (already known) file of the third-country national, that he or she will be officially detained on a certain date, the transfer to a specialised detention facility is already organised and the third-country national will be detained at a specialised facility directly after he/she is apprehended.

**We would like to ask the following questions:**

- 1. Does it occur in your Member State that the official decision to detain a third-country national is taken while the third-country national is still staying at a location that is not a specialised detention facility in accordance with art. 16 (1) of the Return Directive (e.g. a police station or a border post)? Yes/No. If yes, please explain.**
- 2. If yes to Q1, within which period of time is the third-country national transferred to a specialised detention facility (i.e. do maximum terms exist in your Member State and which term is usual in practice)?**
- 3. If no to Q1, are third-country nationals only detained once they are physically in a specialised detention facility? Yes/No**
- 4. If yes to Q3, what is the period of time within which the third-country national should arrive at the specialised facility after he/she has been apprehended?**
- 5. In case the third-country national stays in a facility that is not a specialised detention facility in accordance with art. 16 (1) of the Directive, how is the third-country national separated from detainees in a criminal procedure (e.g. are there separate units/rooms for different types of detainees)?**

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**6. Is it possible in your Member State to transfer third-country nationals from non-specialised facilities to specialised facilities outside of office hours?**

We would very much appreciate your responses by **29 November 2022**.

## 2. RESPONSES

<sup>1</sup>

		Wider Dissemination	
	EMN NCP Austria	Yes	<p>1. In Austria, Article 5 Federal Office for Immigration and Asylum Procedures Act stipulates that the Provincial Police Directorates (Landespolizeidirektionen; short: LPD) are responsible for the execution of the detention of third-country nationals (TCNs) under Article 76 Aliens Police Act (detention pending removal), Article 40 Federal Office for Immigration and Asylum Procedures Act and Article 5 Administrative Enforcement Act. Detention pending removal, administrative detention and custody are generally executed in so-called Police Detention Centers (Polizeianhaltezentrum; short: PAZ). Individuals in detention pending removal are also detained in the Detention Center Vordernberg (Anhaltezentrum Vordernberg; short: AZ), where only individuals in detention pending removal are detained. (Source: L., Kasper, Die Schubhaft nach dem FPG im Lichte verfassungs- und unionsrechtlicher Vorgaben, 2017, p. 198)</p> <p>Detention pending removal is ordered by a written administrative decision (Article 76 para 4 Aliens Police Act) by the Federal Office for Immigration and Asylum (BFA). According to Article 76 Aliens Police Act, TCNs may be arrested and detained (detention pending removal) under certain conditions pursuant to Article 76 para 2 and if the purpose of such detention cannot be achieved by a more lenient measure (Article 77 Aliens Police</p>

<sup>1</sup> 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.


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		<p>Act). As already mentioned, detention pending removal is executed in detention premises of the Provincial Police Directorate. If a Provincial Police Directorate is unable to execute an order for detention pending removal, a request for its execution shall be made to a Provincial Police Directorate that has detention premises (Article 78 para 1 Aliens Police Act). If required for purposes of removal, detention pending removal may be carried out in detention premises located en route to the federal border (Article 78 para 4 Aliens Police Act).</p> <p>Under certain conditions set out in Article 34 Federal Office for Immigration and Asylum Procedures Act, the BFA may order the the arrest of a TCN (arrest order), even without an administrative decision ordering his or her detention pending removal having been rendered (Article 34 para 2). The custody pursuant to an arrest order may not exceed 72 hours and shall cease upon completion of the necessary procedural acts. Article 40 Federal Office for Immigration and Asylum Procedures Act stipulates under which conditions officials of the public security service may arrest a TCN for the purpose of bringing him or her before the BFA, among others, for example, in case the BFA rendered an arrest order under Article 34. The BFA shall be notified of the arrest without undue delay. The custody of the TCN is admissible for up to 48 hours, respectively for up to 72 hours in case an arrest order was rendered under Article 34 by the BFA. Beyond this timeframe, deprivation of liberty is only possible in accordance with Article 77 para 5 Aliens Police Act (instruction to stay in specific places for a period not exceeding 72 hours for the purpose of enforcement of removal) or by way of detention pending removal in accordance with Article 76 Aliens Police Act (Article 40 para 4). As already mentioned above, the Provincial Police Directorates are responsible for the execution of the detention under Article 40 Federal Office for Immigration and Asylum Procedures Act (Article 5 leg cit).</p> <p>2. The Aliens Police Act and the Federal Office for Immigration and Asylum Procedures Act regulate under which conditions TCNs may be arrested by officials of the public security service and set out a maximum time period for the detention (24/48/72 hours, see Q1). Beyond this time period, detention is generally only possible in case of detention pending removal in accordance with Article 76 Aliens Police Act (see Q1). As mentioned in Q1, detention pending removal, administrative detention and custody are generally executed in Police Detention Centers (PAZ) and detention pending removal is further executed in the Detention Center Vordernberg (AZ).</p>
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			<p>3. See Q1 und Q2.</p> <p>4. See Q1 und Q2.</p> <p>5. As mentioned in Q1 and Q2, TCNs are detained in Police Detention Centers (PAZ) or the Detention Center Vordernberg (AZ). In both, PAZ and AZ, no detainees in criminal procedures are detained. (Source: L., Kasper, Die Schubhaft nach dem FPG im Lichte verfassungs- und unionsrechtlicher Vorgaben, 2017, p. 198) Moreover, Article 4 para 4 Detention Regulation stipulates that individuals in detention pending removal, individuals in administrative detention and individuals in custody are to be separated from each other, if possible.</p> <p>6. As mentioned, detention pending removal, administrative detention and custody are generally executed in Police Detention Centers (PAZ) and detention pending removal is further executed in the Detention Center Vordernberg (AZ). According to Article 6 para 2 Detention Regulation, individuals who come or are brought in for detention pending removal shall be admitted at any time, provided that the required documents are present and that the individual does not appear to be incapable for detention.</p>
	EMN NCP Belgium	Yes	<p>1. Yes.</p> <p>If a TCN is controlled /intercepted by the police and is in irregular stay, he will first be brought to the police station in order to be interviewed by the police. A report is afterwards sent to the Immigration Office, where the case of the TCN will be analyzed; on basis of the analysis a decision is taken (release; return decision with delay (between immediate and 30 days, or differentiated depending on the individual case); confirmation of previous return decision; return decision with detention decision). Between the control / interception and the notification of the return decision, there may be no more than 24 hours. If no decision has been notified within that deadline, the TCN will be immediately released (exception: TCN may also be detained by the Justice Department for reasons of public order / national security, but this is out of scope of this questionnaire).</p>


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		<p>In case of return decision + detention, the TCN will be transferred as soon as possible to an Immigration Detention Centre (if it concerns an adult / couple of adults) or to a community based open Family Unit (if it concerns an adult / couple with minor children). In principle the transfer will be at the latest on the next day, if possible on the same day (all depends on the hour of notification of the decision – families will always be transferred regardless of the time as soon as the decision has been notified). The same procedure is used for border cases. TCN's will stay at the police office at the border (in a kind of INAD area) until the decision is taken and notified, and will afterwards be transferred to the Immigration Detention Centre or a Family Unit.</p> <p>2. As soon as possible (at the latest the day after) – if families with children always the same day.</p> <p>3. /</p> <p>4. See answer to Q1.</p> <p>5. In the case of foreign national offenders (FNO), a return + detention decision is always taken whilst the concerned person is still in prison. In most cases the Immigration Office knows beforehand when a TCN can be released out of prison. In the case of early release or end of sentence, the Immigration Office can anticipate and already organize a removal towards the third country or another responsible state up to 4 months prior (if early release) or 6 months prior (if end of sentence) to the liberation by the Justice Department. If a removal can be organized directly from the prison, the Immigration Office will do so (officially he is still under the sentence of the Justice Department until he will be removed). If a removal is not possible out of prison, he will be transferred to an Immigration Detention Centre. In the case of the lift of an arrest warrant, the Immigration Office has to take a decision on the same day in which is mentioned what it wants to do with the FNO. A return + detention decision has to be taken and notified at the latest within 7 days after the arrest warrant has been lifted and the removal to the third country / responsible state or the transfer to the Immigration Detention Centre has to be effectuated within these 7 days. If – in case of an arrest warrant – there will be no removal nor detention, a return decision or a release decision has to be taken the same day as the arrest warrant has been lifted.</p>
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			<p>6. In the case of interceptions on the territory or transfers from FNO out of prisons: transfers to an Immigration Detention Centre on weekdays from 9h00 until 18h00 (for two Detention Centres until 17h00); in the weekends and on holidays from 9h00 until 12h00.</p> <p>In border cases : one dedicated Detention Centre next to Brussels National Airport accepts transfers 24h/7d. Exceptions can be requested on an individual basis, with agreement of the direction of the Detention Centre. As already said : transfers of families to Family Units in principle 24h/7d (for sure in border cases); but for interceptions on the territory we avoid early and late transfers (controls / interceptions of families with children on the territory only on weekdays during the day, never in weekends nor on holidays – transfers also during the day; transfers to family units regularly are taken place before 21h00).</p>
	EMN NCP Bulgaria	Yes	<p>1. If a third country national is found to stay illegally at the border zone or on the territory of Bulgaria and s/he does not possess an identity document or does not produce it, s/he is to be detained in a detention facility at the relevant regional police station or at the relevant border post for a period of up to 24 hours. The purpose is to establish his/her identity and conduct proceedings to impose a compulsory administrative measure under the Law on Foreigners in the Republic of Bulgaria (procedure for issuing a return decision).</p> <p>2. If during the proceedings for imposing a compulsory administrative measure (procedure for issuing a return decision) it is found that there is a risk of absconding, the third-country national shall be compulsorily accommodated in a special home for temporary accommodation of foreigners within the Migration Directorate at the Ministry of Interior. The accommodation is made within the above mentioned period of 24 hours from the initial detention. The third-country national is escorted by police authorities from the premises where s/he was initially detained for a period of up to 24 hours to a special home for temporary accommodation of foreigners within the Migration Directorate.</p> <p>3.</p> <p>4.</p>

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			<p>5. Since the above mentioned detention facilities at the relevant regional police station or at the relevant border post are also used for the detention of persons in a criminal procedure, the illegally staying third-country nationals are placed, in such non-specialised facilities, in apprehension premises separately from the persons in a criminal procedure.</p> <p>6. Yes. If it is necessary to accommodate a third-country national in a special home for temporary accommodation of foreigners (a specialised detention facility), the escort of that person from the detention facilities of the relevant regional police station or the relevant border post to the special home for temporary accommodation of foreigners can be done at any time. Escorts are usually carried out during the day, but if necessary, they can also be carried out during the night.</p>
	EMN NCP Croatia	Yes	<p>1. Yes. The restriction of movement of third-country nationals is laid down in the provisions of Article 211. and 212. The Law on Foreigners A third-country national may be arrested and detained for a maximum of 48 hours if this is necessary in order to establish his identity or if this is necessary in order to establish the circumstances of illegal border crossing or illegal stay and there is a risk of absconding of a third-country national. If the identity or the circumstances of illegal border crossing or illegal stay cannot be established within the 48 hours, and the restriction of the freedom of movement of a third-country national by his accommodation in a reception centre for aliens would not be purposeful due to the remoteness of the location, the third-country national may be detained for a maximum of another 24 hours if it is reasonably expected that the identity or the circumstances of illegal border crossing or illegal stay can be established within the said time limit.</p> <p>2. Within the deadlines specified in question 1 (48 hours + 24 hours), the alien must be released or, for the purpose of restricting movement in order to ensure forced removal and return, a decision on accommodation in the detention center will be issued. In practice, most often a foreigner is transferred to the Center within 24-48 hours.</p>




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			<p>3. n/a</p> <p>4. n/a</p> <p>5. In some police administrations / police stations, there is separate units for accommodation of foreigners during arrest/detention and where it does not exist, all measures are taken so that foreigners and persons suspected of criminal offences are not placed together (separate rooms, prioritize transfer to another facility).</p> <p>6. Transfer to the Center is possible at any time, but before transferring a foreigner to the Detention Center, it is necessary to send an announcement to the center.</p>
	EMN NCP Czech Republic	Yes	<p>1. Yes, a foreigner is placed in a detention facility for foreigners after the decision of detention has been issued.</p> <p>2. Usually immediately after the decision is issued. The law does not set a deadline for transfer to a detention facility for foreigners. According to the law, detention is usually carried out in a detention facility for foreigners.</p> <p>3. Detention is usually carried out in a detention facility for foreigners, but also, for example in the form of hospitalisation in a hospital</p> <p>4. Czech law does not specify this.</p> <p>5. Foreigners are not placed in such a facility.</p> <p>6. Yes, continuously.</p>

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	EMN NCP Estonia	Yes	<p>1. Yes, national legislation foresees that a person can be detained for up to 48 hours without the permission of an administrative court. In case it is necessary to detain the person for longer than 48 hours, a permission has to be obtained from the administrative court to detain the person and place him or her into detention centre for up to two months.</p> <p>If detention of a person at the detention centre is impossible for the security or health protection purposes or for other reasons, he/she may be accommodated at the police detention house or under surveillance outside the detention centre on the decision of the head of the detention centre.</p> <p>Only in case of an emergency, persons may be detained outside a detention centre (police office, a house of detention, a prison with the consent of the prison or a detention centre), on the basis of a decision of an administrative court or a detention report. Family members and vulnerable persons are not placed in prison.</p> <p>2. In Estonia we have one specialized detention facility which is located at the Police and Border Guard Board North prefecture. If the apprehension took place in North prefecture the TCN would be apprehended in the detention center. If the apprehension took place in South, East or West prefecture then the transfer is done after the court order in working hours. Usually the transfer is done in 48 hours.</p> <p>3. N/A</p> <p>4. No specific period of time within which the third-country national should arrive at the specialised facility after he/she has been apprehended has been set. After receiving the court order the TCN will be transported as soon as possible to the detention center.</p> <p>5. Upon detaining a person to a non-specialized detention facility:</p> <ol style="list-style-type: none"> <li>1) male and female persons are kept separately;</li> <li>2) person is separated from a prisoner serving a prison sentence, a detained person serving a pre-trial detention and a detained person;</li> <li>3) family members are accommodated together.</li> </ol>
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			6. Yes, it is possible to transfer third-country nationals from non-specialised facilities to specialised facilities outside of office hours. The detention center has a 24/7 reception capability.
+	EMN NCP Finland	Yes	<p>1. Yes. Based on section 123a of the Finnish Alien's Act, a detained person can be placed in police custody facilities (non-specialized detention facility) for two different reasons.</p> <p>1) if the specialized detention centers are temporarily full</p> <p>2) If the specialized detention center is located far away from the place where the person concerned was detained (&gt;100 km). In this situation, a person can be held at police facilities or border guard facilities. According to section 9 of the Act on the Treatment of Detained Foreigners and on Detention Units, even if there is available room in a specialized detention center, a disruptive person (e.g. violent) can also be held at police premises, should the head of detention center make such request. This means direct placement to police premises, even before being placed at a specialized detention center for the first time. Once there is no further need to hold the person at police premises, the person needs to be re-located to a specialized detention facility.</p> <p>Children must always be located to a specialized detention facility, not to police or border guard facilities.</p> <p>2. If the specialized detention facilities are temporarily full, detained third-country nationals must be transferred to a detention center once there is a free place available, basically as soon as possible. If the specialized detention facility is located far away from the place where the person concerned was detained (&gt;100 km), a person can be held at police facilities for max 4 days and at border guard facilities for max 48 hours. The maximum times are set by the Finnish Alien's Act, section 123a.</p> <p>3. N/A</p> <p>4. N/A</p>


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			<p>5. There are no separate units for different types of detainees, but rooms in these places are individual rooms.</p> <p>6. Should there be urgent requirements for this, such transportation is possible (in principle 24/7).</p>
	EMN NCP France	Yes	<p>1. A foreign national may be detained to check his or her right to stay if he or she cannot present his or her residence permit (or visa) during a residence permit check or identity check. This detention takes place in a police or gendarmerie station and allows for a full examination of the foreign national's situation, which may lead to a decision:</p> <ul style="list-style-type: none"> <li>- Either to release the foreign national (if it is found that he/she is legally resident: situation of a foreign national in possession of documents authorising him/her to remain on French territory or stating that his/her application for a residence permit is being examined)</li> <li>- Either to place the foreign national in a detention centre or under house arrest if an expulsion order is issued</li> <li>- Or place the foreign national in police custody, particularly in the case of the offence of illegal residence (foreign national who is the subject of an expulsion decision that is still enforceable, but who remains in France without legitimate reason, articles L 141-2, L 813-3 et seq. of the Code on Entry and Residence of Foreign Nationals and Right of Asylum - CESEDA).</li> </ul> <p>In addition, when a foreign national is placed in police custody and the public prosecutor does not pursue the matter to favour the administrative route, a decision to place the person in detention can be notified at the end of the police custody.</p> <p>2. Detention for the purpose of checking the residence permit is limited to 24 hours (article L 813-3 of the CESEDA).</p> <p>The decision to place the foreign national in detention for a period of 48 hours is notified during the detention. The foreign national must then be taken to a detention centre as soon as possible. The liberty and detention judge will assess the time between notification of detention and arrival in a detention centre.</p>


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			<p>3. n/a</p> <p>4. see Q2</p> <p>5. When a foreign national is detained to verify his or her right to move and reside, article L 813-11 of the CESEDA states that "during detention, when participation in verification operations is not necessary, the foreign national may not be placed in a room occupied simultaneously by one or more persons in police custody".</p> <p>6. Priority is given to admissions at the times defined in the internal regulations of the detention centre. The centre accepts without restriction, within the limits of available places, all foreign nationals brought to it by the police or gendarmerie services, for whom the head of the escort presents a copy of the prefectural decision to place them in detention, or proof that the foreign national has been sentenced to a ban on entering the country as a principal penalty with provisional execution.</p>
	EMN NCP Germany	Yes	<p>1. The authority responsible for a detention request (thus also the Federal Police (BPOL)) can detain a foreigner/third-country national without a prior judicial order and take him or her into temporary custody if the necessary elements of the crime exist for this purpose. The enforcement of the measures is possible at the BPOL service station. The foreigner/third-country national is to be brought before the judge without delay for a decision on the order of preventive detention.</p> <p>2. If during the presentation the judge approves the detention request, the person shall be taken to the designated detention facility (specialized detention facility such as detention facilities for removal).</p> <p>3. n/a</p>

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			<p>4. n/a</p> <p>5. The detention facilities are the responsibility of the federal states. Note: The short-term suspension of the separation requirement by law is lifted at the end of June 30, 2022.</p> <p>6. I refer to the answer to question 5. Notice: In federal police practice, persons are taken to detention centers for removal after being brought before a judge and after a decision has been made.</p>
	EMN NCP Greece	Yes	<p>1. Yes. All newly incoming refugees/ illegal migrants who enter the islands of Lesbos, Chios, Samos, Leros and Kos -that are the main gateways to Greece and to Europe- are transferred to the Reception and Identification Centres (RIC), where they stay until all reception and identification procedures are completed. When all the aforementioned procedures are completed, the TCNs or stateless persons who are not eligible for international protection or other form of protection (vulnerable groups) are referred -by a decision of the RIC's Governor- to the competent police authority in order to be subjected to procedures of deportation, return or readmission, as per applicable legislation. In order to ensure the proper implementation of the Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third-country nationals", explicit instructions have been given, while efforts are exerted in order for TCNs who are under return procedures not to be detained in police detention centers, but to be transferred, the soonest possible, to Pre-removal Detention Centres after their identification and the issuance of the necessary decisions. <u>For aliens detected in the country's inland</u> (law nr. 3907/2011) (illegal entry to the islands of the Eastern Aegean prior to the implementation of the EU-Turkey Joint Statement of 18th March, or nationals who entered Greece via the country's northern borders) and are subject to return procedures (as per art.21 par. 1 of above law), are detained for the preparation of their return, only if, in this case, can not be implemented effectively, other efficient and less burdensome measures.</p>


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			<p>As per art. 30 of law nr. 3907/2011 and art.76 par. 3 of law nr. 3386/05, third country nationals who are subject to procedures of return and deportation, are detained for the preparation of their return/deportation and the processing of the removal procedure, only if, in this case, can not be implemented effectively, other efficient and less burdensome measures, such those provided in art. 22 par. 3 of law nr. 3907/2011.</p> <p>For aliens who are detected in the country's external borders (except of the islands of the Eastern Aegean) (law nr. 3386/2005 as amended and in force), they are detained only for a strictly necessary period of time, in order to be completed the necessary administrative procedures of screening (identification, registration, fingerprinting, photographing) and afterwards, depending on the category/target group of the aliens, the measure of detention is applied.</p> <p>According to art. 30 par.1 of law nr. 3907/2011 (as amended and in force by art. 51 of law nr. 4686/2020) "detention is imposed and maintained only for the strictly necessary period of time for the processing of the removal procedure, that takes places and is executed with due diligence. In any case, for the prolongation of the measure of detention, are taken into consideration the availability of proper detention facilities and the possibility of ensuring decent living conditions for the detainees".</p> <p>According to art.30 par.2 of law nr. 3907/2011 (as amended and in force by art. 17 of law nr 3938/2011), "the detention decision contains factual and legal justification, it is issued, in writing, as per the provisions of art. 76 par. 2 of law nr. 3386/2005 and if has not been issues a return decision, it is issued within three (3) days. When, against a third country national concur reasons of national security, detention can be ordered immediately and before the expiry of the deadline for raising objections.</p> <p>2. Please see answer in question 1.</p> <p>3. -</p> <p>4. -</p> <p>5. According to law nr. 3907/2011 art. 31 par.1 "detention [sic of TCNs] takes place, as a rule, in specialised detention facilities. In any case, third country nationals are detained separately from detainees according to</p>
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			common criminal law.  6. N/A
	EMN NCP Hungary	Yes	<p>1. Yes In Hungary a person who is apprehended by the police on various legal grounds, can be in apprehension custody for 8 hours which can be extended with +4 hours by the general police. During this time, the person can be placed in a custody room, which is not necessary suited in the police station. After that the police – on the recommendation of the immigration authority – may issue a prolongation which lasts for 12 hours (might be extended with +12 hours in special circumstances, due to the unexpectedly large number of persons). The prolongation can be carried out in any premises of the immigration or asylum authority or police which is suitable for safe guarding. The apprehended person is physically still in these premises when the detention order is communicated to him/her as the aliens policing procedure is carried out in these premises. Detention under Hungarian immigration laws shall be ordered by way of a formal resolution, and shall be carried out when communicated. The communication of the decision can happen at the premises of the immigration authority and the transfer to the detention centre may take place after it, in practise without delay. The detainee may be admitted to the detention centre only on the basis of a decision of the immigration authority ordering detention. Detention may be carried out only on the basis of a decision ordering detention or a court decision extending detention.</p> <p>2. There is no exact time-limit for the transfer to take place from the communication of the detention decision but it shall be carried out within a reasonable time period. An independent body (Prosecution Office) is responsible for monitoring any coercive measure.</p> <p>3. -</p> <p>4. See above</p>




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			<p>5. In HU the immigration authority shall carry out the detention in places designated for this purpose, this provision shall not apply in situations where an exceptionally large number of third-country nationals to be returned places an unforeseen heavy burden on the capacity of accommodations of restricted access, or on the immigration authority itself.</p> <p>6. Yes (the General Police works 24/7. Immigration authorities shall have a 24/7 on-duty service or appointed colleagues who are available as stand-bys).</p>
	EMN NCP Ireland	Yes	<p>1. Ireland does not participate in the Return Directive. In Ireland, persons subject to deportation orders are not automatically detained. Section 5 of the Immigration Act 1999 (as amended) sets out the grounds for detention of persons with deportation orders. An Garda Síochána may arrest a person holding a deportation order without warrant for a number of reasons including if they suspect with reasonable cause that the person has failed to leave the State within the time specified in the deportation order or failed to comply with conditions in the deportation order or intends to avoid removal. Detention can be for a period of up to eight weeks, which period may be renewed by a judge. Ireland does not have specialised immigrant detention facilities. Places of detention in relation to deportation orders are set out in the second Schedule to the Immigration Act 1999 (Deportation) Regulations 2005. These include a number of prisons in the State and police stations.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p> <p>5. N/A</p>


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			6. N/A
	EMN NCP Italy	Yes	<p>1. Detention order is adopted in the suddenness of the person's tracing, following a brief procedure involving the adoption of the expulsion/removal order and the request for the third country national placement in one of the available Centers, having assessed the impossibility to use less invasive methods.</p> <p>2. The transfert to the facility is made immediately after receiving authorization to take the third country national to the designated specialised detention facility.</p> <p>3. In the Italian regulation, the only form of detention is at specialized facilities. At the same time, provision is also made for the third country nationals to be detained in suitable facilities at the disposal of the Public Security Authority for the time strictly necessary to carry out the hearing to validate the removal to the border by the competent judicial authority. The permanence (a term expressly used by the legislator instead of "detention") in any case cannot exceed 48 hours. This is a rule applicable only to irregular individuals who are in possession of an ID allowing their expatriation or for whom it is possible to obtain one within the limited time period mentioned above. The legitimacy of such permanence is assessed by the Judicial Authority at the same time as the legitimacy of the accompaniment to the border.</p> <p>4. In the shortest possible time.</p> <p>5. Specialised detention facility for this specific category of persons should be used as much as possible. Whereas this is not possible, the simultaneous presence in the same rooms of individuals under arrest/detention with third country nationals in return proceedings should be avoided.</p> <p>6. YES.</p>


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	EMN NCP Latvia	Yes	<p>1. Yes</p> <p>There is currently a normative framework, when a foreigner who has been detained with the aim of expelling him or her from the territory of the EU (the subject of the return Directive) may be temporarily and in special cases accommodated in a temporary detention place of the State Police.</p> <p>A foreigner who have to be returned is accommodated in the place of temporary detention by the State Police if he poses a threat to national security or public order and security or it is impossible to accommodate him in the structural unit of the State Border Guard due to a rapid increase in the number of detained deportable foreigners. Accommodation of a foreigner based on the decision of the State Border Guard official (10 days) is considered to be temporary accommodation, but usually on the eighth day the foreigner is released (if there is no reason for further detention) or transferred to the accommodation center for detained foreigners for long-term accommodation.</p> <p>The European Commission, based on the conclusions of the Schengen Evaluation Commission in 2018, while evaluating the rules on the procedure for holding a foreigner in the temporary detention center of the State Police, drew attention to the fact that they do not reflect the administrative nature of detention within the framework of the Return Directive, that is, it would be necessary to abandon the temporary detention centers of the State Police use for the accommodation of foreigners to be returned. A draft law was prepared, which stipulates that the subject of the Return Directive cannot be placed in the place of temporary detention of the State Police, and the draft law is currently in the Parliament of Latvia (Saeima).</p> <p>In addition, in certain cases, the State Border Guard temporary holding room can be used for the temporary accommodation of a deportable foreigner (up to 48 hours) (this is determined by Article 19 of the State Border Guard Law, but no English translation of the law is available).</p> <p>In addition, if the State Police detects a foreigner, it can detain the foreigner for a period of up to 3 hours for handover to the State Border Guard, but in such cases the foreigner is not accommodated in the State Police's premises, but immediately organizes delivery to the State Border Guard structural unit.</p> <p>2. The temporary detention place of the State Police shall not exceed 10 days, the temporary holding room of the State border Guard - 48 hours.</p>
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			<p>3. N/a</p> <p>4. N/a</p> <p>5. Detained foreigners are kept in separate premises (rooms).</p> <p>6. Yes, relocation can take place outside working hours, but if relocation is pre-planned, it usually takes place during working hours.</p>
	EMN NCP Lithuania	Yes	<p>1. Foreigners who are staying in Lithuania illegally can be detained on the grounds specified in Article 113 of the Law on the Legal Status of Foreigners.</p> <p>A foreigner may be detained for up to 48 hours by written decision of a law enforcement official. Having detained a foreigner and determined that there are grounds to detain him/her for longer than 48 hours, the law enforcement institution must transfer the foreigner to the officers of the State Border Guard Service within 5 hours from the moment of detention. The State Border Guard Service must then apply to the court for permission to detain the foreigner for longer than 48 hours in one of the detention centers or to apply measures alternative to detention.</p> <p>Thus, the foreigner may spend up to 5 hours at a police station and up to 48 hours at a branch office of the State Border Guard Service. All the branch offices of the State Border Guard Service have special premises for detained foreigners.</p> <p>2. Court proceedings take place within 48 hours from the moment of the foreigner's detention. Immediately after the court session, the foreigner is transported to one of the specialized detention centers.</p> <p>3. No.</p>


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			<p>4. When a law enforcement institution apprehends a foreigner and determines grounds for detention on the basis of the Law on the Legal Status of Foreigners, the foreigner must be handed over to the State Border Guard Service within 5 hours and, if a longer than 48-hour detention is needed, there must be a court order within 48 hours. Detained foreigners are transported to specialized facilities by officers of the State Border Guard immediately after the court session.</p> <p>5. Foreigners who are detained on the grounds of the Law on the Legal Status of Foreigners (e.g., staying illegally, using forged documents, posing a threat to national security, etc.) are not held in places of imprisonment.</p> <p>6. While officers work 24/7 at the detention centers of the State Border Guard Service, the transportation of foreigners is usually done during regular hours.</p>
	EMN NCP Luxembourg	Yes	<p>1. No. In Luxembourg, a third-country national can be detained by the Grand ducal police for the verification of identity in accordance with article 45 (1) of the Criminal Procedure Code (CPC) when there is a request of an administrative authority and the third-country national refuses to identify himself/herself. The maximum time that they can be withheld by the police in the station is six hours (article 45 (5) CPC). Once the police report is drawn it is submitted to the attorney general office which, if there is no criminal offense committed, will transfer the case to the Directorate of Immigration. In this case, the Ministry in charge of Asylum and Immigration will determine if the third-country national is an irregular staying third country national and must be placed in detention in order to return the person (article 120 (1) of the amended law of 29 August 2008 on free movement of persons and immigration). The placement in detention is made at the Luxembourg Detention Centre.</p> <p>2. N/A.</p> <p>3. YES.</p>


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			<p>4. As it was mentioned above in accordance with article 45 (5) CPC the maximum deadline of being detained in a police station is six hours.</p> <p>5. N/A.</p> <p>6. Yes. The Detention Centre works 24/7 and if the Minister in charge of Asylum and Immigration is in the impossibility to take the decision in writing the third-country national can be placed in detention with a verbal order of the Minister for a maximum duration of 48 hours (article 120 (3) of the Immigration Law).</p>
	EMN NCP Netherlands	Yes	<p>1. Yes. In the Netherlands, it is common practice that a third-country national who is apprehended by the police is detained in a non-specialised facility. Dutch legislation prescribes that the third-country national will be swiftly transferred to a place where he/she can be heard (often a police station), and thereafter is detained within 6 hours or, if there are insufficient grounds for detention, is released. In a limited number of circumstances, this period can be prolonged. This means that in the Netherlands, the detention of a third-country national often begins in a place that is not a specialised detention facility in accordance with Art 16(1) of the Return Directive.</p> <p>2. The third-country national is transferred to a specialised detention facility within five days. Preferably, the transfer occurs as soon as possible, in practice the aim is to transfer the third-country national within 24 hours.</p> <p>3. Not applicable.</p> <p>4. Not applicable.</p>

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			<p>5. In general, in non-specialised facilities, there are no separate units for third-country nationals in administrative detention and detainees in the context of a criminal procedure. However, third-country nationals in administrative detention usually have their own, private cell. The staff of the facility will also take care that there is a separation between different types of detainees during outdoor time.</p> <p>6. Transfers outside of office hours are not customary in the Netherlands, except in exceptional circumstances.</p>
	EMN NCP Poland	Yes	<p>1. In accordance with the provisions of the Act of December 12, 2013 on foreigners and the Act of June 13, 2003 on granting protection to foreigners on the territory of the Republic of Poland, a third-country national may be detained and placed in a guarded centre for foreigners (or a remand centre for foreigners) and administrative proceedings are initiated. To the extent not regulated in the Act on foreigners, the provisions of the Code of Penal Procedure apply to the detention of a foreigner. A foreigner is apprehended by the Border Guard or the Police.</p> <p>If it is not possible to place a foreigner in a guarded centre immediately, such a person can be placed in the Premises intended for detainees (short-term detention – up to 48 h, up to maximum of 72h) which are within the structure of the Border Guard or the Police.</p> <p>Within this deadline the court must decide whether the reasons on placement person in detention centre for foreigners exist or the person is free to go.</p> <p>2. A third-country national shall be placed in a detention centre for foreigners immediately after a decision has been made to place the foreigner in a guarded centre or a remand centre for foreigners by the court. The Border Guard shall immediately take a decision on the application to the court. On the other hand, each case of placing a foreigner in a guarded centre or remand centre for foreigners is examined individually, taking the principle of proportionality as the basis for action, which requires using only necessary measures and those which are needed to achieve the purpose.</p> <p>A third-country national shall be released from the premises intended for detainees or kept in the official</p>

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			<p>premises of the Border Guard:</p> <ol style="list-style-type: none"> <li>1. if, within 48 hours of his arrest, he has not been placed at the disposal of the court and at the same time an application has not been filed for his placement in a guarded centre or for the use of a remand centre for foreigners, or</li> <li>2. if within 24 hours from the time of transfer to the court's disposal he has not been served with a decision to place him in a guarded centre or to apply to him a remand centre for foreigners, or</li> <li>3. by order of the court, or</li> <li>4. if the reason for detention ceases.</li> </ol> <p>3. A foreigner has the status of a detained person at the moment he or she was actually, physically detained and signed the Protocol of Detention of a Person. All official activities related to the detention of a person are not carried out in a guarded centre but in the official premises of the Border Guard where there are conditions for the preparation of documentation related to the detention.</p> <p>4. The third-country national should be placed at the detention centre for foreigners immediately after the Border Guard receives the order of detention by the court. After the court issues a decision to place a third-country national in a guarded centre for foreigners, the person shall be escorted from the official premises or from the premises designated for detainees located in the structure of the Border Guard.</p> <p>5. According to Polish legislation, an apprehended person, whether in criminal proceedings or for administrative proceedings, can be placed in the premises intended for detainees that are within the structure of the Police. The rooms are monitored on a 24-hour basis. For the placement of foreigners, the Border Guard uses only premises at the disposal of the Border Guard or the Police. The decree of the Minister of the Interior and Administration specifies the conditions to which the premises intended for detainees should correspond, as well as the rules of stay in these premises. According to it, a person placed in the premises occupies a designated room for detainees and a place designated for sleeping, while persons of different sex, detained in the framework of the same criminal proceedings, are placed separately. A detained person together with</p>
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			<p>members of his family, or persons who declare that they are the persons closest to each other, shall be placed, if possible, in a single room for detainees.</p> <p>6. Placing of foreigners in a guarded centre for foreigners take place around the clock. If a court issues a decision to place a foreigner in a guarded center for foreigners, he or she is immediately brought by the Border Guard to the guarded center.</p>
	EMN NCP Slovakia	Yes	<p>1. Yes, based on the Act on Residence of Foreigners, the police department issues immediately to the third country national a decision on detention and his/her placement into the detention facility. It means, that the decision is issued e.g. at the foreign police department and consequently the foreigner is placed in the specialised facility. The process of his/her placing is conducted immediately after the issuance of the decision on detention.</p> <p>2. See response to question 1.</p> <p>3. NA</p> <p>4. See response to question 1.</p> <p>5. See response to question 1.</p> <p>6. There are no set office hours for the placement of third country nationals, the TCNs can be placed to detention anytime.</p>
	EMN NCP Slovenia	Yes	<p>1. As per article 32 of the State Border Control Act and article 64 of the Police Tasks and Powers Act, the Slovenian Police, in the event of apprehending a foreigner who has illegally entered or is illegally staying on the territory of the Republic of Slovenia, may detain the foreigner in specially adapted premises of a police</p>


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			<p>station for the purpose of conducting an interview and determining the circumstances of the illegal crossing of the state border or for the purpose of handing them over to neighbouring security authorities for a period of up to 48 hours.</p> <p>In most cases, the decision is taken shortly after the arrest and a decision is issued to place the foreigner in a specialised detention facility, where he or she is taken as soon as possible.</p> <p>2. As soon as possible, at most 48 hours.</p> <p>3. Both detention on the basis of the above-mentioned Acts and detention in the specialised detention facility on the basis of the Foreigner's Act are considered as detention, but for different reasons.</p> <p>4. At most 48 hours.</p> <p>5. YES, the foreigner is separated from persons detained based on other grounds.</p> <p>6. Yes, it is possible to transfer outside of office hours.</p>
	EMN NCP Spain	Yes	<p>1. Yes, initial police arrest takes place at police stations.</p> <p>2. A maximum of 72 hours</p> <p>3.</p> <p>4.</p> <p>5. They are kept in separate cells (however, it often happens that someone is arrested both for a criminal procedure and for illegal stay).</p>

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			6. Yes
	EMN NCP Sweden	Yes	<p>1. Yes, the Swedish Migration Agency may order that a detainee should be placed in a correctional institution, remand centre or police arrest facility where necessary due to transport requirements or if there are some other exceptional grounds, according to the Aliens Act (2005:716)) chap. 10 section 20.</p> <p>2. The detainee can be placed in a correctional institution, remand centre or police arrest due to transport requirements for a maximum of three days.</p> <p>3. N/A</p> <p>4. As promptly as possible, but not for a longer period of time than three days. This might be the case if a third-country national is apprehended in the most northern parts of Sweden, a logistical procedure that might take at least two days.</p> <p>5. The third-country national shall be granted the facilities and privileges that can be permitted taking into consideration good order and security in the institution, remand centre or police arrest facility. There are however no guarantees that the detainees will be granted separate units/rooms for detainees. The relevant parts of the Act on the Treatment of Detained and Arrested Persons etc (1976:371) are applicable to the treatment of a third-country national who has been placed in a correctional institution, remand centre or police arrest facility under Chap. 10, Section 20 of this Act.</p> <p>6. Yes.</p>

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